

FRANCHISE DISCLOSURE DOCUMENT



BENIHANA NATIONAL CORP.

A Delaware corporation

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Benihana National Corp., as franchisor, offers franchises for the operation of restaurants known as BENIHANA® Restaurants, which specialize in the hibachi or teppanyaki style of Japanese cooking, in which food is prepared on a grill which forms a part of the table on which it is served. Sushi is also typically served at BENIHANA Restaurants.

The total investment necessary to begin operation of a full-sized BENIHANA Restaurant is \$3,255,200 to \$5,880,000, including purchased real estate. The total investment necessary to begin operation of a Concession Model BENIHANA Restaurant is \$616,000 to \$1,090,000 which assumes leased real estate. Both investment estimates include \$40,000 that must be paid to the franchisor or an affiliate.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss availability of disclosures in different formats, contact Cristina Mendoza, Benihana National Corp., 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180, (305) 702-2805.

The terms of your franchise agreement will govern your franchise relationship. Don't rely on the disclosure document alone to understand your franchise agreement. Read all of your franchise agreement carefully. Show your agreement and this disclosure document to an advisor, like a lawyer or accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "[A Consumer's Guide to Buying a Franchise](#)," which can help you understand how to use this disclosure document is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 20580. You can also visit the FTC's home page at www.ftc.gov for additional information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

THE ISSUANCE DATE OF THIS DISCLOSURE DOCUMENT IS DECEMBER 1, 2023.

How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others like current and former franchisees. You can find their names and contact information in Item 20 or Exhibits C and D.
How much will I need to invest?	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit E includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only BENIHANA® business in my area?	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What's it like to be a BENIHANA® franchisee?	Item 20 provides information about franchised restaurants and Exhibit C lists current franchisees. You can contact them to ask about their experience.
What else should I know?	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the Table of Contents.

What You Need To Know About Franchising *Generally*

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

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

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

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

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

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

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

Some States Require Registration

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

Your state also may have laws that require special disclosure or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda.

Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration, and/or litigation only in Florida. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Florida than in your own state.

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

NOTICE MANDATED BY SECTION 8 OF
MICHIGAN'S FRANCHISE INVESTMENT ACT

The following is applicable to you if you are a Michigan resident or your franchise will be located in Michigan.

The state of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in these franchise documents, the provisions are void and cannot be enforced against you.

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

- (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
 - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
 - (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.
- (h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).
- (i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.

If the franchisee has any questions regarding this notice, those questions should be directed to the Michigan Department of Attorney General, Consumer Protection Division, Attn.: Franchise, 525 West Ottawa Street, Lansing, Michigan 48909, telephone: (517) 373-7117.

**BENIHANA NATIONAL CORP.
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ITEM 1. THE FRANCHISOR, ITS PARENTS, PREDECESSORS, AND AFFILIATES

The Franchisor and its Predecessor

Benihana National Corp. (referred to in this Disclosure Document as “we,” “us,” “our,” or “BNC”) was formed as a Delaware corporation in December 1982. In this Disclosure Document, we refer to the person or entity that will be signing the Franchise Agreement (defined below) as “you” or “your,” which, if you are a corporation, partnership, or other entity, includes all franchise owners, members, or partners (“Principals”).

Our principal place of business is 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180. We are a wholly-owned subsidiary of Benihana, Inc., a Delaware corporation traded publicly on the NASDAQ exchange until August 2012. In August 2012, the stock of Benihana, Inc. was acquired by Safflower Holdings Corp. and its wholly owned subsidiary Safflower Acquisition Corp., both privately owned Delaware corporations with a principal business address at 245 Park Avenue, 26th Floor, New York, NY 10167.

We, directly and through wholly-owned subsidiaries, own and operate BENIHANA Restaurants, which specialize in the hibachi or teppanyaki style of Japanese cooking, in which the food is prepared on a grill which forms a part of the table on which it is served. Sushi is also typically served at BENIHANA Restaurants.

We are the successor in interest to a portion of the business formerly conducted in the continental United States by Benihana of Tokyo, Inc., a privately owned New York corporation (“BOT”) that maintains its principal place of business at 445 Fifth Avenue, #30H, New York, NY 10016-0133. In May 1995, we entered into a Reorganization Agreement with BOT pursuant to which we acquired 21 domestic BENIHANA OF TOKYO® restaurants from BOT and, except as noted in the next sentence, acquired all of the rights to the BENIHANA® System, including without limitation, BOT’s trademarks in the continental United States, Central and South America, excluding Mexico, and the Caribbean Islands (the “Territory”). In connection with the Reorganization Agreement, BOT was granted a license to own and operate BENIHANA Restaurants in the State of Hawaii that we terminated in February 2017.

We have entered into an agreement to transfer ownership of our trademarks used in connection with BENIHANA® Restaurants to our affiliate, Noodle Time, Inc. (“Noodle Time”), the current registered owner of the trademarks. Noodle Time has granted us a perpetual license to use the marks and to sublicense them to our affiliates or third-parties.

From 1983 to 1995, we acquired thirty-six BENIHANA Restaurants from BOT and franchisees of BOT. We, directly and through wholly-owned subsidiaries, currently own and operate sixty-six BENIHANA Restaurants. In addition, as of the issuance date of this Disclosure Document, we have licensed and franchised unaffiliated parties to operate a total of ten open and operating BENIHANA Restaurants, six in the United States and four in international locations. We have also signed franchise agreements for three additional locations in the United States that have not yet opened for business and that we anticipate will open in the current fiscal year. Also, as of the date of this Disclosure Document, we

have signed concession licenses allowing the sale of BENIHANA branded products at five event-based locations at stadiums and arenas in the United States.

Our predecessor in interest, BOT, operated BENIHANA Restaurants since the entity was formed in 1963, and from time to time BOT has licensed others to operate these restaurants. BOT, or its successor, may continue to operate, or license others to operate BENIHANA Restaurants outside of the Territory.

We were incorporated for the purpose of operating BENIHANA Restaurants and doing other business using the BENIHANA trade names and trademarks pursuant to a license, and we are not the successor to any other business. Our predecessor in interest BOT entered the first franchise agreement with a third party in or about August 1969. We began offering franchises following the Reorganization Agreement in May 1995.

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

We have entered into agreements with licensees and concessionaires for the operation of BENIHANA® branded facilities in non-traditional venues such as sports stadiums, arenas, shopping centers with limited menu offerings and no catering or delivery outside of the venue (“Non-Traditional Locations”). As of the date of this Disclosure Document, there are five Non-Traditional Locations in operation in stadiums and arenas the United States. We also have signed one franchise agreement for a Non-Traditional Location at a retail and entertainment venue in Miami, Florida, and we may continue to offer such franchise opportunities in the future.

Certain of our subsidiaries own and operate the RA® Sushi (“RA SUSHI”) restaurant concept, which offers sushi and a full menu of Pacific Rim dishes in an environment targeting a younger demographic and featuring upbeat design elements. RA SUSHI restaurants may compete with the BENIHANA concept and with your franchised restaurant. As of the date of this Disclosure Document, there are twenty RA SUSHI restaurants in operation in the United States. The RA SUSHI concept is not franchised, but may be in the future. Our subsidiary formerly operated two HARU® restaurants offering Japanese fusion dishes in an urban atmosphere in densely populated cities. We do not as of the date of this Disclosure Document operate any HARU restaurants.

One of our subsidiaries operates one teppanyaki style restaurant in Miami, Florida under the name SAMURAI®.

We have never offered franchises for any other business.

The Franchised Business

We are offering franchises in the fifty United States and in Washington, D.C. (and elsewhere in the Territory) for operating BENIHANA Restaurants, either full-size restaurants under the Restaurant Model or limited-menu locations under the Concession Model, that specialize in the hibachi or teppanyaki style of Japanese cooking, and in which, under the Restaurant Model, food is prepared on a grill that forms a part of the table on which it is served (“BENIHANA Restaurants”). BENIHANA Restaurants offer casual dining in a distinctive Japanese atmosphere enhanced by unique entertainment provided by highly-skilled chefs who, under the Restaurant Model, prepare fresh steak, chicken, and seafood at the center of the guest table. BENIHANA Restaurants operate under the mark

BENIHANA® and use other trademarks, trade names, logos, emblems, and indicia of origin as we designate, including those identified in Item 13 (the “Marks” or “Proprietary Marks”).

BENIHANA Restaurants offer distinctive products and services utilizing a distinctive business format, including color schemes, designs, signage, equipment, layouts, operating systems, methods, procedures, standards, techniques, proprietary information, and marketing and advertising standards and formats, all of which have been and may be modified, amended, supplemented, or further developed from time to time (the “BENIHANA System”). As part of the BENIHANA System, we have and continue to establish specific operating standards for various aspects of BENIHANA Restaurants, including: location; physical characteristics; operating procedures and business processes; menu and products sold; product specifications; supplier qualifications; qualifications, organization, and training of restaurant personnel, including franchisees and their personnel; marketing of products and the BENIHANA Marks; and all other things affecting the experience of consumers who patronize BENIHANA Restaurants (the “BENIHANA Standards”).

The BENIHANA Restaurant we offer you may be a limited-menu Concession Model that offers a limited menu and does not feature the hibachi or teppanyaki style of Japanese cooking in which food is prepared on a grill that forms a part of the table on which it is served. We have limited experience with the Concessional Model other than in captive locations such as sports stadiums.

Franchise Agreement

We offer the right to establish and operate a BENIHANA Restaurant under the terms of a franchise agreement (“Franchise Agreement”), in the form of Exhibit B-1 (for the Restaurant Model) and Exhibit B-2 (for the Concession Model) to this Disclosure Document. You may be an individual, corporation, limited liability company, partnership, or other form of legal entity. If you are a legal entity, your Principals must sign personal guaranty agreements agreeing to be individually bound by your obligations under the Franchise Agreement.

Market and Competition

The service and products offered at a BENIHANA Restaurant are sold to the general public, appealing to both local residents and visitors. There is a well-developed and competitive market for this type of restaurant. You will compete with other businesses offering similar products and services, including most national and regional restaurant chains, as well as other concepts our parent corporation or affiliates may own, operate, or franchise. We also may sell certain products through alternative distribution channels, such as through the Internet, grocery or convenience stores, catalog sales, telemarketing, or direct marketing, and such sales may be in compete with your BENIHANA Restaurant.

Industry Regulations

Many laws, rules, and regulations that apply to businesses generally will apply to your operating a BENIHANA Restaurant. You must comply with all federal, state, and local laws applicable to the operation and licensing of a restaurant/food service business,

including applicable public health codes, permit requirements, inspection, and approval processes.

You, your managers, and certain of your employees must be “ServSafe” Certified Professional Food Managers or its equivalent. The United States Food and Drug Administration, United States Department of Agriculture, and state and local health departments administer and enforce regulations governing food preparation, service, and sanitation conditions. State and local agencies inspect restaurants to ensure compliance with these laws and regulations.

The Federal Clean Air Act and various state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide, and particulate matters, including caps on emissions from commercial food preparation. Some state and local governments have adopted laws that regulate indoor air quality, including the limitation or prohibition of smoking tobacco products in public places, including restaurants. State and local governments may also regulate grease disposal by restaurants.

The Americans with Disability Act of 1990 (“ADA”) requires readily accessible accommodation for disabled persons and, if applicable to the construction of your Restaurant, this Act may affect your building, construction, site elements, entrance ramps, bathrooms, exit and entrance ramps, etc. Many states and local governments also have enacted laws and regulations that require access for disabled persons that meet or exceed ADA requirements. You should consider these laws and regulations when evaluating your decision to enter into a Franchise Agreement for the operation of a BENIHANA Restaurant.

In addition, various federal and state labor laws will govern your operations and your relationships with your employees, including matters such as health insurance, minimum wages, other benefits, worker safety, working conditions, and work authorization requirements.

We strongly advise that you consult with your attorney and a business advisor for a complete understanding of all laws, rules, and regulations that will apply to your business.

END OF ITEM 1

ITEM 2: BUSINESS EXPERIENCE

Chief Executive Officer and President: Thomas Baldwin

Mr. Baldwin serves as our Chief Executive Officer and President and has held that position since August 2016. Prior to that, Mr. Baldwin was Chairman of the Board and Chief Executive Officer of New York-based ROI Acquisition Group II from July 2013 to October 2015. Mr. Baldwin has been a private investor since February 2010 and has over thirty years of restaurant experience in various key leadership positions.

Chief Financial Officer: Nicole Thuang

Ms. Thuang serves as our Chief Financial Officer and has held that position since August 2018. Previously, Ms. Thuang served as our Vice President and Controller from October 2016 through August 2018 and as our Controller from September 2014 until October 2016. Prior to that, Ms. Thuang was our Senior Director of Financial Reporting and Accounting from August 2012 through September 2014.

General Counsel: Cristina Mendoza

Ms. Mendoza was appointed as our General Counsel in May 2010 and has served as General Counsel for our parent, Benihana, Inc., since May 2010. Before that, Ms. Mendoza served as Vice President and General Counsel of Florida International University in Miami, Florida from December 2001 through January 2010.

Chief Operating Officer: Mark Leach

Mr. Leach has served as our Chief Operating Officer since May 2019. Prior to that, from October 1996 to May 2019, Mr. Leach was Vice President of Operations for Morton's The Steakhouse/Mastro's Restaurants. Mr. Leach has over thirty-five years of restaurant experience in key roles with several leading brands.

Vice President Benihana Operations: Kathryn L. Pendergast

Ms. Pendergast serves as our Vice President Benihana Operations and has held this position since March 2018. Previously, from October 2015 to March 2018, Ms. Pendergast was our Vice President – East Region. Prior to that, Ms. Pendergast was our Senior Director of the East Region from October 2014 to October 2015. From August 2002 until August 2014, Ms. Pendergast was Market Partner (Utah, Nevada and Arizona) for Pei Wei Asian Diner based in Kaysville, UT.

Regional Director – East Region: Daniel Tintsman

Mr. Tintsman serves as our Regional Director – East Region and has held that position since April 2018. From April 2009 to April 2018, Mr. Tintsman served as our Regional Manager.

Regional Director –West Region: Sang D. Lee

Mr. Lee serves as our Regional Director –West Region and has held that position since April 2018. Mr. Lee previous served as our Regional Manager from March 2009 until his promotion in April 2018.

Director of Culinary Training/Kitchen Operations/R&D: Arturo Garzon

Mr. Garzon serves as our Director of Culinary Training/Kitchen Training/R&D and has held that position since January 2014. Previously, from January 2013 through December 2013, Mr. Garzon served as our Director of Operations.

END OF ITEM 2

ITEM 3: LITIGATION

CONCLUDED LITIGATION

1. Meltzer/Austin Restaurant Corp. and Meltzer San Antonio Restaurants I, L.P. v. Benihana National Corp., Case No. 1:2-11-cv-00542 (United States District Court, Western District of Texas–Austin Division) (filed June 28, 2011). Former franchisees Meltzer/Austin Restaurant Corp., Meltzer San Antonio Restaurants I, L.P. and Bradley Meltzer (collectively “Meltzer”) filed an action against Benihana National Corp. (“BNC”), alleging various causes of action and seeking unspecified money damages, costs and attorneys’ fees, based on BNC’s purported unauthorized termination of Meltzer’s Austin and San Antonio franchises in violation of their franchise agreements. Specifically, Meltzer alleged that BNC fraudulently induced Meltzer to purchase a property to open another (new) BENIHANA Restaurant in Austin and falsely asserted that Meltzer breached the franchise agreements in an attempt to acquire the franchised locations for free. The case was tried and a jury returned a verdict in favor of BNC and the court entered a final judgment in BNC’s favor in April 2014. The court later awarded BNC a portion of its attorneys’ fees incurred in the case, and the remainder of the case was dismissed.

2. Mei Ping (Barbara) Matsumura and Carl Milner, as Trustee of the Trust U/W/O Arthur Cutler, v. Benihana National Corporation, Haru Holding Corp., and Darwin Dornbush, Case No. 1:06-cv-7609 (United States District Court, Southern District of New York). On August 25, 2006, Plaintiffs, who collectively own 20% of the shares of Haru Holding Corp. (“Haru Holding”) (with the remaining 80% of Haru Holding owned by BNC) filed a lawsuit in the Supreme Court of the State of New York, County of New York against Defendants, including BNC and Haru Holding. On September 21, 2006, Defendants removed the action from state court (where it was filed under index number 06/603001) to the United States District Court for the Southern District of New York.

In connection with BNC’s purchase on December 6, 1999, of 80% of the shares of Haru Holding, Plaintiffs were granted a Put Option. Plaintiffs’ lawsuit related to the alleged value of their 20% interest in Haru Holding, including the construction and application of a “Put Price” formula to be used if Plaintiffs exercised their Put Option. Plaintiffs asserted claims against BNC and Haru Holding for breach of fiduciary duty and breach of contract.

Defendants contended that the value of the “Put Option” payment tendered to Plaintiffs conformed with the “Put Price” formula agreed to when BNC purchased 80% of the Haru Holding shares. On March 5, 2010, the court ruled on the parties’ cross-motions for summary judgment, holding that Defendants improperly included certain legal and banking expenses in the definition of “debt” as applied to the “Put Price” formula, and, to that extent, granted Plaintiffs’ summary judgment on the breach of contract claim. With that exception, the court adopted Defendants’ construction of the “Put Price” formula and accordingly granted Defendants’ motion for summary judgment dismissing all of Plaintiffs’ other claims. The court further instructed the parties to recalculate the value of Plaintiffs’ Put Option in accordance with its decision and complete the Put Option transaction, which had been held in abeyance pending the resolution of the lawsuit. Plaintiffs appealed the decision.

On October 18, 2010, the trial court entered an order, in the form BNC suggested, requiring a closing within 30 days (i.e., by November 12, 2010) of the Put Option as provided in the March 5, 2010, order. Those terms required BNC to pay Plaintiffs \$3.7M and Plaintiffs to tender their stock. The order explicitly found that Plaintiffs were not entitled to prejudgment interest. The “put transaction” closed on November 10, 2010, and BNC and Plaintiffs Mei Ping Matsumura and Carl Milner each executed the stock purchase agreement.

Plaintiffs appealed the federal district court’s March 2010 summary judgment rulings to the United States Court of Appeals for the Second Circuit. On March 5, 2012, the Second Circuit issued a Summary Order affirming the trial court’s rulings in large part. On a portion of Plaintiffs’ claim for breach of contract, the Second Circuit vacated the district court’s decision and remanded the case to the trial court to determine one factual matter related to whether certain business expenses carried by Haru Holding as interdepartmental debt was cancelled by Haru Holding’s “upstreaming” of revenue to BNC.” On July 9, 2013, the district court granted Defendants’ motion for summary judgment on that issue, and on April 17, 2014, the court issued an order determining BNC to be the “prevailing party” entitled to attorneys’ fees under the contract. After BNC prevailed on appeal of those later orders, the parties settled the attorneys’ fees claims with Plaintiffs agreeing to pay BNC \$800,000 in prevailing party attorneys’ fees.

3. Benihana National Corp. and Noodle Time, Inc. v. Benihana of Tokyo, Inc., Keiko Aoki and Takanori Yoshimoto, Case No. 11-15372-CA40 (Circuit Court, Eleventh Judicial Circuit in and for Miami-Dade County, Florida) (filed May 18, 2011). Franchisor and Noodle Time sued Benihana of Tokyo, Inc. (“BOT”) alleging breach of contract, civil conspiracy, injury to business reputation, violation of the Florida Deceptive and Unfair Trade Practices Act, tortious interference, and unfair competition arising out of BOT’s deceptive, unfair, and unlawful conduct relating to their disparagement of Plaintiffs. On August 1, 2011, Defendants filed a motion to dismiss for *forum non conveniens*, or alternatively to stay the lawsuit pending the outcome of two lawsuits in the United States District Court for the District of Delaware. The trial court denied the motion to dismiss or to stay, but, on January 2, 2014, Florida’s Third District Court of Appeal granted a writ of certiorari staying the lawsuit pending the outcome of the Delaware cases. The case was voluntarily dismissed without prejudice on February 10, 2017.

4. Benihana of Tokyo, Inc. v. Benihana, Inc. and Noodle Time, Inc. Case No. 10-cv-01051 (United States District Court, District of Delaware) (filed December 03, 2010). BOT sued Benihana, Inc. and Noodle Time (together, “the Company”) asserting claims relating to the BENIHANA trademark (the “Mark”) and Benihana Inc.’s attempt to register rights in the Mark in Iceland, Iran, Monaco, Singapore, Ukraine, Vietnam, and Zambia. BOT sought (a) a preliminary and permanent injunction against the Company’s continued actions to seek ownership of the Mark outside of the United States, Central America, South America, and the Caribbean (the “Territory”); (b) an unspecified amount as compensatory damages; and (c) a declaration that BOT is the owner of the Mark outside the Territory. On December 13, 2011, the court issued an order partially dismissing the claims and granting BOT leave to amend the complaint. On January 9, 2012, BOT filed a Second Amended Complaint asserting claims for breach of contract, specific performance, conversion, false designation of origin (or false advertising), and declaratory judgment,

arising generally from BOT's allegation that it was harmed when the Company filed (and withdrew) trademark registration applications in certain foreign countries. On February 15, 2013, the Company filed an Amended Answer, Affirmative Defenses, and Counterclaims to the Second Amended Complaint, asserting counterclaims for breach of contract. BOT answered the Company's counterclaims on March 11, 2013. On February 14, 2014, the court entered summary judgment in favor of the Company. BOT appealed to the United States Court of Appeals for the Third Circuit, and that court, on August 11, 2015, affirmed the district court's grant of summary judgment for the Company.

5. Benihana of Tokyo, LLC v. Benihana, Inc., American Arbitration Association Claim No. 13 517 00053 14 (filed January 13, 2014). On January 13, 2014, BOT filed a demand for arbitration with the American Arbitration Association, seeking a declaratory judgment that prior noticed defaults of the Hawaii License Agreement between BOT and Benihana, Inc. ("BI") were not defaults, and, if they were, requesting additional time to cure the defaults. On February 5, 2014, BI served its answer and counterclaims, seeking a declaratory judgment that the prior noticed defaults were defaults under the Hawaii License Agreement, that the defaults satisfied the contractual standard for termination of the agreement, and that a February 5, 2014, notice of termination served on BOT was reasonable. An evidentiary hearing was held before a three-member arbitral panel on June 2-6, 2015, in New York City, and the parties submitted post hearing briefs. The arbitration panel issued a split decision. Although the majority declined to terminate the Hawaii License Agreement, the entire panel found that BI was the "prevailing party," awarded BI more than \$1.1 million in attorneys' fees, and ordered that a Southern District of New York preliminary injunction should be permanent. BOT paid the attorneys' fees and did not challenge the permanent injunction. BI challenged the denial of termination in the Southern District of New York, as discussed below.

6. Benihana, Inc. v. Benihana of Tokyo, LLC, Case No. 15-cv-07428-PAE (United States District Court, Southern District of New York). In 2015, BI filed a petition to partially confirm and partially vacate the arbitration award. BI moved to confirm the award of \$1.1 million in attorney's fees and the permanent injunction, which BOT did not oppose. BI also moved to vacate the arbitrators' decision to not terminate the Hawaii License Agreement. After several months of briefing and oral argument, the federal court entered an order on July 15, 2016, confirming the award to BI of \$1.1 million in attorney's fees. The court also entered a permanent injunction prohibiting BOT from selling unauthorized food items or using unauthorized advertisements in connection with the Hawaii restaurant that was the subject of the Hawaii License Agreement. On January 9, 2017, BI filed a motion seeking to hold BOT in civil contempt for multiple violations of the permanent injunction. After a two-day evidentiary hearing, the Court granted BI's motion, and, on June 14, 2017, the court issued an opinion from the bench that found BOT in contempt. The court imposed a regime of sanctions against BOT, including awarding BI \$634,680 in attorney's fees and costs.

7. Benihana of Tokyo, LLC v. Benihana, Inc., American Arbitration Association Claim No. 01 16 0001 3078 (filed April 13, 2016). On April 13, 2016, BOT filed a demand for arbitration with the American Arbitration Association asserting that BI breached the Hawaii License Agreement by unreasonably withholding approval for BOT's menu and advertisements for the Hawaii restaurant. BI answered the demand on May 16, 2016, and

denied all claims. Subsequently, on February 27, 2017, BI served BOT with written Notice of Termination of the Hawaii License Agreement based on BOT's various breaches. Accordingly, on March 17, 2017, BI filed an Amended Answer and Counterclaim seeking a determination that the Notice of Termination was reasonable. On June 23, 2017, BOT filed an Amended Demand, asserting an additional claim for breach of the Hawaii License Agreement based on BI's purported failure to approve BOT's request to open a second restaurant in Hawaii. In March 2018, the parties took part in a four-day arbitration hearing and the arbitration panel issued an award in favor of BI in all respects, including upholding BI's termination of the Hawaii License Agreement. The Award was confirmed by the United States District Court for the Southern District of New York in January 2019.

Other than these actions, no litigation is required to be disclosed in this Item 3.

END OF ITEM 3

ITEM 4: BANKRUPTCY

No bankruptcy information is required to be disclosed in this Item.

END OF ITEM 4

ITEM 5. INITIAL FEES

All franchisees purchasing a franchise under this Disclosure Document will pay to us a non-refundable franchise fee (the “Franchise Fee”) of Forty Thousand Dollars (\$40,000), which is due upon signing the Franchise Agreement.

END OF ITEM 5

ITEM 6. OTHER FEES

OTHER FEES

NAME OF FEE	AMOUNT	DUE DATE	REMARKS
Royalty (1)	5% of Gross Sales for the first five years of the Franchise Term; and 6% of Gross Sales after the first five years of the Franchise Term	Payable monthly on the 15th day of the next month	Gross sales include all revenue from the sale of products and services, and all other income of every kind and nature related to the Restaurant, whether for cash, trade or barter, by redemption of gift certificates or cards, credit transactions or otherwise, regardless of collection. Gross sales do not include sales tax or other taxes collected from customers and paid to the appropriate taxing authority.
Ongoing Training (1)	Cost of training	As incurred	We may require you to attend additional training programs at either our principal place of business, at your BENIHANA Restaurant, or at a designated BENIHANA Restaurant. You will be responsible for all expenses incurred, including the cost of salaries or wages, transportation, lodging and meals for our employees conducting the training. If we decide to conduct any Ongoing Training at your BENIHANA Restaurant, you must reimburse us for the reasonable out-of-pocket expenses incurred by our training instructors in providing Ongoing Training, including travel expenses, food and lodging, and auto rental.
Advertising Contributions (1)	2% of gross sales	Payable monthly on the 15th day of the next month	We are not required to apply the Advertising Contribution in any specific manner.

NAME OF FEE	AMOUNT	DUE DATE	REMARKS
Local Advertising Spend	4% of Gross Sales	As incurred	You must expend not less than 4% of Gross Sales for local print, radio, digital and television and/or billboard display advertising and local marketing and promotion.
Audit (1)	Cost of audit plus 18% interest on the underpayment from the date of underpayment	As Incurred	18% interest is due on all past due amounts. Audit costs are payable only if audit shows 3% or more understatement of Gross Sales in any report.
Transfer (1)	\$10,000 (for controlling interest) / \$1,000 for non-controlling interest	Prior to consummation of transfer	Payable on sale or transfer of interest in franchise.
Successor Franchise Agreement Fee (1)	20% of the then current franchise fee	On signing of Successor Franchise Agreement	
Interest, Costs & Attorneys' Fees	Lump Sum	As Incurred	If any payment is overdue, you must pay to us, in addition to the overdue amount, interest on the overdue amount of 18% per annum, or the maximum rate of interest permitted by law, whichever is less. In any legal actions between the parties, we can recover any amount due or in default, with interest, and the costs of the action, including reasonable attorneys' fees.
Indemnification	Will vary depending on circumstances	As Incurred	You must pay to us all costs, losses, damages, expenses, claims, demands, and liabilities that we incur directly or indirectly from, as a result of, or related to the construction, operation, condition, use or occupancy of the Restaurant.
Insurance	Cost of insurance plus 5%	As Incurred	If you do not pay your insurance premiums for any insurance required under the Franchise

NAME OF FEE	AMOUNT	DUE DATE	REMARKS
			Agreement, we have the right to pay them for you and you must reimburse us for the cost of the insurance purchased plus a 5% administrative fee.
Termination Fee	Aggregate royalties paid during your three fiscal years immediately before the termination date, plus all damages, costs and expenses, including reasonable attorneys' fees	Date of termination	If the Franchise Agreement is terminated as a result of any default under the Franchise Agreement.
Inspection & Testing	\$350 plus shipping costs	On demand	If you request us to evaluate a product or supplier that we have not previously approved, you must pay us an inspection fee of \$350 plus the costs of shipping the proposed product sample to us.

NOTES:

(1) Except as noted in the above charts, all fees are imposed by and are payable to us. All fees are non-refundable. You must participate in our electronic funds transfer program, which authorizes us to utilize a pre-authorized bank draft system. You must sign and deliver to us an unconditional, irrevocable authorization to enable our financial institution to debit bank accounts at your bank in order to pay us any Royalties, Advertising Contributions, and other amounts that you may owe us under the Franchise Agreement or any other agreement between you and us. All Royalties, Advertising Contributions, and other amounts due to us must be received by us or credited to our account by pre-authorized bank debit before 5:00 p.m. on the day each such payment is due.

(2) Interest, payable upon demand, begins from the date of the non-payment or underpayment to the date of payment at a rate of 18% per annum or the maximum rate allowed by applicable law, if that maximum legal is less than 18% per annum.

END OF ITEM 6

ITEM 7. ESTIMATED INITIAL INVESTMENT

We estimate that you will incur initial investment costs in the ranges described below, depending on whether you are developing either a full-size or Concession Model BENIHANA® Restaurant.

YOUR ESTIMATED INITIAL INVESTMENT (FULL-SIZE RESTAURANT MODEL)

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Initial Franchise Fee	\$40,000	Lump Sum	At signing of franchise agreement	Us
Travel and Living Expenses while Training	\$25,000 to \$50,000	As incurred	During Training	Airlines, hotels, and restaurants
Real Estate and Improvements (Owned)	\$2,500,000 to \$4,500,000	(Note 1)	(Note 1)	(Note 1)
Equipment, Furniture & Fixtures	\$500,000 to \$700,000 (Note 2)	Lump Sum	Prior to Opening	Vendors
Opening Inventory	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Vendors
Liquor License	\$200 to \$300,000 (Note 4)	Lump Sum	Prior to Opening	State Liquor Authority and/or owner of License
Insurance	\$50,000 (Note 5)	Lump Sum	Prior to Opening	Insurance carrier
Additional Funds	\$100,000 to \$200,000 (Note 6)	As Incurred	As Incurred	Employees, utilities, suppliers
TOTAL MINIMUM	\$3,255,200 to \$5,880,000 (Note 7)			

NOTES:

(1) Real Estate and Improvements: You must lease or purchase land and a building for the operation of the Restaurant. The typical BENIHANA Restaurant is composed of a building having an area of approximately 6,000-8,000 square feet situated on approximately 1-1/2 acres of land, located in a restaurant row or commercial area with residential areas in close proximity. A BENIHANA Restaurant may be either a stand-alone unit, part of a commercial retail center, or located in an office building, hotel, or other commercial facility. The cost of purchasing real estate varies significantly from location to

location, as does the cost of construction of the improvements. It is estimated that the land will typically cost from \$1,400,000 to \$2,000,000, and the improvements and building construction will cost \$2,500,000 to \$4,000,000.

If the premises can be leased, you may not have to incur some portion of the initial costs for real estate and improvements. Rent will vary significantly from location to location. Many landlords require payment of the greater of a fixed base rent and a percentage rent based upon gross sales. Percentage rent normally ranges between 5% and 8% of gross sales. Rent will vary depending upon the location, age, condition of the building, and other factors. If you lease land, you may have to pay for improvements and building construction. If a building can be rented, certain tenant improvements will have to be made in order to adapt the building for use as a BENIHANA Restaurant. Shopping center or hotel leases usually contain provisions that affect the operations of the Restaurant (i.e., hours, signage restrictions, advertising budget, etc.). Some landlords will agree to build a building to the tenant's necessary plans and specifications and then rent the building to the tenant. In such cases, the rent will be higher to reflect the landlord's expense for construction of the restaurant building.

You should be aware that we have limited experience in converting an existing building to a BENIHANA Restaurant. Historically, whenever establishing a company-owned BENIHANA Restaurant, we have built from "ground-up" and as a result we do not have sufficient information upon which to base our cost estimate for conversion of an existing facility to a BENIHANA Restaurant. Because conversion costs are influenced by the age, condition, composition and former use of the structure, such costs can differ greatly from building to building.

(2) You must equip the BENIHANA Restaurant with all equipment, fixtures, signage, smallwares, glassware, plateware, and uniforms ("FF&E") necessary for the opening and operation of the BENIHANA Restaurant. The aggregate cost of such FF&E typically is estimated to be between \$500,000 and \$700,000. Depending upon the size of the BENIHANA Restaurant, the existing supplies of FF&E items and the number of vendors then selling FF&E items may vary. You will have to negotiate delivery, payment, and refund terms with suppliers.

You agree to purchase and install, at your expense, a point of sale data processing system (the "POS System"), including the software specified in the Manual (as defined in Item 8 of this Disclosure Document) provided by us or otherwise specified in writing. Presently, the required POS System is an ALOHA® system. See Item 11 for initial and ongoing costs of the POS System. The POS System shall consist of a PC-based cash register, register tape printer, magnetic stripe reader, credit card devices that accept EMV chip cards, cash drawer, our defined polling and register software and telecommunications equipment, and any other state-of-the-art devices that may be required by us. The POS System shall contain a device that records accumulated sales and cannot be turned back or reset, and a back-up power system for memory storage in the event of power loss. The POS System will provide a record of products sold, a menu mix report and other reports we require. We have the right to retrieve such data and information directly from your computer as we deem necessary. You will be responsible for the telephonic or transmission costs of such retrieval. You agree to participate in BENIHANA's current online order

platform, which may change from time to time, at our discretion. You will install any new or upgraded software programs and equipment whenever we adopt new or upgraded programs to ensure full operational efficiency and communications capability, at your sole cost and expense.

(3) In order to open the BENIHANA Restaurant, you will be required to purchase an initial inventory of food, beverages (alcoholic and otherwise), linen, paper supplies, etc. The inventory items, quantity, and price may vary based upon building size, availability of supplies, the number of vendors selling such items, etc. The estimated aggregate cost of the initial inventory is \$40,000. Payment terms for such items are usually cash on delivery or payment within a specified number of days (usually no more than 30 days) after delivery.

(4) Depending upon the state in which the BENIHANA Restaurant is located, you may have to purchase a liquor license. In many jurisdictions, the liquor license is issued by a governmental body at the state level and only an annual fee is payable. Other jurisdictions may require city and/or county liquor licenses. Annual license fees may be as little as \$200 or as much as \$300,000 depending upon the jurisdiction.

(5) You are obligated under the Franchise Agreement to obtain and keep in effect insurance (both for your and our benefit) as may be required by law or as we may designate. You must obtain and maintain through the term of the Franchise Agreement: (i) comprehensive general liability insurance (with products, completed operations, and contractual liability and independent contractors and escalators coverage) and comprehensive motor vehicle insurance (for owned and non-owned vehicles) against claims for bodily and personal injury, death, and property damage caused by or occurring in conjunction with the operation of the BENIHANA Restaurant (or otherwise in conjunction with your conduct of business under the Franchise Agreement) under one or more policies of insurance, each on an occurrence basis, with single-limit coverage for personal and bodily injury, death and property damage of at least \$5,000,000 (or such other amount as we reasonably require); (ii) all-risk building and contents insurance including fire, flood and earthquake, vandalism, and theft insurance for the replacement value of the BENIHANA Restaurant and its contents; (iii) business interruption insurance for a period adequate to reestablish normal business operations; (iv) builders' risk insurance on a completed value non-reporting basis during the period of any remodeling of the BENIHANA Restaurant; and (v) workers' compensation insurance in such amount as may be required by applicable statute or rule. The aggregate annual premiums for insurance are estimated to be \$50,000. You will need to negotiate payment terms directly with the insurance carriers. You must have us listed as an additional insured on all liability insurance policies.

(6) The additional funds estimate is only the funds needed for opening expenses and working capital to operate for three months after opening. This estimate on our management's business experience, our operating history, and that of our predecessors and affiliates. The actual amount of additional funds you will need depends on a variety of factors, including: your management skill, experience, and business acumen; local economic conditions; the local market for the goods and services provided; the number of customers served and other variable expenses. The estimate of additional funds does not

include any allowance for an owner's draw or operating losses after the initial phase. You may have to put additional cash into the business, but we cannot estimate or promise when or whether your Restaurant or any other BENIHANA Restaurant will achieve positive cash flow or profits. You must have additional sums available, whether in cash or through credit lines, or have other assets that you may liquidate or borrow against to cover personal living expenses and any operating losses after the initial phase of operations.

(7) We do not offer you or other franchisees any financing, directly or indirectly, in connection with the initial investment.

(8) You should review these figures carefully with a business advisor and develop a business plan and financial projections before making any decision to purchase a franchise for a BENIHANA Restaurant.

YOUR ESTIMATED INITIAL INVESTMENT (CONCESSION MODEL RESTAURANT)

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Initial Franchise Fee	\$40,000	Lump Sum	At signing of franchise agreement	Us
Travel and Living Expenses while Training	\$25,000 to \$50,000	As incurred	During Training	Airlines, hotels, and restaurants
Real Estate and Improvements (Leased)	\$176,000 to \$415,000	(Note 1)	(Note 1)	(Note 1)
Equipment, Furniture & Fixtures	\$185,000 to \$295,000 (Note 2)	Lump Sum	Prior to Opening	Vendors
Opening Inventory	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Vendors
Liquor License	\$0 (Note 4)	N/A	N/A	Owner of License
Insurance	\$50,000 (Note 5)	Lump Sum	Prior to Opening	Insurance carrier
Additional Funds	\$100,000 to \$200,000 (Note 6)	As Incurred	As Incurred	Employees, utilities, suppliers
TOTAL MINIMUM	\$616,000 to \$1,090,000 (Note 7)			

NOTES:

(1) Real Estate and Improvements: The current Concession Model contemplates that you will lease the premises at which you will operate the BENIHANA Restaurant. A typical Concession Model BENIHANA Restaurant will be located in premises of approximately 750-2,000 square feet located in a retail shopping, entertainment district, or other commercial facility. Certain tenant improvements, in the form of new construction or conversion of an existing location to a BENIHANA Restaurant, will be required to adapt the premises for use as a BENIHANA Restaurant. The amount of the initial costs for real estate and improvements, which includes architectural plans, permits, and construction or buildout costs, that you will incur will depend on the terms of your lease. Rent will vary significantly from location to location. Many landlords require payment of the greater of a fixed base rent and a percentage rent based upon gross sales. Percentage rent normally ranges between 5% and 8% of gross sales. Rent will vary depending upon the location of the premises and other factors. Some landlords will agree to build a location to the tenant's plans and specifications, or contribute to the cost of any buildout; in such cases, the rent may be higher to reflect the landlord's expense for construction of the restaurant premises.

You should be aware that we have limited experience with the Concession Model franchised BENIHANA Restaurant. As of the date of this disclosure document, construction has begun and advanced only on one such BENIHANA Restaurant; thus, our cost estimates (of \$176,000 to \$415,000) for the construction of, or conversion to, a Concession Model BENIHANA Restaurant are based on very limited information. Both construction and conversion costs are influenced by the age, condition, composition, and any former use of the premises, and such costs can vary greatly by location. Thus, you must investigate independently the local market conditions before making any decision to proceed with a Franchise Agreement for a Concession Model BENIHANA Restaurant.

(2) You must equip the BENIHANA Restaurant with all equipment, fixtures, signage, smallwares, glassware, plateware, and uniforms ("FF&E") necessary for the opening and operation of the BENIHANA Restaurant. The aggregate cost of such FF&E for a Concession Model BENIHANA Restaurant is estimated to be between \$185,000 and \$295,000. Depending upon the size of the BENIHANA Restaurant, the availability of such FF&E items and the number of vendors then selling FF&E may vary. You will have to negotiate delivery, payment, and refund terms with suppliers.

You agree to purchase and install, at your expense, a point of sale data processing system (the "POS System"), including the software specified in the Manual (as defined in Item 8 of this Disclosure Document) provided by us or otherwise specified in writing. Presently, the required POS System is an ALOHA® system. See Item 11 for initial and ongoing costs of the POS System. The POS System shall consist of a PC-based cash register, register tape printer, magnetic stripe reader, credit card devices that accept EMV chip cards, cash drawer, our defined polling and register software and telecommunications equipment, and any other state-of-the-art devices that may be required by us. The POS System shall contain a device that records accumulated sales and cannot be turned back or reset, and a back-up power system for memory storage in the event of power loss. The POS System will provide a record of products sold, a menu mix report and other reports we require. We have the right to retrieve such data and information directly from your

computer as we deem necessary. You will be responsible for the telephonic or transmission costs of such retrieval. You agree to participate in BENIHANA's current online order platform, which may change from time to time, at our discretion. You will install any new or upgraded software programs and equipment whenever we adopt new or upgraded programs to ensure full operational efficiency and communications capability, at your sole cost and expense.

(3) In order to open the BENIHANA Restaurant, you will be required to purchase an initial inventory of food, beverages (alcoholic and otherwise), linen, paper supplies, etc. The inventory items, quantity, and price may vary based upon building size, availability of supplies, the number of vendors selling such items, etc. The estimated aggregate cost of the initial inventory is \$40,000. Payment terms for such items are usually cash on delivery or payment within a specified number of days (usually no more than 30 days) after delivery.

(4) Because the Concession Model will be operated within a larger venue, any liquor or alcoholic beverage license will be obtained by the property owner and will not require an initial capital outlay by You.

(5) You are obligated under the Franchise Agreement to obtain and keep in effect insurance (both for your and our benefit) as may be required by law or as we may designate. You must obtain and maintain through the term of the Franchise Agreement: (i) comprehensive general liability insurance (with products, completed operations, and contractual liability and independent contractors and escalators coverage) and comprehensive motor vehicle insurance (for owned and non-owned vehicles) against claims for bodily and personal injury, death, and property damage caused by or occurring in conjunction with the operation of the BENIHANA Restaurant (or otherwise in conjunction with your conduct of business under the Franchise Agreement) under one or more policies of insurance, each on an occurrence basis, with single-limit coverage for personal and bodily injury, death and property damage of at least \$5,000,000 (or such other amount as we reasonably require); (ii) all-risk building and contents insurance including fire, flood and earthquake, vandalism, and theft insurance for the replacement value of the BENIHANA Restaurant and its contents; (iii) business interruption insurance for a period adequate to reestablish normal business operations; (iv) builders' risk insurance on a completed value non-reporting basis during the period of any remodeling of the BENIHANA Restaurant; and (v) workers' compensation insurance in such amount as may be required by applicable statute or rule. The aggregate annual premiums for insurance are estimated to be \$50,000. You will need to negotiate payment terms directly with the insurance carriers. You must have us listed as an additional insured on all liability insurance policies.

(6) The additional funds estimate is only the funds needed for opening expenses and working capital to operate for three months after opening. This estimate on our management's business experience, our operating history, and that of our predecessors and affiliates. The actual amount of additional funds you will need depends on a variety of factors, including: your management skill, experience, and business acumen; local economic conditions; the local market for the goods and services provided; the number of customers served and other variable expenses. The estimate of additional funds does not

include any allowance for an owner's draw or operating losses after the initial phase. You may have to put additional cash into the business, but we cannot estimate or promise when or whether your Restaurant or any other BENIHANA Restaurant will achieve positive cash flow or profits. You must have additional sums available, whether in cash or through credit lines, or have other assets that you may liquidate or borrow against to cover personal living expenses and any operating losses after the initial phase of operations.

(7) We do not offer you or other franchisees any financing, directly or indirectly, in connection with the initial investment.

(8) You should review these figures carefully with a business advisor and develop a business plan and financial projections before making any decision to purchase a franchise for a BENIHANA Restaurant.

END OF ITEM 7

ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Compliance with BENIHANA Standards

You must construct, improve, and operate your BENIHANA Restaurant in accordance with the BENIHANA System and the BENIHANA Standards. You must, at your expense, purchase or lease, install, and use all fixtures, signage, furnishings, improvements, supplies, other products, and equipment (including point of sales, computer hardware, and software), décor items, and related items we require, all of which must conform to the BENIHANA Standards. In many cases, you must obtain these items from approved suppliers.

You may not install or permit to be installed at the BENIHANA Restaurant premises any fixtures, furnishings, equipment, décor items, signs, games, vending machines or other items without our written consent or that do not comply with the BENIHANA Standards.

You must maintain in sufficient supply and use and sell at all times only those food and beverage items, ingredients, products, materials, packaging, supplies and paper goods that meet the BENIHANA Standards. Most food, paper, promotional items, and packaging, and many cleaning tools and other supplies you use in the BENIHANA Restaurant must meet the BENIHANA Standards and you must purchase them from approved suppliers or distributors. All menu items must be prepared in accordance with the recipes and procedures specified in the Manual or other written materials.

You may not deviate from the BENIHANA Standards in any way without obtaining our written consent first. You must sell and offer for sale only those menu items, products and services that we have expressly approved for sale in writing. You must offer for sale all products and services required by us in the manner and style we require. You must discontinue offering for sale any items, products and services we may disapprove in writing at any time.

We make the BENIHANA Standards available to you in the Manual (as defined below) and in other forms of communications. The term “Manual” Or “Operations Manual” as used in the Franchise Agreement”) means the BENIHANA University website, all written manuals or training or instruction materials for use by BENIHANA System franchisees or restaurant operators, and all product, service and facility specifications and standards we issue, all of which may be supplemented or modified by us in our sole discretion at any time. We can, and expect to, modify the BENIHANA Standards as we deem necessary. We will provide you notice in the Manual or other methods (such as by email) of any changes.

Authorized Suppliers

You must obtain all food and beverage items, ingredients, supplies, materials, fixtures, furnishings, equipment (including point of sale, computer hardware and software), and other products used or offered for sale at the BENIHANA Restaurant solely from suppliers who demonstrate, to our continuing reasonable satisfaction, the ability to meet our then-current standards, or otherwise in accordance with our standards and specifications. We do not make our supplier evaluation criteria available to you or any supplier. We will provide you with a list of approved suppliers, and our list of approved suppliers is subject to change over time.

If you wish to purchase, lease or use any products or other items from an unapproved supplier, you must submit a written request for approval, or must request the supplier to do so. We must approve any product or supplier in writing before you make any purchases of that product or from that supplier. Your written request must: (a) identify the name and address of the proposed supplier, (b) contain all information we request (which may include reasonable financial, operational and economic information regarding the supplier's business), and (c) identify the authorized products desired to be purchased from the supplier. We may also require that samples from the supplier be delivered to us or to a designated independent testing laboratory for testing prior to approval and use. You must pay us a fee to cover all costs of the test (see Item 6). Our supplier approval procedure does not obligate us to approve any particular supplier. However, we will notify you within 45 days after we complete the inspection and evaluation process of our approval or disapproval of any proposed supplier.

We are not required to make available to you or to any supplier our criteria for product or supplier approval. We have and may continue to develop for use in the BENIHANA System certain products that are prepared from confidential, proprietary recipes and other proprietary products bearing the Marks. Because of the importance of quality and uniformity of production and the significance of those products in the BENIHANA System, it is to your and our benefit that we closely oversee information related to the production and distribution of those products. Therefore, you will use only our proprietary recipes and other proprietary products, and you will purchase solely from us or from a source designated by us all of your requirements for those products.

Purchasing Arrangements

We may negotiate purchase arrangements, including price terms, with designated and approved suppliers on behalf of the BENIHANA System. These arrangements may include preferred vendor programs with suppliers that are willing to supply some products, equipment, or services to some or all of the BENIHANA Restaurants in the BENIHANA System. If we do establish those types of programs or arrangements, we may limit the number of approved suppliers with whom you may deal, we may designate sources that you must use for some or all products, equipment and services, and we may refuse to approve proposals from franchisees to add new suppliers if we believe that approval would not be in the best interests of the BENIHANA System. We or our affiliates may negotiate supply contracts with our suppliers under which we are able to purchase, or have available for franchisees to purchase, products, equipment, supplies, services and other items at prices that will benefit us or our franchisees.

As of the issuance date of this Disclosure Document, we have arrangements with approved suppliers of certain unique, proprietary products. You must purchase these items directly from the designated suppliers.

Our Right to Derive Revenue on Account of Franchisee Purchases

We may derive revenue, compensation, payments, or other material benefits in consideration of purchases by you or other BENIHANA Restaurants of the System and on account of any suppliers' dealings with us, you, or other BENIHANA Restaurants in the System. These benefits may include, by way of example, rebates, commissions, or other forms of compensation.

We sometimes negotiate arrangements with certain vendors to pay rebates or apply price discounts on account of purchases by company-owned and franchised restaurants. As of the issuance date of this Disclosure Document, certain approved suppliers make payments to us based in part on franchisee purchases. Some suppliers make payments to us on a per-unit basis, ranging from \$0.50 to \$5.50 per unit purchased, depending on the supplier, the specific product, and the total unit volume purchased that. Another supplier provides payments in the nature of rebates of 5.0% of net purchases. During our fiscal year ending March 26, 2023, we received \$26,376.59 from these suppliers on account of franchisee purchases. We remitted to franchisees 100% of those payments made by suppliers on account of franchisee purchases. We are not contractually obligated to remit any payments to franchisees and reserve the right to retain all such payments in the future.

During the fiscal year ending March 26, 2023, franchisees purchased supplies from us in the amount of \$9,657.58. Franchisees are not currently required to purchase any supplies from us. Occasionally, franchisees do so because, given the number of company restaurants we operate, we are able to negotiate more favorable prices based on a higher volume of purchases.

During the fiscal year that ended March 26, 2023, we had no revenues from franchisee purchases or leases of required products or services.

We and our affiliates receive no other payments from any supplier or any special discount on purchases from any supplier for ourselves or themselves, in connection with purchases by our franchisees, other than what is described above.

Purchasing Cooperatives

We have the right, in our discretion, to designate any geographical area for purposes of establishing a purchasing program (“Purchasing Program”). If a Purchasing Program is established in the area encompassing your BENIHANA Restaurant at the time you open for business, or a Purchasing Program is established during the term of your Franchise Agreement, you must immediately participate in the Purchasing Program.

None of our officers owns an interest in any approved supplier.

Other than as disclosed above, we have not established any purchasing arrangements with designated suppliers and do not receive payments based on required franchisee purchases.

Advertising, Marketing & Promotional Materials

All advertising, marketing and promotional materials, signs, decorations, paper goods (including menus and all forms and stationery used in the Restaurant) and other items we designate must bear the Marks (see Item 13) in the form, color, location and manner we prescribe. All of your advertising, marketing and promotion in any medium must be conducted in a dignified manner and must conform to the BENIHANA Standards. You must obtain our approval before using any advertising, marketing, or promotional materials and plans before their proposed use. Any advertising and promotional materials you submit to us for our review will become our property.

Site Approval

You must obtain our approval of the site for your BENIHANA Restaurant before you acquire the site. You must also obtain our approval of any contract of sale or lease for the BENIHANA Restaurant before you sign the contract or lease. At our request, you and your landlord must sign a Collateral Assignment of Lease with us (Exhibit D to the Franchise Agreement) which assigns your lease to us under certain circumstances, including if your Franchise Agreement is terminated.

Insurance

Before you open your BENIHANA Restaurant, you must obtain the insurance coverage we require. Our current insurance requirements are described below. We may modify our insurance requirements during the term of your Franchise Agreement, and any modifications will be communicated to you in our Manual or otherwise in writing. You must comply with any changes we require. This insurance coverage must be maintained during the term of the Franchise Agreement and must be obtained from a responsible, duly licensed carrier or carriers acceptable to us. All insurance must be on an “occurrence” basis. The required insurance is:

(a) comprehensive general liability insurance (with products, completed operations and contractual liability and independent contractors and escalators coverage) and comprehensive motor vehicle insurance (for owned and non-owned vehicles) against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Restaurant (or otherwise in conjunction with your conduct of business) under one or more policies of insurance, each on an occurrence basis, with single-limit coverage for personal and bodily injury, death and property damage of at least \$5,000,000;

(b) All-risk building and contents insurance including fire, flood and earthquake, vandalism and theft insurance for the replacement value of the Restaurant and its contents;

(c) business interruption insurance for a period adequate to reestablish normal business operations;

(d) builders’ risk insurance on a completed value non-reporting basis during the period of any remodeling of the Restaurant; and

(e) workers’ compensation insurance in such amount as may be required by applicable statute or rule.

All liability insurance policies must name us, and any of our affiliates that we specify, and our respective officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees of each of them, as additional named insureds and must include a waiver of subrogation in favor of all those parties.

You must construct, improve and operate your BENIHANA Restaurant in accordance with BNC's standards and specifications. You must use fixtures, signage, improvements, decor, supplies, other products and equipment, including computer and point of sale hardware and software that meet BNC's standards and specifications. In most cases, these items must meet BNC requirements and, in many cases, you must obtain these items from approved suppliers. Most food, paper, promotional items, and packaging, and many cleaning tools and other supplies you use in the Restaurant must meet BNC's standards and

specifications and you must purchase them from approved suppliers or distributors. We estimate that the purchases from approved suppliers or those that meet our specifications represent approximately 65% to 90% of the costs to establish a BENIHANA Restaurant and approximately 30% to 55% of the non-occupancy expenses to operate a BENIHANA Restaurant.

Except as stated in this Item 8, there are no goods, services, supplies, equipment, computer hardware and software or real estate which you must purchase or lease from us or our designee, or from suppliers approved by us.

END OF ITEM 8

ITEM 9. FRANCHISEE’S OBLIGATIONS

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

	<u>Obligation</u>	<u>Section in Agreement</u>	<u>Item in Disclosure Document</u>
a.	Site selection and acquisition/lease	Article 2	7, 8 and 11
b.	Pre-opening purchases/leases	Articles 2 & 3	7 and 8
c.	Site development and other pre-opening requirements	Articles 2, 3 & 5	6, 7 and 11
d.	Licenses and Permits	Article 2 & Section 3.17	7
e.	Initial and ongoing training	Article 5	11
f.	Opening	Sections 2.9 - 2.11	11
g.	Fees	Article 7 & Section 17.2.7	5 and 6
h.	Compliance with standards and policies/Operating Manual	Articles 1, 3, 9 & 10	11
i.	Trademarks and proprietary information	Articles 6 & 18	13 and 14
j.	Restrictions on products/services offered	Articles 3 & 13	16
k.	Warranty and customer service requirements	Not applicable	Not applicable
l.	Territorial development and sales quota	Not applicable	Not applicable
m.	Ongoing product/service purchases	Article 3	8

	<u>Obligation</u>		<u>Section in Agreement</u>		<u>Item in Disclosure Document</u>
n.	Maintenance, appearance and remodeling requirements		Articles 2 & 3		8
o.	Advertising		Articles 6 & 9		6, 8, 11
p.	Indemnification		Article 12		6
q.	Management/Chef Training		Article 5		11
r.	Records/reports		Article 8		6
s.	Inspections/audits		Articles 8 & 10		6
t.	Assignment		Article 11		17
u.	Renewal		Article 17		17
v.	Post-termination obligations		Articles 14 & 18		17
w.	Non-competition/ Non-solicitation or employment covenants		Article 18		17
x.	Dispute resolution		Article 15		17

END OF ITEM 9

ITEM 10. FINANCING

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

END OF ITEM 10

ITEM 11. FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING

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

Pre-Opening Obligations

Before you open the BENIHANA Restaurant, we will:

1. provide you with access to the Manual for use during the franchise term. (Franchise Agreement, Section 4.1);
2. provide to you our then-current initial training program (“Initial Training”). (Franchise Agreement, Section 4.2, Article 5);
3. provide pre-opening and opening assistance and training of additional employees of yours (other than those trained at the Initial Training) at the BENIHANA Restaurant (“In-Restaurant Training”) as we deem appropriate. (Franchise Agreement, Sections 4.3, 5.3); and
4. make our personnel available to you to consult in the planning, design, construction, and build-out of the BENIHANA Restaurant. (Franchise Agreement, Sections 2.3, 2.4).

Post-Opening Obligations

During the operation of your BENIHANA Restaurant we will provide the following assistance and services:

1. visits to and evaluations of the Restaurant, as we deem necessary, to ensure your compliance with the BENIHANA Standards (Franchise Agreement, Article 10.1).
2. ongoing training regarding operation of the BENIHANA Restaurant as we deem necessary and subject to our availability (Franchise Agreement, Sections 4.4, 5.5).
3. at your request, additional In-Restaurant Training. You must pay a training fee for each trainer provided and reimburse our expenses (Franchise Agreement, Section 5.3.2).

Site Selection

If you have not secured a location approved by us before you sign your Franchise Agreement, you must do so and construct and open the BENIHANA Restaurant for business within 18 months from the date you sign the Franchise Agreement. (Franchise Agreement, Article 2). If you do not find an approved location, construct it in accordance with the BENIHANA Standards and the requirements in the Franchise Agreement, and open the BENIHANA Restaurant for business within 18 months from the date you sign the Franchise Agreement, we have the right to immediately terminate the Franchise Agreement. (Franchise Agreement, Section 13.2.1).

We do not select your site. However, your location must be approved by us in advance. In approving your site, we consider the general location, size of the property, neighborhood, population, spending habits, food and beverage sales of existing restaurants, traffic pattern, other demographics, other physical characteristics of the site and the lease or purchase terms. At your request, we may assist you in finding an approved location. Our assistance will in no way constitute an assurance, representation or warranty of any kind

as to the suitability of the location of the BENIHANA Restaurant, or for any other purpose. (Franchise Agreement, Section 2.2).

You must buy or lease the Location at your expense. If you lease the Location, you must obtain our prior written approval before entering into a lease agreement, and you must also provide us with a copy of your fully executed lease agreement immediately after signing. (Franchise Agreement, Section 2.11). We are not required and have no obligation to negotiate the terms of your lease. We may require the inclusion of certain provisions in the lease, including, but not limited to:

(a) The requirement that you and your landlord sign and deliver to us a collateral assignment of your rights under the lease in the form attached to the Franchise Agreement as Exhibit D, under which you must, at our option, assign all of your rights under the lease to us or our designee upon termination or expiration of the Franchise Agreement.

(b) A provision restricting the use of the premises solely to the operation of the BENIHANA Restaurant.

(c) A provision which prohibits you from subleasing or assigning all or any part of your occupancy rights, or extending the term of or renewing the lease, without our prior written consent.

(d) A provision giving us the right to enter the premises to make modifications necessary to protect the Marks or the BENIHANA System, or to cure any default under the Franchise Agreement.

(e) A provision requiring the landlord to provide us with written notice of any defaults by you under the lease simultaneously with the issuance of any such notices to you. (Franchise Agreement, Section 2.11).

Build-Out and Construction of the BENIHANA Restaurant

We will provide you with our then-current prototypical plans for a typical BENIHANA Restaurant. You must at your own expense employ architects, designers, engineers, and others as necessary to complete, adapt, modify, or substitute the sample plans and specifications and submit them to us for review and approval. We will review the plans and specifications promptly and approve or provide you with comments on the plans and specifications. You may not begin construction of the BENIHANA Restaurant until we approve, in writing, the final plans and specifications to be used in constructing the BENIHANA Restaurant. Once final plans are approved, you must cause the BENIHANA Restaurant to be completed in full compliance with the plans. (Franchise Agreement, Section 2.4)

Other than as set forth above, we are not bound to provide any other supervision, assistance, or services to you during the operation of the business.

Estimated Opening Time Period

Franchisees typically open their BENIHANA Restaurants within 18 months after signing the Franchise Agreement, and within 12 months after the site is approved by us. The factors affecting this time include the ability to locate a suitable site, negotiate a purchase or lease arrangement, obtain financing or building permits, compliance with

zoning and local ordinances, construction schedules, obtaining all required licenses, weather conditions, shortages, and delayed installation of equipment, fixtures, and signs.

Computer System

You must purchase, install, and maintain at your expense the ALOHA® POS System (see Item 7 Note 2). The POS System must contain a device that records accumulated sales and cannot be turned back or reset, and a back-up power system for memory storage in the event of power loss. The POS System will provide a record of products sold, a menu mix report, and other reports we require. We will have the right to retrieve the data and information directly from your POS System as we deem necessary. There are no contractual limitations on our right to access your computer information. You will be responsible for the telephonic or transmission costs of any retrieval. (Franchise Agreement, Section 3.8).

You must install any new or upgraded software programs and equipment if and when we adopt new programs for all franchisees to ensure full operational efficiency and communications capability at your sole cost and expense. You must update and upgrade the POS System as we designate. We may require you to enter into a separate maintenance agreement for the POS System at any time. Except as provided by manufacturer's warranties, neither we, nor any third party, has a contractual obligation to provide ongoing support, repairs, upgrades, or updates to your hardware or software. (Franchise Agreement, Section 3.8).

The current POS System shall consist of a PC-based cash register, register tape printer, magnetic stripe reader, credit card devices that accept EMC chip cards, cash drawer, our defined polling and register software and telecommunications equipment, and any other state-of-the-art devices that we require. The POS System must contain a device that records accumulated sales and cannot be turned back or reset, and a back-up power system for memory storage in the event of power loss. The POS System will provide a record of products sold, a menu mix report and other reports we require. We have the right to retrieve all data and information directly from your computer as we deem necessary.

The costs associated with purchasing your computer system ranges from \$40,000 to \$65,000. Please refer to Item 7 for more information. There are no contractual limitations on the frequency and cost of upgrading or updating your computer system. We estimate that you will incur up to \$20,000 to \$30,000 for annual ongoing updates, repairs, or upgrades to your computer system.

You must comply with Payment Card Industry Data Security Standards Requirements ("PCI DSS"), and any other requirements we specify, at all times. We have the right to request proof of PCI Compliance annually.

Advertising, Marketing & Promotional Activities

We have not created, and do not presently intend to create, a national advertising fund. We are not obligated to conduct any advertising. We do collect an Advertising Contribution from you in the amount of 2% of your Gross Sales each month. All franchisees who purchase a franchise under this offering are required to pay the Advertising Contribution of 2% of Gross Sales to us on the same basis. Company-owned restaurants are not required to pay the Advertising Contribution. The Advertising Contributions paid by you may be

co-mingled with our general funds and nothing in this Disclosure Document or the Franchise Agreement shall be interpreted to mean that receipt by us of any Advertising Contributions constitutes a trust fund or any other fund dedicated exclusively for advertising or promotion. We do not have any specific obligations to apply Advertising Contributions in any specific manner other than in our sole and absolute discretion, we intend as a general matter to use Advertising Contributions for expenses related to brand advertising, public relations, and in-store, local, national or regional advertising placed by us. We have no obligation to make expenditures for you that are equivalent or proportionate to Advertising Contributions paid by you under this Agreement or to insure that you benefit directly or on a pro rata basis from expenditures of Advertising Contributions. As of the date of this Disclosure Document, in our last fiscal year, our expenses for marketing, advertising, trademark maintenance, and public relations exceed the amount of Advertising Contributions we received from franchisees. We do not make available for review specific financial information related to Advertising Contribution expenditures, and you will not receive a periodic accounting of Advertising Contribution expenditures. We may, in our sole discretion, use the Advertising Contributions principally to solicit new franchise sales.

In addition to the Advertising Contribution paid to us, you must spend in each of your fiscal years an amount (“Local Spend”) that is not less than 4% of Gross Sales for local marketing and promotion.

Local Spend may consist of advertising through: television; radio; digital media; magazines or newspapers; direct mail; billboards; promotional brochures and literature; point-of-sale materials; or other approved advertising. All advertising, marketing, and promotional activities must be conducted in a dignified manner and must conform to our standards and requirements. You may not use any advertising, marketing or promotional plans or materials as part of your Local Spend unless and until you have received written approval from us. If you do not receive written disapproval from us within fifteen days of the date of our receipt of such samples or materials, we shall be deemed to have approved them. We may revoke our approval of any such plans or materials at any time effective upon written notice to you.

You are not permitted to solicit customers and/or advertise outside of the Restaurant Area, by using specific price points or discount offering, unless we specifically approve doing so. We may condition our authorization upon your agreement to offer other BENIHANA franchisees operating BENIHANA Restaurants in the area encompassed by the circulation base of the proposed advertising, the opportunity to participate in, and share the expense of such solicitation and/or advertising.

Training

We provide you with our pre-opening training program before you open your BENIHANA Restaurant. The schedule and activities of the pre-opening training program as of the end of our most recently concluded fiscal year are described below:

TRAINING PROGRAM FOR RESTAURANT MODEL

SUBJECT	CLASSROOM TRAINING HOURS	ON THE JOB TRAINING HOURS	LOCATION
CONCEPT History of BENIHANA concept and its ethnic foundation BENIHANA's differentiating elements. Mission Statement	2 hours		Our Home Office (Aventura, FL)
MARKETING Brand equity Brand promotions Guest profile Identified customer profile of local market Competitors Promotions Public Relations Collateral Materials Opening Support National promotion	4 hours		Our Home Office (Aventura, FL)
BEVERAGE STANDARDS Specialty drinks Recipes Glassware Standard portions Specifications Sake and Sho-Chu Responsible Service Beverage Menu	4 hours	36 hours	Corporate or franchised restaurant (as we designate)
HIBACHI FOOD STANDARDS Cooking Basics Food definition Food specifications National procurement program Yield test and portioning Recipes and chef's service procedures Standard Cooking All sauces and dressings Key points of food handling Chef entertainment	8 hours	112 hours	Corporate or franchised restaurant (as we designate)

SUBJECT	CLASSROOM TRAINING HOURS	ON THE JOB TRAINING HOURS	LOCATION
BENIHANA SUSHI STANDARDS Sushi food specifications Sushi Awasezu & Sushi rice Standard menu items and their recipes “Specialty” rolls Happy Hour/LTOs Hibachi Food	4 hours	112 hours	Corporate or franchised restaurant (as we designate)
GUEST SAFETY AND SECURITY PROTOCOL Safety of facility in compliance with applicable regulations ECOSURE standards ServSafe (or equivalent) certification Vendor selection “Approved Source” “Safety First” in sushi Chef safety protocol for a guest	8 hours		Corporate or franchised restaurant (as we designate)
STANDARD EQUIPMENT, TOOLS, AND UTENSILS Facility Kitchen Sushi Bar Bar	2 hours		Our Home Office (Aventura, FL)
STANDARD SERVICE Steps of Service Host, Bar, Lounge Sushi bar dining room Chefs Management in Dining Room Reservation Management Special Occasion celebration Guest Relations and Recovery Delivery and take out	40 hours	80 hours	Corporate or franchised restaurant (as we designate)
STANDARD SUPPLIES & UNIFORMS Dinnerware Mugs Uniforms (Host, Servers, Chefs, Server Assistant)	2 hours		Our Home Office (Aventura, FL)

SUBJECT	CLASSROOM TRAINING HOURS	ON THE JOB TRAINING HOURS	LOCATION
INSPECTIONS Ecosure Inspections Franchisor's Consultation (announced & unannounced) Auditor's inspection by local authority	4 hours		Corporate or franchise store (as we designate)
STANDARD STAFF Minimum requirements for Chief Chef, Sushi Chef, and Chief Bartender to qualify for training	2 hours		Corporate or franchised restaurant (as we designate)

TRAINING PROGRAM FOR CONCESSION MODEL

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON THE JOB TRAINING	LOCATION
CONCEPT History of BENIHANA concept and its ethnic foundation BENIHANA's differentiating elements. Mission Statement	2 hours		Our Home Office (Aventura, FL)
MARKETING Brand equity Brand promotions Guest profile Identified customer profile of local market Competitors Promotions Public Relations Collateral Materials Opening Support National promotion	4 hours		Our Home Office (Aventura, FL)
BEVERAGE STANDARDS Specialty drinks Recipes Glassware Standard portions Specifications Sake and Sho-Chu Responsible Service Beverage Menu	4 hours	36 hours	Corporate or Franchise Location (as we designate)

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON THE JOB TRAINING	LOCATION
HIBACHI FOOD STANDARDS Cooking Basics Food definition Food specifications National procurement program Yield test and portioning Recipes Standard Cooking All sauces and dressings Key points of food handling	4 hours	36 hours	Corporate or Franchise Location (as we designate)
BENIHANA SUSHI STANDARDS Sushi food specifications Sushi Awasezu & Sushi rice Standard menu items and their recipes	4 hours	28 hours	Corporate or Franchise Location (as we designate)
GUEST SAFETY AND SECURITY PROTOCOL Safety of facility in compliance with applicable regulations ECOSURE standards ServSafe (or equivalent) certification Vendor selection “Approved Source” “Safety First” in sushi	8 hours		Corporate or Franchise Location (as we designate)
STANDARD EQUIPMENT, TOOLS, AND UTENSILS Facility Kitchen Sushi Bar Bar	2 hours		Our Home Office (Aventura, FL)
STANDARD CASHIER SERVICE Concession Setup Cash Change Charges Voids and Comps Vouchers and Certificates Cashier Reconciliation Food Service	4 hours		Franchise Location

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON THE JOB TRAINING	LOCATION
STANDARD SUPPLIES & UNIFORMS Plates, Bowls and Plasticware Uniforms (Cashier, Cooks, Prep Cook)	2 hours		Franchise Location
INSPECTIONS Ecosure Inspections Franchisor's Consultation (announced & unannounced) Auditor's inspection by local authority	4 hours		Franchise Location
STANDARD STAFF Minimum requirements for Cooks, Sushi Chef, and Cashiers to qualify for training	1 hour		Corporate or Franchise Location (as we designate)

Our Director of Culinary Training/Kitchen Training/R&D, whose experience is listed in Item 2 of this Disclosure Document, will oversee training. We may also draw on the experience of other employees in conducting Restaurant operations training. The instructional materials used in the initial training will include the Manual as defined in this Disclosure Document as well as other beverage, food, sushi, and management manuals.

Manual/Operations Manual

We will permit you, upon your signing a confidentiality agreement, to view our Manual (as defined in Section 4.1 of the Franchise Agreement) in our facility before signing the Franchise Agreement and purchasing the franchise; but you will not be given a copy of our Manual or other proprietary materials until you sign the Franchise Agreement. You must immediately return to us the Manual, and all components of it, at your expense, following termination, transfer, or expiration of the Franchise Agreement.

You must complete the pre-opening training program to our satisfaction. The pre-opening training program, which is subject to change as we determine, generally consists of two components, "Initial Training" and "In Restaurant" training. The Initial Training requires each trainee to work in a BENIHANA Restaurant for a period of eight to 12 weeks, or until the trainee is properly trained to our reasonable satisfaction. If you and your required trainees do not complete the pre-opening training program to our satisfaction, we will postpone the opening of your BENIHANA Restaurant until the trainee completes the program to our satisfaction. No postponements for training will extend the time period in which you must open your BENIHANA Restaurant.

Presently, you have the right, at no additional fee, to bring up to five chefs, one restaurant manager, and if we require, or if you request and subject to availability of space, one of your Principals if you are a legal entity, to the Initial Training. You must obtain our prior written approval before bringing any additional employees to the Initial Training, and you must pay us our then-current training fee, which may include salaries of our employees providing the training, for each additional employee we agree to train. You must complete the Initial Training before you open the BENIHANA Restaurant.

In-Restaurant Training will be for a period we deem necessary to prepare for the opening of the BENIHANA Restaurant. There will be no additional fee for the In-Restaurant Training. You will be responsible, however, for all travel, living and lodging expenses for our personnel providing the In-Restaurant Training. At your request, we will, subject to our prior approval and availability, provide the assistance of additional personnel in connection with the In-Restaurant Training, provided that you reimburse us for the salaries and wages of all such additional personnel. If you request that the In-Restaurant Training be provided for more than 20 working days, you must pay all salaries, wages, and travel, living and lodging expenses of our personnel during the extending In-Restaurant Training period.

You must pay all expenses you incur in connection with the Initial Training and In-Restaurant Training, including the costs of your employee's wages, travel, lodging, living, meals and other expenses of your employees.

Initial Training will be offered at various times during the year depending on the number of franchisees entering the System, replacement general managers and other personnel needing training, the number of new BENIHANA Restaurants being opened, and the timing of the scheduled openings of BENIHANA Restaurants. All pre-opening training programs will be at the times and places we designate. Currently, the Initial Training is held at our principal place of business and the In-Restaurant Training is held at your BENIHANA Restaurant. If we decide to conduct any training programs at any other location, you must reimburse us for the reasonable out-of-pocket expenses incurred by our training instructors, including wages, travel expenses, food and lodging, and auto rental.

The entire pre-opening training program is subject to change due to updates in materials, methods, the Manual, and personnel without notice to you. The subjects and time periods allocated to the subjects actually taught to a specific franchisee and its personnel may vary based on the experience or needs of those persons being trained.

We have the right to require you and certain of your employees to attend continuing courses, seminars, and other training programs ("Ongoing Training") as we may require from time to time. We may require you or your employees to attend additional training programs at either our principal place of business, at your BENIHANA Restaurant, or at a designated BENIHANA Restaurant, as we determine in its sole discretion. You will be responsible for any and all expenses incurred in connection with Ongoing Training, including, without limitation, the cost of salaries or wages, transportation, lodging and meals for our employees conducting the training. If we decide to conduct any Ongoing Training at your BENIHANA Restaurant, you must reimburse us for the reasonable out-of-pocket expenses incurred by our training instructors in providing Ongoing Training, including but not limited to travel expenses, food and lodging, and auto rental.

You cannot use the Marks to advertise or sell products or services through the mail or by any electronic or other medium, including the Internet, without our prior written approval. You are not permitted to develop, create, generate, own, license, lease or use, in any manner, any computer medium or electronic medium (including, without limitation, any Internet page, domain names, website, web-page, bulletin board, newsgroup, or other Internet-related medium) which in any way uses or displays the Marks, or any of them, or any words, symbols, or terms confusingly similar to the Marks, without our prior written consent, and then, only in the manner and in accordance with the procedures, policies, standards, and specifications as we may establish. If consent is granted, we reserve the right to revoke the consent effective upon written notice to you. We have the sole right to establish an Internet “home page” using any of the Marks, and to regulate the establishment and use of linked home pages by you and all other franchisees. We have the right, at any time, to establish procedures, limitations, and regulations regarding the operation of any websites. If established, you must immediately comply with all such procedures, limitations, and regulations.

END OF ITEM 11

ITEM 12. TERRITORY

Except as expressly provided in this Item 12, we do not offer you an exclusive or protected territory.

During the term of your franchise agreement, if you are in full compliance with the Franchise Agreement, we will not operate or license any person or entity other than you to operate a BENIHANA Restaurant at any location that is within the “Restaurant Area” identified in the Contract Data Sheet attached to your Franchise Agreement. For franchises offered under this Disclosure Document, the restaurant area granted may be a zero to three-mile radius from the franchisee’s BENIHANA Restaurant, depending on market circumstances. You may face competition from other BENIHANA franchisees and company-owned restaurants located outside of the Restaurant Area, from businesses that we own, from other channels of distribution, and from competitive brands operated or controlled by us or our affiliates or parents.

As described previously in this Disclosure Document, we and BOT have established BENIHANA Restaurants and franchises using the Marks in various locations in the United States and elsewhere. We will continue to open and operate company-owned restaurants and to license others to operate franchises. You do not receive the right to acquire additional franchises within your Restaurant Area. We and our affiliates may operate, or license third parties the right to operate, other types of restaurants within the Restaurant Area (i.e., other than those featuring the teppanyaki or hibachi style of cooking) including, without limitation, Asian-style fast food and sushi restaurants, RA SUSHI restaurants, and bars, or other businesses which may use our trademarks or trade names (but not the names BENIHANA or “BENIHANA OF TOKYO”) and may sell or license others to sell food products using such trademarks or trade names on a wholesale or retail basis in the Restaurant Area.

You must operate the BENIHANA Restaurant only from the approved location listed in your Franchise Agreement. You are solely responsible for selecting the location for your Restaurant and negotiating the terms of your lease.

You do not have the right to relocate your BENIHANA Restaurant. You have no options, rights of first refusal or similar rights to acquire additional franchises.

There are no minimum sales quotas, sales volume, level of market penetration or other similar contingencies you must meet in order to maintain your Restaurant Area. You maintain rights to your Restaurant Area even if the population increases. As long as the Franchise Agreement is in effect, we will not modify or alter your Restaurant Area.

You are not permitted to use other channels of distribution, such as the Internet, catalog sales, telemarketing, or other direct marketing to make sales of services or products to customers. You may not maintain a website with respect to your BENIHANA Restaurant without our prior written consent. We have the right to condition our approval on the terms we determine are necessary, such as requiring that your domain name and home page belong to us and be licensed to you for your use during the term of your Franchise Agreement.

We and our affiliates have the right to: (i) own and operate, or license others the right to own and operate, competing restaurants other than a BENIHANA Restaurant at any location, regardless of the proximity to your Restaurant, including but not limited to restaurants using the trademarks RA SUSHI and HARU; (ii) own and operate, or license others the right to own and operate, BENIHANA Restaurants outside the Restaurant Area, even if these BENIHANA Restaurants might compete with the Restaurant or draw customers from the Restaurant Area; (iii) engage, directly or indirectly, at wholesale, retail, or otherwise, in the production, distribution, license, and/or sale of any product or service under the Marks, or other marks, anywhere, regardless of the proximity to, or the competitive impact on, your Restaurant, through alternative channels of distribution (by way of example only, grocery stores, conveniences stores, internet sales, catalog sales, telemarketing, or other direct marketing); (iv) license others to use the BENIHANA System and the Marks for the operation of BENIHANA Restaurants within Special Distribution Opportunities (as defined below); (v) advertise and promote the BENIHANA System within the Restaurant Area; and (vi) purchase, acquire, be acquired by, merge or affiliate with, or engage in any transaction with other businesses (whether or not these businesses are competitive with the Restaurant), including competing franchise systems with units operating in the Restaurant Area, and to convert and operate, or license others the right to operate, these units under the Marks and the BENIHANA System.

“Special Distribution Opportunities” mean captive venue locations, generally available only in connection with third-party food service provision contracts, including, without limitation, airports and other public transportation facilities, turnpikes and toll-roads, entertainment and sports complexes, hotels, casinos, convention centers, and military facilities.

We are not required to pay you if we exercise any of the rights specified above in your Restaurant Area.

As disclosed in Item 1, certain of our subsidiaries operate restaurants offering similar goods and services under the RA SUSHI trademark. We also operate one competing business in Miami, Florida under the trademark SAMURAI®. The RA SUSHI concept offers sushi and a full menu of Pacific Rim dishes targeting a younger demographic in an environment featuring upbeat design elements. RA SUSHI restaurants may compete with BENIHANA Restaurants and with your Restaurant, may be located in your Restaurant Area, and may solicit or accept orders within your Restaurant Area. There are currently twenty RA SUSHI restaurants operating in the United States as of the date of this Disclosure Document. Neither we, nor our affiliates, currently plan to offer franchises for RA SUSHI or SAMURAI restaurants, or any other branded restaurant. However, we expressly reserve the right to do so in the future. There is no mechanism for resolving any conflicts that may arise between your BENIHANA Restaurant and franchised or company-owned RA SUSHI or SAMURAI restaurants. Any resolution of conflicts regarding location, customers, support, or services will be entirely within our business judgment.

Except as disclosed in this Item, neither we, nor our affiliates, currently plan to operate or franchise a business under a different trademark that will sell goods or services similar to those you will offer in the operation of your franchised business. We may, however, do so in the future.




END OF ITEM 12






ITEM 13. TRADEMARKS

The Franchise Agreement grants you the right to use the trademarks, service marks, trade names, logotypes, and other commercial symbols designated by us, including the red flower design and the words BENIHANA® or BENIHANA OF TOKYO® (the “Marks”). The Marks may only be used in the manner we authorize and only for the operation of your BENIHANA Restaurant.



You may not use the Marks as part of your corporate or other legal name, and you must comply with our instructions in filing and maintaining trade name or fictitious name registrations. You must sign any documents we require to protect the Marks or to maintain their continued validity and enforceability. You may not directly or indirectly contest the validity of our ownership of or our rights in and to the Marks.

The following chart lists information regarding the registration of the Marks with the U.S. Patent and Trademark Office all of which are registered in the Principal Register:


Mark	Registration Number	Registration Date
 FLOWER Design	937,781	07/11/1972
BENIHANA OF TOKYO	940,142	08/01/1972
BENIHANA	1,230,609	03/08/1993
BENIHANA	1,371,624	11/19/1985
BENIHANA	1,412,570	10/07/1986
 FLOWER Design	1,426,792	01/27/1987
 FLOWER Design	2,030,592	01/14/1997




KENMEI-ICHIBANCHA	2,762,510	09/09/2003
BENIHANA HERB TEA	2,778,343	10/28/2003
 KENMEI- ICHIBANCHA Design	2,851,354	06/08/2004
 Japanese Characters Design	2,983,575	08/09/2005
BENIHANA	3,784,161	05/04/2010
 THE CHEF'S TABLE Design	3,843,673	09/07/2010
 FLOWER Design	3,928,723	03/08/2011
BENIHANA	3,928,737	03/08/2011
KABUKI KIDS	4,030,722	09/27/2011
 KABUKI KIDS + Design	4,030,723	09/27/2011
THE CHEF'S TABLE	4,221,563	10/09/2012

EXPERIENCE THE ORIGINAL	4,320,373	04/16/2013
 FLOWER Design	5,150,349	02/28/2017
BENIHANA	5,150,351	02/28/2017
 BENIHANA (Stylized)	5,150,352	02/28/2017
ROCKY'S CHOICE	5,552,519	08/28/2018
BENIHANA THE JAPANESE STEAKHOUSE	5,603,096	11/06/2018
BENIHANA	5,603,401	11/06/2018
BENIHANA	5,702,279	03/19/2019
CREATING GREAT GUEST MEMORIES!	5,702,278	03/19/2019
BENIHANA	5,734,805	04/23/2019
CREATING GREAT GUEST MEMORIES!	5,814,996	07/23/2019
BENIHANA ORIGINAL YUM YUM SAUCE	5,863,612	09/17/2019
 BENIHANA ORIGINAL YUM YUM SAUCE (Stylized)	5,863,789	09/17/2019
BENIHANA	5,883,204	10/15/2019
HIBACHI SUPREME	5,905,592	11/05/2019
SPLASH 'N MEADOW	5,931,625	12/10/2019

LAND 'N SEA	5,931,624	12/10/2019
SAMURAI TREAT	5,936,981	12/17/2019
EMPEROR'S FEAST	5,936,980	12/17/2019
DELUXE TREAT	5,936,979	12/17/2019
BENIHANA	6,042,643	04/28/2020
 Flower Design	6,042,644	04/28/2020
BENIHANA ORIGINAL GARLIC SAUCE	6,230,011	12/22/2020
 Chef Outfit Design	6,258,436	01/26/2021

The following chart lists information regarding the applications for registration of the Marks on the Principal Register of the U.S. Patent and Trademark Office:

Mark	Serial Number	Filing Date
ROCKY'S RAMEN	88/460,282	06/05/2019
ROCKY'S RAMEN	88/514,602	07/15/2019
SUSHI SENSEI	88/637,931	10/01/2019
POKE SENSEI	88/637,925	10/01/2019
RAMEN SENSEI	88/637,918	10/01/2019
 RAMEN SENSEI and Design	88/729,769	12/17/2019

 POKE SANSEI and Design	88/729,766	12/17/2019
 SUSHI SENSEI and Design	88/729,764	12/17/2019
BENIHANA AT HOME	90/450,603	01/06/2021
HIBACHI KO	90/746,880	06/01/2021
RED FLOWER	90/772,912	06/14/2021
 HIBACHI KO THE PLACE FOR FRIED RICE, WINGS, RIBS & RAMEN and Design	90/811,532	07/05/2021
BENIHANA	97/121,470	11/12/2021
SAMURAI KO	97/287,870	02/28/2022

All federal registrations of the Marks are owned by our affiliate, Noodle Time, Inc. (“Noodle Time”) We entered into a license agreement with Noodle Time in July 2010, under which we were granted the right and license to use the Marks for our business operations, and to license use of the Marks to our franchisees (the “License Agreement”). Our rights apply retroactively to any licenses we granted under earlier franchise agreements. The License Agreement is for a perpetual term. Noodle Time has the right to terminate the License Agreement if we commit a default and do not cure the default within the specified time period. If the License Agreement is terminated, Noodle Time will continue to license the Marks to you on the terms in your Franchise Agreement.

As disclosed in Item 1 of this Disclosure Document, our predecessor, BOT, had a perpetual, royalty-free, exclusive license to own and operate BENIHANA Restaurants in the State of Hawaii that was terminated in February 2017. We had no financial interest in any location in Hawaii operated under that license agreement, and, as of the date of this Disclosure Document, no BENIHANA Restaurant is operated either by us or under a franchise agreement in Hawaii. We may operate a restaurant in Hawaii in the future or enter a franchise agreement allowing a franchise to do so.

There are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, no pending

infringement, opposition or cancellation proceedings and no pending litigation involving any of the Marks that may significantly affect the ownership or use of any Mark listed above.

We are not obligated by the Franchise Agreement to protect any rights granted to you to use the Marks or to protect you against claims of infringement or unfair competition with respect to them. We have the right, but not the obligation, under the Franchise Agreement to protect you against claims of infringement or unfair competition arising out of your use of the Marks. You must notify us of the use of, or claims of rights to, a trademark identical to or confusingly similar to the Marks. We are not obligated to indemnify you against or to reimburse you for any damages for which you may be held liable in any proceeding arising out of the use of the names or Marks or any costs incurred in the defense of any such claim.

We may require you, at your sole expense, to discontinue or modify your use of any of the Marks or to use one or more additional or substitute trade names, service marks, trademarks, symbols, logos, emblems and indicia of origin if we determine that an addition or substitution will benefit the BENIHANA System.

The license to use the Marks granted to you under the Franchise Agreement is non-exclusive to you. We have and retain certain rights in the Marks including the following:

1. To grant other licenses for use of the Marks in addition to those licenses already granted to existing franchisees;
2. To develop and establish other systems using the Marks or other names or marks and to grant licenses or franchises in those systems without providing any rights to you; and
3. To engage, directly or indirectly, at wholesale, retail or otherwise, in (a) the production, distribution, license and sale of products and services and (b) the use of the Marks and any and all trademarks, trade names, service marks, logos, insignia, slogans, emblems, symbols, designs, and other identifying characteristics we may develop for that purpose.

END OF ITEM 13

ITEM 14. PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

You do not receive the right to use any item covered by a patent or copyright, but you must use the proprietary information contained in our Manual and that you receive in training. The Manual and the specifics on your use of the Manual are described in the Franchise Agreement. Although we are in the process of filing applications and have filed applications for copyright registration, we claim copyright protection for the Manual, software, and other materials we give you for your use or for public dissemination, other proprietary information and publications we own or have acquired under license from a third party, and everything concerning operating procedures. All of this is our proprietary intellectual property. The following chart lists information regarding the registration of copyrights registered with the U.S. Copyright Office:

<u>Name</u>	<u>Full Title</u>	<u>Copyright Number</u>	<u>Date</u>
Noodle Time, Inc.	BENIHANA -- Hear Banner Ad.	VA0001996590	2015
Noodle Time, Inc.	BENIHANA -- See Banner Ad.	VA0001996588	2015
Noodle Time, Inc.	BENIHANA -- Taste Banner Ad.	VA0001996586	2015
Noodle Time, Inc.	BENIHANA -- Touch Banner Ad.	VA0001996584	2015
Noodle Time, Inc.	BENIHANA I HEART FRIED RICE SNAPCHAT FILTER	VA0001992563	2015
Noodle Time, Inc.	BENIHANA Menu.	TX0008182886	2015
Noodle Time, Inc.	BENIHANA Snapchat Geofilter for Fried Rice Heart.	VA0002005011	2015
Noodle Time, Inc.	Sense a Crave Pre Roll Video 001.	VA0001995474	2015
Noodle Time, Inc.	Sense a Crave Pre Roll Video 002.	VA0001996575	2015
Noodle Time, Inc.	Sense a Crave Pre Roll Video 003.	VA0001996578	2015
Noodle Time, Inc.	Sense a Crave Pre Roll Video 004.	VA0001996579	2015
Noodle Time, Inc.	BENIHANA Website.	VA0002019577	2016
Noodle Time, Inc.	Benihana - Hear Banner Ad & 15 other titles.	V9960D392	2018
Noodle Time, Inc.	Benihana Website (2021)	VA0002249088	2020

There presently are no patents material to the franchise. We claim copyright protection in the Manual and related materials and advertisement and promotional materials, although these materials have not been registered with the United States Registrar of Copyrights.

These materials are considered our proprietary and confidential property and you may use them only as provided in the Franchise Agreement.

Currently there are no effective determinations of the Copyright Office (Library of Congress) or any court regarding any of the copyrighted materials. There are no agreements in effect which significantly limit our right to use or license the copyrighted materials. There are no infringing uses actually known to us which could materially affect your use of the copyrighted materials in any state. We are not required by any agreement to protect or defend copyrights.

You must treat the Manual, any other manuals or materials created for or approved for use in the operation of the BENIHANA Restaurant, and the information contained in them as confidential, and you must use all reasonable efforts to maintain this information as secret and confidential. You must not copy, duplicate, record, or otherwise reproduce these materials or otherwise make them available to any unauthorized person.. The Manual will remain our sole property and must be kept in a secure location at your place of business.

Our electronic version of the Manual supersedes any printed version. We may revise the contents of the Manual, and you must comply with each new or changed standard. You must ensure that the Manual is kept current at all times. In the event of any disputes as to the contents of the Manual, the terms of the master copy maintained by us at our home office or via our Intranet will be controlling.

We will disclose to you certain confidential or proprietary information and trade secrets. Except as is necessary for the operation of your BENIHANA Restaurant and as we approve, you may not, during the term or at any time after the expiration or termination of the Franchise Agreement, regardless of the cause of termination, directly or indirectly, use for your own benefit or communicate or divulge to or use for the benefit of any other person or entity, any trade secrets, confidential information, knowledge or know-how concerning the services, advertising, marketing, designs, plans, or methods of operation of the BENIHANA Restaurant or the BENIHANA System. You may disclose to your employees only that confidential, proprietary or trade secret information as is necessary to operate the business and then only while the Franchise Agreement is in effect. All information, knowledge, or know-how, including materials, equipment, marketing, electronic technology, and other data that we designate as secret or confidential, will be deemed secret and confidential for purposes of the Franchise Agreement.

All personnel having access to any of our Confidential Information must maintain the confidentiality of information they receive in connection with their employment by you. You may be required to have such personnel sign agreements or covenants in a form satisfactory to us, including specific identification of us as a third-party beneficiary of the covenants with the independent right to enforce them, prior to disclosing Confidential Information to them.

You must also promptly tell us when you learn about the unauthorized use of any Confidential Information or any other proprietary information. We are not obligated to take any action, but we will respond to your notification of unauthorized use as we think appropriate.

END OF ITEM 14

ITEM 15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

The Franchise Agreement does not require your Principals to personally manage or operate the BENIHANA Restaurant. When you sign your Franchise Agreement, you must designate and retain in your employment at all times an individual to serve as the “General Manager.” If you are an individual, we recommend that you be the General Manager. You must also retain other personnel as are needed to operate and manage the BENIHANA Restaurant. The General Manager must satisfy our educational and business criteria as provided to you in the Manual or other written instructions, and must be individually acceptable to us. In addition, the General Manager must be responsible for the supervision and management of the BENIHANA Restaurant, and must devote full time and best efforts to this activity. The General Manager also must satisfy our applicable training requirements. If you are a legal entity, the General Manager may, but is not required to, have an ownership interest in you. If you no longer employ the General Manager, you must promptly designate another person as General Manager, and that person must meet all criteria for a General Manager and be acceptable and approved by us.

You must also obtain covenants not to compete, including covenants applicable on the termination of the person’s relationship with you, from your General Manager and any of your other personnel who have received or will have access to our training before employment, and any holder of a beneficial interest in you (except for any limited partners). You must have all of your management personnel sign covenants to maintain the confidentiality of information they receive or have access to based on their relationship with you (see Item 14). We reserve the right, in our discretion, to decrease the period of time or geographic scope of the non-competition covenants contained in the attachments or eliminate the non-competition covenants altogether for any party that must sign an agreement as described in this paragraph. (See Item 17.)

As described in Item 1, we have identified certain persons under the Franchise Agreement that we refer to in this Disclosure Document as your Principals. Your Principals may include a spouse, if any Principal is a married individual. Your Principals as to a business entity include those officers and directors (including the officers and directors of your owners, if applicable) we designate as your Principals, all holders of an ownership interest in you and in any entity that directly or indirectly controls you, and any other person or entity controlling, controlled by, or under common control with you. If we designate certain of your Principals as Controlling Principals, they must sign the Agreement and agree to be individually bound by certain obligations under the Agreements, including confidentiality and non-competition covenants, and they must personally guarantee your performance under the Franchise Agreement. We typically designate your principal equity owners and executive officers, as well as any other affiliated entities that operate Restaurants, as Controlling Principals.

END OF ITEM 15

ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must sell or offer for sale all menu items, food products, and other products and services we require, in the manner and style we require. You must sell and offer for sale only those menu items and other products and services that we have expressly approved in writing. You must not deviate from our standards and specifications without first obtaining our written consent. You must discontinue selling and offering for sale any menu items, products or services that we may disapprove in writing at any time. We have the right to change the types of menu items, products and services offered by you at the BENIHANA Restaurant at any time, and there are no limits on our right to make those changes.

You must maintain in sufficient supply and use and sell only the food and beverage items, ingredients, products, materials, supplies, and paper goods that conform to our standards and specifications. You must prepare all menu items with our recipes and procedures for preparation contained in the Manual or other written instructions, including the measurements of ingredients. You must not deviate from our standards and specifications by the use or offer of nonconforming items or differing amounts of any items, without first obtaining our written consent.

You must keep the BENIHANA Restaurant very clean and maintain it in good repair and condition. You must make any additions, alterations, repairs and replacements, including repainting or replacement of obsolete signs, furnishings, equipment, and décor, as we may reasonably direct. You must not make any changes to the Restaurant or premises without our prior written consent. You must, at your expense, obtain and pay for any new or additional equipment, including a POS System, computer hardware and software, fixtures, supplies and other products and materials that you must have to offer and sell new menu items from the BENIHANA Restaurant or to provide services at the BENIHANA Restaurant by alternative means, such as through carryout, catering or delivery arrangements.

We may offer guidance concerning the selling price for the goods, products and services offered from your BENIHANA Restaurant, and we may set certain prices, but we make no guarantees or warranties that offering the products or merchandise at the recommended or required price will enhance your sales or profits.

We do not impose any other restrictions in the Franchise Agreement or otherwise, as to the goods or services that you may offer or sell or as to the customers to whom you may offer or sell, except as described in Item 12.

END OF ITEM 16

ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this Disclosure Document.

THE FRANCHISE RELATIONSHIP

	Provision	Section in Franchise Agreement	Summary
a.	Length of the Franchise Term	Section 1.3	Term is 15 years.
b.	Renewal or extension of the term (“Successor Franchise Agreement”)	Article 17	The Franchise Agreement does not renew upon the expiration of the Franchise Term. You have an option, subject to meeting certain requirements, to acquire a new franchise agreement (“Successor Franchise Agreement”) to operate the Restaurant at the Location for an additional period equal to the standard period of time offered to our franchisees at the time of the expiration of the Franchise Term.
c.	Requirements for you to renew or extend	Section 17.2	At the expiration of the Franchise Term, You must (a) not be in default, or have been in default in the twenty-four (24) months before expiration, in the performance of any obligation under the Franchise Agreement; (b) have re-modeled or contracted to re-model the Restaurant to the extent we require; (c) submit to us a written application for a Successor Franchise Agreement at least 365 days before the Franchise Term expires, and sign and return to us for final approval and execution a Successor Franchise Agreement at least 30 days before the Franchise Term expires; (d) meet all of our then-existing legal, financial, and operational standards applicable to new franchisees in the then-current form of franchise agreement and the then-current operating standards for the BENIHANA System; (e) submit to us

Provision		Section in Franchise Agreement	Summary
			all other information and documentation we reasonably request; (f) pay us an administrative fee equal to 20% of the Franchise Fee in existence on the date of the expiration of the Term; (g) sign a general release, in the form we require substantially similar to Exhibit G hereto, of any and all claims in existence against us and our affiliates, successors, and assigns, and their respective officers, directors, agents and employees; and (h) satisfy all monetary obligations owed by you to us and our affiliates.
d.	Termination by franchisee	Not applicable	Not applicable
e.	Termination by Franchisor without cause	Not applicable	Not applicable
f.	Termination by Franchisor with “cause”	Article 13	We can terminate only if you default.
g.	“Cause” defined – curable defaults	Section 13.2 (all subsections other than those listed immediately below as “non-curable” defaults)	We may terminate you for cause if you fail to cure certain defaults, including: if you fail to (a) open for business within 18 months after signing; (b) construct the premises in accordance with the Agreement; (c) perform any condition or obligation required under your lease; (d) pay when due any money owed to us, including royalties, within ten-days after notice; (e) submit reports within 30 days after notice; (f) fail to pay any monies owed to us, or our affiliates or vendors, and do not cure within five days after notice (or longer period required); (g) operate the restaurant in accordance with our standards and do not cure within five days after notice; (h) offer products for sale at the Restaurant specified by us and do not cure within five days after notice; or (i) maintain insurance and do not cure within ten days after notice.

Provision		Section in Franchise Agreement	Summary
h.	“Cause” Defined – Non-curable Defaults	Sections 13.2.1, 13.2.2, 13.2.4, 13.2.9, 13.2.11, 13.2.22, 13.2.23, 13.2.25, 13.2.26	Non-curable defaults: bankruptcy, insolvency, appointment of receiver or custodian, knowing submission of false reports, failure to immediately rectify hazardous situations, misuse of Confidential Information or the Marks, assignment in violation of Franchise Agreement, the commission of three or more defaults within a consecutive 12-month period, and felony conviction or any offense for which a material element is fraud, dishonesty, or moral turpitude.
i.	Franchisee’s obligations on termination/non-renewal	Article 14	Obligations include immediately ceasing operation of Restaurant, immediately and permanently ceasing any and all use of the Marks, no longer identifying yourself as our franchisee or former franchisee, immediately ceasing use of Confidential Information and the BENIHANA System, returning the Manual, selling all Restaurant assets to us at our option, completely de-identifying the location as a BENIHANA Restaurant, paying amounts due and, in certain instances, paying a “Termination Fee”.
j.	Assignment of contract by Franchisor	Section 11.1	No restriction on our right to assign, provided transferee assumes all of our obligations under Franchise Agreement.
k.	“Transfer” of “Disposition” by Franchisee - defined	Sections 11.2-11.6	Includes sale, assignment, conveyance, pledge, mortgage, or other encumbrance of any interest in the Franchise Agreement, the Restaurant or you (if you are not a natural person).
l.	Franchisor approval of transfer by Franchisee	Sections 11.2 – 11.8	You must obtain our consent before transferring any interest. We will not unreasonably withhold our consent provided certain conditions are met.

Provision		Section in Franchise Agreement	Summary
m.	Conditions for Franchisor approval of transfer	Sections 11.3 – 11.6, 11.8	We have not exercised our right of first refusal, you release any and all claims you have against us in a form we require substantially similar to Exhibit G hereto you agree to remain obligated under the non-competition and confidentiality covenants, you remain liable under Franchise Agreement, you or the transferee pays us an assignment fee of \$10,000, the transferee meets our then-current criteria, execution of assignment agreement acceptable to us, you provide copies of all documents restricting transfer as imposed by the Franchise Agreement, and the transferee or an approved manager completes our initial training to our satisfaction.
n.	Franchisor’s right of first refusal to acquire franchisee’s business	Section 11.5	Within 30 days after notice, we may exercise our option to purchase the transferred interest on the same terms and conditions.
o.	Franchisor’s option to purchase Franchisee’s business	Not applicable	Not applicable.
p.	Death or disability of franchisee	Section 11.7	Franchise must be assigned by your estate to an approved buyer within six months.
q.	Non-competition covenants during the term of the franchise	Sections 18.4 and 18.5	No involvement in a Competing Business (as defined in the Franchise Agreement).
r.	Non-Competition covenants after the franchise is terminated or expires	Section 18.5	No involvement in a Competing Business (as defined in the Franchise Agreement) for two years at the location or within five miles of any other BENIHANA Restaurant, or any restaurant owned, operated, or franchised by an Affiliated Company (as defined in the Franchise Agreement).
s.	Modification of the agreement	Section 20.6	No modifications of Franchise Agreement unless such modifications are in writing and signed by you and us. We may change the Manual at any time without your written consent.

Provision		Section in Franchise Agreement	Summary
t.	Integration/merger clause	Section 20.1	Franchise Agreement contains entire agreement between you and us with respect to the franchise and only the terms of the Franchise Agreement are binding (subject to applicable state laws). You should not rely on any other promises or statements and such statements may not be enforceable. Nothing in the Franchise Agreement or in any related agreement is intended to disclaim the representations made to you in this Disclosure Document.
u.	Dispute resolution by arbitration or mediation	Article 15	All disputes, with the exception of claims based upon or arising under the Lanham Act, the Sherman Act, the Clayton Act (or other federal or state antitrust statute), related to obtaining possession of the Restaurant or Location, related to breaches of Article 18 of the Franchise Agreement, or for monies due to us, are to be arbitrated in Miami, Florida before a three member panel under the Rules of the American Arbitration Association. The arbitrators are not authorized to award punitive damages or attorneys' fees, and an arbitration will be conducted on an individual, and not a class-wide, basis.
v.	Choice of forum	Section 15.6	In connection with matters not subject to arbitration, litigation must be in the United States District Court for the Southern District of Florida, or, if that court lacks jurisdiction, the 11th Judicial Circuit in and for Miami-Dade County, Florida.
w.	Choice of law	Section 20.8	Florida law applies.

Reinstatements and Extensions. If any termination or expiration of the Franchise Agreement would violate any applicable law, we may reinstate or extend the term of the Franchise Agreement for the purpose of complying with applicable law, for the duration we state in a written notice to you. Any such reinstatement or extension will not waive any of our rights under the Franchise Agreement, or otherwise modify the Franchise Agreement. To the extent reinstatements or extensions are permitted by us or required by

applicable law, you will be required to sign our then-current form of franchise agreement, which may contain materially different terms and conditions than your prior agreement.

END OF ITEM 17

ITEM 18. PUBLIC FIGURES

We presently do not use any public figure to promote the BENIHANA System.

END OF ITEM 18

ITEM 19. FINANCIAL PERFORMANCE REPRESENTATIONS

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Thomas Baldwin, President and Chief Executive Officer, 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180; telephone (305) 593-0770; e-mail benihana@benihana.com, the Federal Trade Commission, and the appropriate state regulatory agencies.

END OF ITEM 19

ITEM 20.
OUTLETS AND FRANCHISEE INFORMATION
LIST OF OUTLETS

TABLE NO. 1
SYSTEMWIDE OUTLET SUMMARY
FOR YEARS 2021 to 2023**

OUTLET TYPE	YEAR	OUTLETS AT THE START OF THE YEAR	OUTLETS AT THE END OF THE YEAR	NET CHANGE* (+ or -)
Franchised	2021	6	6	0
	2022	6	6	0
	2023	6	7	1
Company-Owned	2021	66	66	0
	2022	66	66	0
	2023	66	67	1
Total	2021	72	72	0
	2022	72	72	0
	2023	72	74	2

TABLE NO. 2
TRANSFER OF OUTLETS FROM FRANCHISEES TO NEW OWNERS (OTHER THAN FRANCHISOR OR AN AFFILIATE)
FOR FISCAL YEARS 2021 – 2023

STATE/COUNTRY	YEAR	NUMBER OF TRANSFERS
Total Outlets	2021	0
	2022	0
	2023	0

TABLE NO. 3
STATUS OF DOMESTIC FRANCHISED OUTLETS
FOR FISCAL YEARS 2021-2023**

STATE	YEAR	OUTLETS AT START OF YEAR	OUTLETS OPENED	TERMINATIONS	NON-RENEWALS	REACQUIRED BY FRANCHISOR	CEASED OPERATIONS- OTHER REASONS	OUTLETS AT END OF THE YEAR
Arkansas	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
California	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Florida	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Michigan	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
Nevada	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
New Jersey	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Wisconsin	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Total Outlets	2022	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
	2023	6	1	0	0	0	0	7

**The data in Table Nos. 1 and 3 of this Item 20 do not include five agreements we have entered for Non-Traditional Locations granting licenses for the sale of a limited menu of BENIHANA branded products at event-based locations that presently include stadiums and arenas in the United States. Those five agreements for Non-Traditional Locations in effect as of the date of this Disclosure Document are in the nature of concession license agreements and are subject to the other party's rights and obligations under concession agreements with the stadium or arena. As of the date of this Disclosure Document, we had agreements in place for the following event-based Non-Traditional Locations: the Footprint Center in Phoenix, AZ; Dignity Health Sports Park in Carson, CA; Hard Rock Stadium in Miami Gardens, FL; the T-Mobile Center in Kansas City, MO; and Yankee Stadium in the Bronx, NY.

We have entered one franchise agreement for the operation of a Non-Traditional Location at a shopping and entertainment area in Florida. That BENIHANA Restaurant is not yet open. After opening, it will be included in the number of franchised locations in this Item 20.

TABLE NO. 4
STATUS OF COMPANY OWNED OUTLETS
FOR FISCAL YEARS 2021-2023

STATE	YEAR	OUTLETS AT START OF YEAR	OUTLETS OPENED	OUTLETS REACQUIRED FROM FRANCHISEES	OUTLETS CLOSED	OUTLETS SOLD TO FRANCHISEES	OUTLETS AT END OF THE YEAR
Alaska	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						
Arizona	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
	2023						
California	2021	15	0	0	0	0	15
	2022	15	0	0	0	0	15
	2023						
Colorado	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
	2023						
Florida	2021	10	0	0	0	0	10
	2022	10	0	0	0	0	10
	2023						
Georgia	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
	2023						
Illinois	2021	4	0	0	0	0	4
	2022	4	0	0	0	0	4
	2023						
Indiana	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						
Maryland	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						
Michigan	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
	2023						
Minnesota	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
	2023						
Nevada	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						
New Jersey	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
	2023						
New York	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
	2023						
Ohio	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
	2023						
Oregon	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						

Pennsylvania	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
	2023						
Tennessee	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023			0	0	0	
Texas	2021	7	0	0	0	0	7
	2022	7	0	0	0	0	7
	2023	7	1	0	0	0	8
Utah	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						
Virginia	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023						
Total Outlets	2021	66	0	0	0	0	66
	2022	66	0	0	0	0	66
	2023	66	1	0	0	0	67

**The Company Owned Outlet data in Table Nos. 1 and 4 include one teppanyaki-style restaurant we operate under the SAMURAI® brand that is similar in appearance and customer experience to a BENIHANA restaurant. The data do not include a new Company location opened in Conroe, Texas in July 2023 (which is our fiscal year 2024).

**TABLE NO. 5
PROJECTED DOMESTIC OPENINGS AS OF
MARCH 27, 2023**

STATE	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlet in the Next Fiscal Year	Projected New Company-Owned Outlets in the Current Fiscal Year
California	0	0	1
Florida	1	1	0
Michigan	1	1	0
Texas	0	0	1
Total Outlets	2	2	2

A list of the names of all contact persons for franchisees and the addresses and telephone numbers of their franchised restaurant are provided in Exhibit C to this Disclosure Document.

A list of franchisees who had a franchise terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most

recently completed fiscal year or who have not communicated with us within 10 weeks of the issuance date of this Disclosure Document is attached to this Disclosure Document as Exhibit D.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. During the last three fiscal years, we have had franchisees sign confidentiality provisions that would restrict their ability to speak openly about their experience with the BENIHANA System.

There are no trademark-specific organizations formed by our franchisees that are associated with the BENIHANA System.

END OF ITEM 20

ITEM 21. FINANCIAL STATEMENTS

Attached to this Disclosure Document as Exhibit E are the audited consolidated balance sheets of Benihana Inc. as of for the fiscal years ended March 27, 2023, March 28, 2022, and March 29, 2021; the related consolidated statements of earnings, stockholder's equity, and cash flow of Benihana Inc. for the fiscal years ended March 27, 2023, March 28, 2022, and March 29, 2021. We are a wholly-owned subsidiary of Benihana Inc., and Benihana Inc. absolutely and unconditionally guarantees BNC's duties and obligations under any Franchise Agreement entered into with a franchisee buying a franchise pursuant to this Disclosure Document. A copy of the guarantee is included as Exhibit H.

END OF ITEM 21

ITEM 22. CONTRACTS

Attached as Exhibits to this Disclosure Document are the following contracts and their respective attachments:

**Exhibit B to
Disclosure Document**

Franchise Agreement

Exhibit A Contract Data Sheet

Exhibit B Personal Guaranty

Exhibit C Conditional Assignment of Telephone Numbers

Exhibit D Collateral Assignment of Lease

Exhibit E Assignment & Assumption Agreement

Exhibit F Confidentiality and Restrictive Covenant
Agreement

Exhibit G Authorization to Honor Charges Drawn By and
Payable To Benihana National Corp.

**Exhibit F to
Disclosure Document**

Statement of Prospective Franchisee

**Exhibit G to
Disclosure Document**

General Release Form

END OF ITEM 22

ITEM 23

RECEIPTS

The Receipts are the last 2 pages of this Disclosure Document. You must sign both copies of the Receipt. You should retain one copy for your records and you must send the other signed copy to us to the attention of: Cristina Mendoza, Benihana National Corp., 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180; or email clmendoza@benihana.com.

EXHIBIT A

Agents for Service of Process and Regulatory Authorities

CALIFORNIA

California Commissioner of Financial Protection & Innovation
Department of Financial Protection & Innovation
2101 Arena Boulevard
Sacramento, California 95834

ILLINOIS

Attorney General State of Illinois
500 South Second Street
Springfield, Illinois 62706

INDIANA

Agent to Receive Process
Indiana Secretary of State
201 State House
200 W. Washington Street
Indianapolis, Indiana 46204

State Administrator

Indiana Securities Commissioner
302 W. Washington, Room E-111
Indianapolis, Indiana 46204

MARYLAND

Agent to Receive Process
Securities Commissioner
Division of Securities
200 St. Paul Place
Baltimore, Maryland 21202

State Administrator

Office of the Attorney General Securities Division
200 St. Paul Place
Baltimore, Maryland 21202-2020

MICHIGAN

Michigan Department of Attorney General
Consumer Protection Division
Attention: Franchise Section
G. Mennen Williams Building, First Floor
525 West Ottawa Street
Lansing, MI 48933

MINNESOTA

Commissioner of Commerce Minnesota Department
of Commerce 85 7th Place East, Suite 280
St. Paul, Minnesota 55101

NEW YORK

Agent to Receive Process
Attention: New York Secretary of State
New York Department of State
One Commerce Plaza,
99 Washington Avenue, 6th Floor
Albany, NY 12231-0001

State Administrator

Office of the New York State Attorney General
Investor Protection Bureau
Franchise Section
28 Liberty Street, 21st Floor
New York, NY 10005

NORTH DAKOTA

North Dakota Securities Department
600 East Boulevard Avenue
State Capitol-5th Floor Bismarck, ND 58505-0510

RHODE ISLAND

Rhode Island Department of Business Regulation
Securities Division
John O. Pastore Complex – Building 69-1
1511 Pontiac Avenue
Cranston, RI 02920

VIRGINIA

Agent to Receive Process
Clerk of the State Corporation Commission
1300 E. Main Street, First Floor
Richmond, VA 23219

State Administrator

State Corporation Commission
Division of Securities and Retail Franchising
1300 E. Main Street, Ninth Floor
Richmond, VA 23219

WASHINGTON

Department of Financial Institutions (for service of
process)
Securities Division
150 Israel Rd S.W. Tumwater, WA 98501

Department of Financial Institutions (mailing address)
Securities Division
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8760

WISCONSIN

Department of Financial Institutions
Division of Securities
4822 Madison Yards Way, North Tower
Madison, WI 53705

EXHIBIT A
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

CONTRACT DATA SHEET

A. Franchisee: _____

B. Approved Location: _____

C. Restaurant Area: _____

[The radius provided above shall be calculated by measuring the distance between the Restaurant and any other BENIHANA Restaurant on a straight line from the principal entrance front door of the Restaurant to the principal entrance front door of the other BENIHANA Restaurant.]

D. Address for notice to Franchisee shall be at the Restaurant, unless another address is inserted here: _____

Initials

EXHIBIT B
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

**PERSONAL GUARANTY BY SHAREHOLDERS OF A CORPORATION,
MEMBERS OF A LIMITED LIABILITY COMPANY, OR PARTNERS OF A LIMITED
PARTNERSHIP**

NAME OF FRANCHISEE: _____ **DATE:** _____

You, the undersigned Guarantor(s) (hereinafter collectively and individually referred to as "GUARANTOR"), represent and warrant that you constitute [check whichever statement applies]:

the shareholders of one hundred percent (100%) of the originally issued and outstanding capital stock of the above FRANCHISEE, a corporation

one hundred percent (100%) of the members of the above FRANCHISEE limited liability company ("LLC")

one hundred percent (100%) of the partners of the above FRANCHISEE limited or general partnership

This Guaranty is incorporated and made a part of a Franchise Agreement between FRANCHISEE and Benihana National Corp., a Delaware corporation, whose principal office address is 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180 (hereinafter referred to as "FRANCHISOR") on the date specified above, and will be attached to the Franchise Agreement.

1. Acknowledgments. GUARANTOR acknowledges and agrees that FRANCHISOR has entered into the Franchise Agreement with FRANCHISEE solely on the condition that each owner of FRANCHISEE be personally obligated and jointly and severally liable with FRANCHISEE (and with each other owner of FRANCHISEE) for the performance of each and every obligation of FRANCHISEE (and its owners) under the Franchise Agreement, any amendments or modifications to the Franchise Agreement, any extensions or renewals of the Franchise Agreement, and under each and every agreement ancillary to the Franchise Agreement, including any lease, that has been or hereafter may be entered by FRANCHISEE with FRANCHISOR (all of the aforementioned agreements are collectively referred to as the "BENIHANA Agreements").

2. GUARANTOR'S Covenants, Representations and Guaranty. In consideration of and as an inducement to the execution of the Franchise Agreement by FRANCHISOR, Guarantor hereby personally, irrevocably and unconditionally:

- (a) represents and warrants to FRANCHISOR that the exhibits/attachments to the Franchise Agreement are accurate and complete;
- (b) agrees to guarantee the prompt payment and performance of all Obligations (as hereinafter defined) of FRANCHISEE to FRANCHISOR and its successors and assigns; and
- (c) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Franchise Agreement and each and every provision in any of the BENIHANA Agreements, as if GUARANTOR were the FRANCHISEE.

The term "Obligations" means the payment of all debts, liabilities and obligations of FRANCHISEE to FRANCHISOR arising under the BENIHANA Agreements, whether direct, indirect, absolute, contingent, matured or unmatured, extended or renewed, wherever and however incurred, together with all costs of collection, compromise and enforcement, including reasonable attorneys' fees, and the prompt performance of each and every covenant, agreement and condition set forth in any of the BENIHANA Agreements.

3. Waivers by GUARANTOR. GUARANTOR hereby waives:

- (a) acceptance and notice of acceptance by FRANCHISOR of the foregoing guaranty;
- (b) notice of demand for payment of any indebtedness or nonperformance by FRANCHISEE of any indebtedness or nonperformance by FRANCHISEE of any of the Obligations;
- (c) presentment or protest of any instrument and notice thereof; and notice of default or intent to accelerate with respect to the indebtedness or nonperformance of any of the Obligations;
- (d) any right GUARANTOR may have to require that an action be brought against FRANCHISEE or any other person as a condition of liability;
- (e) the defense of the statute of limitations in any action hereunder or for the collection or performance of any Obligation;
- (f) any and all rights to payments, indemnities and claims for reimbursement or subrogation that GUARANTOR may have against FRANCHISEE arising from GUARANTOR'S execution of and performance under this Guaranty;
- (g) any defense based on any irregularity or defect in the creation of any of the Obligations or modification of the terms and conditions of performance thereof;
- (h) any defense based on the failure of FRANCHISOR or any other party to take, protect, perfect or preserve any right against and/or security granted by the FRANCHISEE or any other party;
- (i) any and all other notices and legal or equitable defenses to which GUARANTOR may be entitled.

4. Further Agreements and Understandings. GUARANTOR hereby consents and agrees that:

- (a) GUARANTOR'S direct and immediate liability under this Guaranty will be joint and several with FRANCHISEE and each other GUARANTOR of FRANCHISEE;
- (b) The death or incapacity of any GUARANTOR will not modify, amend or terminate this Guaranty;
- (c) If GUARANTOR should die, become incapacitated, become insolvent or make a general assignment for the benefit of creditors, or if a proceeding under the United States Bankruptcy Code or any similar law affecting the rights of creditors generally shall be filed or commenced by, against or in respect of GUARANTOR or any other GUARANTOR hereunder, any and all obligations of the GUARANTOR shall, at FRANCHISOR 's option, immediately become due and payable without notice;
- (d) If any payment or transfer to FRANCHISOR which has been credited against any Obligation is voided or rescinded or required to be returned by FRANCHISOR, whether or not in connection with any event or proceeding described in Section 4(c), this Guaranty will continue in effect or be reinstated as though such payment transfer or recovery had not been made;

- (e) GUARANTOR will render any payment or performance required under the Franchise Agreement and/or any of the BENIHANA Agreements upon demand if FRANCHISEE fails or refuses punctually to do so;
- (f) GUARANTOR'S liability hereunder will be construed as an absolute, unconditional, continuing and unlimited obligation without regard to the regularity, validity or enforceability of any of the Obligations, and without regard to whether any Obligation is limited, modified, voided, released or discharged in any proceeding under the United States Bankruptcy Code or any similar law affecting the rights of creditors generally;
- (g) GUARANTOR'S liability hereunder will not be contingent or conditioned upon FRANCHISOR's pursuit of any remedies against FRANCHISEE or any other person;
- (h) This Guaranty will continue in full force and effect for and as to any extension of or modification or amendment to the Franchise Agreement and/or any other of the BENIHANA Agreements and GUARANTOR waives notice of any and all such extensions, modifications or amendments;
- (i) GUARANTOR'S liability hereunder will not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence, or any waiver that FRANCHISOR may from time to time grant to FRANCHISEE or to any other person, including without limitation, the acceptance of any partial payment or performance, or the compromise or release of any claims (including the release of other owners or guarantors), or the taking of any action by FRANCHISOR which may have the effect of increasing GUARANTOR'S obligations, none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable during the term of the Franchise Agreement and so long as any performance is or may be owed under any of the BENIHANA Agreements by FRANCHISEE or its owners and so long as FRANCHISOR may have any cause of action against FRANCHISEE or its owners;
- (j) Any and all present and future debts and obligations of the FRANCHISEE to GUARANTOR or any other GUARANTORS are hereby subordinated to the full payment and performance of the Obligations.

5. Choice of Law; Jurisdiction and Venue. This Guaranty, and any claims related thereto, shall be governed by and construed in accordance with the laws of the State of Florida. GUARANTOR hereby irrevocably submits to the jurisdiction of the Federal District Court for the Southern District of Florida ("Southern District of Florida"), which shall be the venue and exclusive proper forum in which to adjudicate any case or controversy arising, either directly or indirectly, under or in connection with this Guaranty, except to the extent otherwise provided in this Guaranty. GUARANTOR agrees that it is subject to personal jurisdiction in the Southern District of Florida, and GUARANTOR further agrees that, in the event of litigation arising out of or in connection with this Guaranty, GUARANTOR will not contest or challenge the in personam jurisdiction or venue of the Southern District of Florida. If and only if the Southern District of Florida lacks subject matter jurisdiction over any matter litigated under this Guaranty, then the Circuit Court for the 11th Judicial Circuit (or its successor) in and for Miami-Dade County, Florida ("11th Judicial Circuit") shall be the venue and exclusive proper forum for such litigation. GUARANTOR agrees that GUARANTOR is subject to personal jurisdiction in the 11th Judicial Circuit, and, in any litigation brought in that court under this Section, GUARANTOR agrees that GUARANTOR will not contest or challenge the in personam jurisdiction or venue of the 11th Judicial Circuit. GUARANTOR hereby irrevocably waives, to the fullest extent GUARANTOR may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding and any right to jurisdiction on account of GUARANTOR'S place of residence or domicile. GUARANTOR agrees

that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

6. Waiver of Right to Jury Trial. GUARANTOR expressly waives the right to a trial by jury for any claims relating directly or indirectly to this Guaranty and/or the BENIHANA Agreements, the negotiation of the Guaranty and/or the BENIHANA Agreements, or the business relationship relating to or arising out of the Guaranty and/or the BENIHANA Agreements.

7. Severability. If one or more provision contained in this Guaranty shall be invalid, illegal or unenforceable, in any respect under the laws of any jurisdiction, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

GUARANTOR now executes this Guaranty on the date shown above:

GUARANTOR:

By: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____

By: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____

EXHIBIT C
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

CONDITIONAL ASSIGNMENT OF TELEPHONE NUMBERS

This Conditional Assignment of Telephone Numbers is incorporated and made a part of a Franchise Agreement between _____ (“Assignor”) and Benihana National Corp., a Delaware corporation, whose principal office address is 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180 (hereinafter referred to as “BNC”) concurrently with the Franchise Agreement.

1. In accordance with the terms of the Franchise Agreement between Assignor and BNC, and in exchange for valuable consideration provided by BNC, receipt of which is hereby acknowledged, Assignor hereby conditionally assigns to BNC all of Assignor’s right, title and interest in and to those certain telephone numbers, facsimile numbers, regular, classified or other telephone directory listings, URLs, domain names and email addresses and accounts (collectively, “Franchisee Listings”) associated with BNC’s trademarks and service marks used in connection with Assignor’s operation of a BENIHANA restaurant located at _____ (the “Restaurant”).

2. The conditional agreement will become effective, at BNC’s option, automatically upon termination or expiration of the Franchise Agreement entered into by and between Assignor and BNC for the operation of the Restaurant. Upon the occurrence of either condition, Assignor must do all things required by the telephone company to assure the effectiveness of the assignment of telephone numbers as if the BNC had been originally issued such telephones, telephone numbers, telephone listings and the usage thereof.

3. Assignor agrees to pay the listing company on or before the effective date of assignment all amounts owed for the use of the Franchisee’s Listings, including, without limitation, Yellow Pages advertising. Assignor further agrees to indemnify BNC for any sums BNC must pay any listing company to effectuate this agreement, and agrees to fully cooperate with the listing companies and BNC in effectuating this assignment.

4. Without limiting the generality of the foregoing, Assignor agrees and acknowledges that as between BNC and Assignor, upon termination or expiration of the Franchise Agreement, BNC will have the sole right to and interest in the Franchisee’s Listings, and Assignor appoint BNC as its true and lawful attorney-in-fact to direct the listing agencies to assign the same to BNC, and execute such documents and take such actions as may be necessary to effectuate the assignment. Upon such event, Assignor will immediately notify the listing agencies to assign the Listings to BNC; Assignor also agrees not to utilize any call forwarding messages referring to another number. If Assignor fails to promptly direct the listing agencies to assign the Franchisee Listings to BNC, BNC will direct the listing agencies to effectuate the assignment contemplated under this Agreement, to BNC.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

ASSIGNOR:

ATTEST

BY: _____
Title: _____

BENIHANA NATIONAL CORP.:

ATTEST

BY: _____
Title: _____

EXHIBIT D
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

COLLATERAL ASSIGNMENT OF LEASE

THIS COLLATERAL ASSIGNMENT OF LEASE is made as of the last date below written by and among the following parties:

LANDLORD: _____

TENANT: _____

FRANCHISOR ("BNC"): Benihana National Corp.
21500 Biscayne Boulevard, Suite 900
Aventura, Florida 33180

RECITALS:

A. Under the terms of the lease agreement attached hereto as Exhibit A (the "Lease"), Landlord has agreed to lease to Tenant certain premises (the "Premises") located at the following street address:

B. BNC has accepted the Premises for Tenant's BENIHANA Restaurant, subject to the provisions of the Franchise Agreement entered into by and between Tenant and BNC (the "Franchise Agreement").

C. As a condition to BNC entering into the Franchise Agreement, BNC has required that Tenant assign its right, title and interest in the Lease, with the right to reassign (as provided therein), as security for Tenant's obligations and BNC's rights under the Franchise Agreement.

D. In order to induce BNC to enter into the Franchise Agreement, Tenant has agreed to assign its right, title and interest in the Lease, with the right to reassign (as provided therein), as security for Tenant's obligations and BNC's rights under the Franchise Agreement.

AGREEMENT

NOW THEREFORE, in consideration for the foregoing premises and the mutual promises contained herein and in the Franchise Agreement, and in order to secure Tenant's obligations and BNC's rights under the Franchise Agreement, Tenant does hereby collaterally assign, transfer and set over unto BNC, with the right to reassign or sublet, all of its right, title and interest in and to the Lease and in and to the Premises; it being nevertheless expressly understood and agreed that this

assignment is made and is consented to by the Landlord contingent upon the following terms, covenants, limitations and conditions:

1. Use of the Premises. Tenant shall use the Premises only for the operation of a “BENIHANA” Restaurant pursuant to its Franchise Agreement with BNC and for no other purpose whatsoever.

2. Signage. Landlord hereby consents to Tenant’s use and display on the Premises of such exterior and interior signs, posters, promotional materials, and equipment, furnishings, and décor as required by BNC under the Franchise Agreement. Landlord further agrees not to unreasonably withhold its consent to Tenant’s compliance with any changes to such items required by BNC during the term of the Franchise Agreement.

3. Assignment. Landlord acknowledges that Tenant has agreed under the Franchise Agreement that if the Franchise Agreement is terminated or expires, or if Tenant default’s under the Lease, Tenant shall, at BNC’s option, assign to BNC any and all interest Tenant has in the Lease, including any renewal rights. Landlord hereby consents to such assignment subject to the following conditions: (i) BNC shall notify Landlord in writing within thirty (30) days after termination or expiration of the Franchise Agreement or Franchisor’s receipt of any notice of default by Tenant under the Lease if BNC elects to accept assignment of the Lease; BNC’s failure to accept assignment of the Lease upon any default of Tenant under the Lease shall not be deemed a waiver of BNC’s future right to accept such assignment in the event of any future default by Tenant; (ii) If BNC elects to accept assignment of the Lease, BNC shall execute and deliver to Landlord a lease containing the same terms and conditions (including rental rates) as the Lease; provided, however, that BNC’s leasehold interest shall not be subject to any default claims that may exist between Landlord and Tenant; and (iii) If BNC elects to accept assignment of the Lease, BNC shall take possession of the Premises within thirty (30) days after notice of such election to Landlord, and BNC shall commence payment of rent upon taking possession of the Premises. Nothing herein shall affect Landlord’s right to recover from Tenant any and all amounts due under the Lease or to exercise any rights of Landlord against Tenant as provided under the Lease.

4. Assignment to Third Party. At any time after giving notice of its election to accept assignment of the lease, BNC may request to assign its lease, or sublease the Premises, to a third party. Landlord agrees not to unreasonably withhold its consent to any such assignment or sublease on the same terms as the Lease provided however, that if Landlord refuses to consent to such assignment or sublease by BNC, BNC shall have no further obligations thereunder.

5. BNC’s Right to Enter the Premises. Landlord and Tenant hereby acknowledge that BNC has the right, under the Franchise Agreement, to enter the BENIHANA Restaurant operated by Tenant at the Premises at any time for the purpose of conducting inspections, to protect BNC’s proprietary marks and information, and to correct any deficiencies under the Franchise Agreement. Landlord and Tenant agree not to interfere with or prevent such entry by BNC.

6. De-Identification. Landlord and Tenant hereby acknowledge that in the event the Franchise Agreement expires or is terminated, Tenant is obligated under the Franchise Agreement to take certain steps to de-identify the Premises as a “BENIHANA” Restaurant. Landlord agrees to cooperate fully with BNC in enforcing such provisions of the Franchise Agreement against Tenant, including allowing BNC, its employees and agents to enter and remove signs, décor and materials bearing or displaying any marks, designs or logos of Franchisor; provided, however, that Landlord shall not be required to bear any expenses thereof. Tenant agrees that if Tenant fails to de-identify the Premises promptly upon termination or expiration as required under the Franchise Agreement, BNC may cause all required de-identification to be completed at Tenant’s expense.

7. Binding Agreement. This Agreement shall be binding upon the parties hereto and their successors, assigns, heirs, executors, and administrators. The rights and obligations herein contained shall continue notwithstanding changes in the persons or entities that may hold any leasehold or ownership in the land or building. Any party hereto may record this Agreement or a memorandum hereof.

8. Equitable Relief. Any party hereto may seek equitable relief, including, without limitation, injunctive relief or specific performance, for actual threatened violation or nonperformance of this Agreement by any other party. Such remedies shall be in addition to all other rights provided for under this or other agreements between any of the parties. The prevailing party in any action shall be entitled to recover its legal fees together with court costs and expenses of litigation.

9. Miscellaneous. Nothing contained in this Agreement shall affect any term or condition in the Franchise Agreement between Tenant and BNC. Nothing herein shall be deemed to constitute a guaranty or endorsement by BNC of the terms and conditions of the Lease between Landlord and Tenant. If BNC, in its sole discretion, determines not to accept assignment of the Lease as permitted hereunder, neither Landlord nor Tenant shall have any claims against BNC. No terms or conditions contained in the Lease shall be binding on BNC unless and until it elects to accept assignment of the Lease hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Collateral Assignment of Lease this _____ day of _____, 20__.

ATTEST

ATTEST

ATTEST

TENANT:

BY: _____
Title: _____

FRANCHISOR:
BENIHANA NATIONAL CORP.

BY: _____
Title: _____

LANDLORD:

BY: _____
Title: _____

EXHIBIT E
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

ASSIGNMENT & ASSUMPTION AGREEMENT

[To be completed if Franchisee signs the Franchise Agreement as individual and subsequently forms a legal entity to operate the BENIHANA Restaurant.]

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is made and entered into this ____ day of _____, 20____, by and between _____ *[Insert individual franchisee name here]* ("Assignor"), _____, a _____ organized under the laws of the state of _____ ("Assignee"), and Benihana National Corp., a Delaware corporation, whose principal office address is 21500 Biscayne Boulevard, Suite 900, Aventura, FL 33180 ("BNC").

BACKGROUND

A. BNC and Assignor entered into a certain Franchise Agreement dated _____ (the "Franchise Agreement") whereby Assignor was granted the right and undertook the obligation to operate a BENIHANA Restaurant at the location identified in the Franchise Agreement (the "Franchised Business");

B. Assignor has formed Assignee for the convenience and purpose of owning and operating the Franchised Business;

C. Assignor desires to assign his or her rights and obligations under the Franchise Agreement to Assignee pursuant to and in accordance with the provisions of the Franchise Agreement; and

D. BNC is willing to consent to the assignment of the Franchise Agreement to Assignee, subject to the terms and conditions of this Assignment, including without limitation, Assignor's agreement to guarantee the performance by Assignee of its obligations under the Franchise Agreement and to continue to be bound by all of the provisions of the Franchise Agreement.

AGREEMENT

In consideration of the mutual covenants contained in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and intending to be legally bound, the parties agree as follows:

1. Assignor hereby assigns and transfers over to Assignee all of his or her rights, title and interest in and to the Franchise Agreement, effective as of the date of this Assignment.

2. Assignee hereby assumes all of Assignor's obligations, assignments, commitments, duties and liabilities under the Franchise Agreement, and agrees to be bound by and observe and faithfully perform all of the obligations, assignments, commitments and duties of the franchisee under the Franchise Agreement with the same force and effect as if the Franchise Agreement were originally written with Assignee as franchisee.

3. Assignor agrees that Assignor shall continue to be bound by all of the terms and conditions of the Franchise Agreement, including, without limitation, all non-competition, confidentiality and indemnification obligations, and that nothing contained in this Assignment herein shall be deemed to relieve Assignor of any of Assignor's obligations contained in the Franchise Agreement.

Assignor further agrees to, and by this instrument does hereby, guarantee the performance by Assignee of all of its obligations, commitments, duties and liabilities under the Franchise Agreement. Without limiting the foregoing, Assignor irrevocably and unconditionally guarantees to BNC (i) that Assignee will pay all amounts to be paid and otherwise comply with all provisions of the Franchise Agreement and any other agreement between Assignor and BNC or its affiliates concerning the operation of the Franchised Business, and (ii) that if Assignee defaults in making any such payments or complying with any such provisions, Assignor shall pay forthwith upon demand all amounts due and owing BNC and all damages that may arise as a result of any such non-compliance.

4. In the enforcement of any of its rights against Assignor, BNC may proceed as if Assignor was the primary obligor under the Franchise Agreement. Assignor waives any right to require BNC to first proceed against Assignee or to proceed against or exhaust any security (if any) held by BNC or to pursue any other remedy available to it before proceeding against Assignor. No dealing between BNC and Assignee shall exonerate, release, discharge or in any way reduce the obligations of Assignor hereunder, in whole or in part, and in particular and without limiting the generality of the foregoing, BNC may modify or amend the Franchise Agreement, grant any indulgence, release, postponement or extension of time, waive any term or condition of the Franchise Agreement, or any obligation of Assignee, take or release any securities or other guarantees for the performance by Assignee of any of its obligations, and otherwise deal with Assignee as BNC may see fit without affecting, lessening or limiting in any way the liability of Assignor. Notwithstanding any assignment for the general benefit of creditors or any bankruptcy or other act of insolvency by Assignee and notwithstanding any rejection, disaffirmance or disclaimer of this Assignment or the Franchise Agreement, Assignor shall continue to be fully liable.

5. This Assignment is entered into in the state of Florida and shall be construed and interpreted in accordance with its laws, which laws shall control in the event of any conflict of law.

6. This Assignment shall be binding and inure to the benefit of the parties and their respective heirs, successors and assigns.

7. Assignor and Assignee acknowledge and agree that they are bound by the dispute resolution provisions of the Franchise Agreement. Assignor and Assignee further agree that they have and will continue to have a substantial relationship with BNC at its offices in Miami, Florida and that, with the exception of BNC's right to seek injunctive relief in any appropriate jurisdiction as set forth below, any action by or against them arising out of or relating to this Assignment shall be commenced, litigated and concluded only in any state or federal court of general jurisdiction in the state of Florida. Assignor and Assignee agree that Florida represents the most convenient forum for the parties to litigate any disputes between them. Accordingly, Assignor and Assignee irrevocably submit to the jurisdiction of such court and waive any objection they may have to either the jurisdiction or venue of such court. Assignor and Assignee further waive any objection that such court is an inconvenient forum. BNC shall have the option, at its sole discretion, of bringing any action seeking equitable relief to enforce the terms of this Assignment in any court of competent jurisdiction in order to prevent real or threatened harm, and Assignor and Assignee consent to the entry of injunctive relief, including, without limitation, temporary restraining orders and/or preliminary and permanent injunctions without the requirement of bond, according to the usual equity rules in the jurisdiction in which such relief is sought.

8. The Franchise Agreement and this Assignment constitute the entire integrated assignment between the parties with respect to the subject matter contained herein and is not subject to change, modification, amendment or addition without the express written consent of all the parties.

9. In the event that it becomes necessary for BNC to retain the services of legal counsel to enforce the terms of this Assignment, BNC shall be entitled to recover all costs and expenses, including reasonable attorneys', expert and investigative fees, incurred in enforcing the terms of this Assignment.

10. Each party declares that the terms of this Assignment have been completely read and are fully understood and voluntarily accepted by each party, after having a reasonable opportunity to retain, and confer with counsel. This Assignment is entered into after a full investigation by the parties, and the parties are not relying upon any statements or representations not contained in this Assignment.

11. The persons executing this Assignment on behalf of Assignee acknowledge their authority to do so.

12. The obligations of Assignor and Assignee under this Assignment are joint and several.

I HAVE READ THE ABOVE AGREEMENT AND UNDERSTAND ITS TERMS. I WOULD NOT SIGN THIS AGREEMENT IF I DID NOT UNDERSTAND AND AGREE TO BE BOUND BY ITS TERMS.

IN WITNESS WHEREOF, the undersigned have affixed their signatures hereto as of the day and date first above written.

ASSIGNOR:

ATTEST

By: _____
Print Name: _____
Title: _____

ASSIGNEE:

ATTEST

By: _____
Print Name: _____
Title: _____

BENIHANA NATIONAL CORP.

ATTEST

By: _____
Print Name: _____
Title: _____

EXHIBIT F
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT

(for trained employees, officers, directors, general partners, members and managers of Franchisee)

In consideration of receiving an offer of employment from _____ (the "Franchisee"), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and intending to be bound hereby, I hereby acknowledge and agree that:

1. Benihana National Corp. ("BNC") is the exclusive licensee in the United States of America, including its territories and possessions of all proprietary and other property rights and interests in and to certain trade names, service marks and/or trademarks, including BENIHANA®, BENIHANA OF TOKYO®, and the "Flower" symbol (collectively, the "Marks"). BNC owns, operates, sponsors, franchises, and licenses the Marks for use at, a system of restaurants utilizing the Marks and operating under the name BENIHANA (the "BENIHANA Restaurants"). The BENIHANA Restaurants offer distinctive products and services utilizing a distinctive business format, including color schemes, designs, signage, equipment, layouts, operating systems, methods, procedures, standards, techniques and proprietary information, and marketing and advertising standards and formats, all of which have been and may be modified, amended, supplemented or further developed from time to time (the "BENIHANA System").

2. Franchisee has acquired the right and license from BNC to operate a BENIHANA Restaurant (the "Restaurant") and the right to use the Marks in the operation of the Restaurant.

3. Because I am an employee of Franchisee, BNC and Franchisee may disclose the Confidential Information to me in furnishing to me a training program, in subsequent ongoing training, and for general assistance and instruction during my employment with Franchisee.

4. I will not acquire any interest in the Confidential Information, other than the right to utilize it in on behalf of Franchisee in its the operation of the Restaurant, and the use or duplication of the Confidential Information for any use other than on behalf of the Franchisee in its operation of the Restaurant, would constitute an unfair method of competition.

5. The Confidential Information is non-public, proprietary, involves trade secrets and is disclosed to me solely on the condition that I agree, and I do hereby agree, that I shall hold in confidence all Confidential Information and all other information designated by Franchisee or BNC as confidential. Unless BNC otherwise agrees in writing, I will disclose or use the Confidential Information only in connection with my duties to Franchisee, and will continue not to disclose any such information even after I cease employment and will not use any Confidential Information even after I cease employment.

6. For purposes of this Agreement, "Confidential Information" means information, knowledge, know-how and techniques related to the Restaurant, BNC, Franchisee, the products Franchisee or BNC sells, the BENIHANA Restaurants, the BENIHANA System, which is communicated to me or learned by me in the course of training or working for Franchisee, including, without limitation, information of a confidential and proprietary nature concerning the operations of Franchisee, or BNC, as well as any product recipe, pricing or other information provided to Franchisee by BNC or its suppliers and vendors. Confidential Information shall not include any information that (i) is or becomes available to the public other than as a consequence of a breach by a person of any fiduciary duty or obligation of confidentiality, including, without limitation, catalogues, product descriptions and sales literature that BNC, Franchisee, or any franchisees or licensees of BNC or its affiliates have distributed to the public generally; or (ii) is disclosed as required by a final, unappealable court order and no suitable protective order, or equivalent

remedy, is available, or (iii) I was aware of prior to its disclosure to me in the course and scope of my employment with Franchisee from a source not bound by a confidential obligation.

7. Except as otherwise approved in writing by BNC and Franchisee or on behalf of or in connection with a BENIHANA Restaurant, I shall not, while in the employment of the Franchisee, for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation or limited liability company, own, maintain, engage in, be employed by, or have any interest in any Competing Business. For purposes of this Agreement, a "Competing Business" shall mean a Japanese teppanyaki style or sushi restaurant or food service business.

8. I agree that I shall not, for a period of two years following the date on which I cease to be employed by Franchisee, for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation or limited liability company, own maintain, engage in, be employed by, or have any interest in any Competing Business, which business is located within a five (5) mile radius of any BENIHANA Restaurant location in existence as of the date of such termination, transfer or expiration.

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

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

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

12. In the event of a dispute between the parties arising under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. Any controversy, claim or dispute arising out of or relating to this Agreement, either during the existence of the employment relationship or afterwards, between the parties hereto, shall be litigated solely in state or federal court in or for Miami-Dade County, Florida. Due to the importance of this Agreement to the Franchisee and BNC, I agree that any claim I have against the Franchisee or BNC is a separate matter, and does not entitle me to violate, or justify any violation of this Agreement, and must be raised in a separate lawsuit or claim.

13. This Agreement shall be construed under the laws of the state of Florida. The only way this Agreement can be changed is in writing signed by both the Franchisee and me and approved, in writing, by BNC.

[INSERT POSITION]

Witness

Name: _____

EXHIBIT G
TO BENIHANA NATIONAL CORP. FRANCHISE AGREEMENT

AUTHORIZATION TO HONOR CHARGES DRAWN BY AND PAYABLE
TO BENIHANA NATIONAL CORP.

Franchisee: _____

Date: _____

Franchisee hereby authorizes Benihana National Corp. (hereinafter "BNC"), any financial institution acting on behalf of BNC (hereinafter "BNC's Bank"), and Franchisee's financial institution which is identified below (hereinafter "Franchisee's Bank") to process debit entries on Franchisee's bank account identified below on a monthly basis for payment which is or will become due by Franchisee (or any entity or individual affiliated or related to Franchisee) to BNC under the Franchise Agreement between BNC and Franchisee dated _____ (the "Franchise Agreement"), including monthly royalty fees, advertising fees and other fees due under the Franchise Agreement.

Franchisee acknowledges that BNC, BNC's Bank and Franchisee's Bank must comply with the National Automated Clearing House Association rules. BNC, BNC's Bank and Franchisee's Bank are authorized to make any necessary debits or credits to correct duplicate or erroneous entries. The Franchisee hereby agrees to hold BNC, BNC's Bank, Franchisee's Bank and their agents, successors and assigns harmless from all direct, indirect, special or consequential damages and/or all losses, costs, claims or expenses arising out of or related to the use of this automatic payment service.

Franchisee represents that the account identified below is and shall be maintained at Franchisee's Bank and will contain sufficient funds to cover the automatic debit entries authorized hereunder. Franchisee hereby agrees that in the event BNC, BNC's Bank or Franchisee's Bank is unable to process any debit entry authorized hereunder, Franchisee shall forward payment in the form of a check to BNC at BNC's address, as provided in Franchise Agreement. Franchisee further acknowledges and agrees that if any debit from Franchisee's account is dishonored, whether with or without cause and whether intentionally or inadvertently, Franchisee's Bank shall be under no liability whatsoever. This authorization is effective as of the date indicated below and shall remain in full force until the expiration or earlier termination of the Franchise Agreement. The automatic payment process is subject to modification or cancellation at any time by BNC without notice to Franchisee.

Franchisee's Bank:

Bank Name: _____

Branch: _____

City: _____

State: _____ Zip Code: _____

Account Name (as shown on bank's records): _____

Account Number: _____

ABA/Transit Routing Number: _____ (9 Digits)

Check One: Savings Account Checking Account

Franchisee Authorization:

Name: _____
(Please type or print)

Name: _____
(Please type or print)

Sign: _____
Date: _____

Sign: _____
Date: _____

NOTE: A separate Authorization Agreement is required for each bank account, even if all accounts are within the same banking institution. Please attach a voided check or deposit slip to this authorization.

EXHIBIT B

FRANCHISE AGREEMENT

This FRANCHISE AGREEMENT (“Agreement”) made and entered as of this ____ day of _____, 20 ____ by and between Benihana National Corp. (“BNC”), a Delaware corporation, whose principal office address is 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180 and _____, a _____ having its principal place of business at _____ (“Franchisee”).

INTRODUCTION

A. BNC is the exclusive licensee in the United States of America, including its territories and possessions (collectively, the “Territory”) of all proprietary and property rights and interests in certain trade names, service marks, and trademarks, including BENIHANA®, BENIHANA OF TOKYO®, and the “Flower” symbol (collectively, the “Marks”).

B. Noodle Time, Inc., the registered owner of the Marks, has granted BNC an exclusive, perpetual license to use the Marks and to sublicense them to BNC’s affiliates or third-parties in the Territory.

C. BNC owns, operates, sponsors, franchises, and licenses the Marks for use in restaurants operating under the name BENIHANA (“BENIHANA Restaurants”); and BENIHANA Restaurants offer distinctive products and services using a distinctive business format that includes: color schemes, designs, signage, equipment, layouts, operating systems, methods, procedures, standards, techniques, and proprietary information, and marketing and advertising standards and formats, all of which have been and may be modified, amended, or further developed from time to time (the “BENIHANA System”); and

D. BNC has and continues to establish specific operating standards for various aspects of the BENIHANA System, including: the location, physical characteristics, operating procedures, and business processes of BENIHANA Restaurants; employee uniforms and customer service protocols; the products sold and product specifications; qualifications, organization, and training of franchisees and their personnel; qualifications of suppliers; marketing of BENIHANA Restaurants and the BENIHANA System; and all other things affecting the consumer experience at BENIHANA Restaurants (the “BENIHANA Standards”).

E. BNC has expended time, effort, and money to acquire develop experience and skill in the elements, implementation, and updating of the BENIHANA System and the BENIHANA Standards, and BNC continues to develop, use, and control the use of the Marks to identify to the public the source of services and products marketed and offered at BENIHANA Restaurants and to represent the high standards of quality, cleanliness, appearance, and service that are part of the BENIHANA System.

F. Franchisee understands and acknowledges the importance of the BENIHANA System and the BENIHANA Standards relating to product quality, cleanliness, appearance, and customer service that are a critical part of the BENIHANA System, and Franchisee acknowledges the necessity of operating the BENIHANA Restaurant franchised under this Agreement in conformity with the BENIHANA System, including the BENIHANA Standards.

G. Franchisee seeks a license to use the Marks and the BENIHANA System in connection with the operation of a BENIHANA Restaurant at a single location specified in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1. GRANT OF FRANCHISE AND FRANCHISE TERM

1.1 The INTRODUCTION paragraphs set forth above are hereby incorporated in this Article 1 by reference as if set forth fully herein.

1.2 BNC grants to Franchisee, and Franchisee accepts, a non-exclusive franchise license to operate a single BENIHANA Restaurant (the “Restaurant”) at the specific location approved by BNC and identified in the Contract Data Sheet attached as Exhibit A hereto (the “Location”), using the Marks and the BENIHANA System in accordance with the BENIHANA Standards and the terms of this Agreement. Franchisee expressly acknowledges that the franchise license granted under this Agreement is non-exclusive and that any geographic limitation on BNC’s rights to use or license the Marks under this Agreement relates solely to the operation of a BENIHANA Restaurant at the Location.

1.3 Unless sooner terminated under with the provisions of this Agreement, the franchise license granted to Franchisee will begin on the Effective Date set forth in the Contract Data Sheet and end fifteen (15) years from the date the Restaurant opens for business to the public (the “Franchise Term”). Franchisee agrees to operate the Restaurant in accordance with this Agreement at the Location for the entire Franchise Term.

1.4 The grant of a franchise license under this Agreement is specifically limited to operating the Restaurant at the Location, and it does not grant, or imply the grant of, rights regarding any other BENIHANA Restaurant at any other location. Other than with respect to the Restaurant at the Location, Franchisee has no right under this Agreement or otherwise to use, license, sublicense,

or franchise others to use the Marks or the BENIHANA System, and Franchisee is not granted any options, rights of first refusal or development opportunities.

1.5 During the Franchise Term, if Franchisee is in full compliance with the provisions and conditions of this Agreement, and subject to BNC's rights set forth in Section 1.6 of this Agreement, BNC will not operate or license any person or entity other than Franchisee to operate, a BENIHANA Restaurant at any location within the "Restaurant Area" specified in the Contract Data Sheet attached to this Agreement.

1.6 Nothing in this Agreement limits in any way any rights of BNC or its affiliates to: (i) own, operate, or license to others the right to own and operate, competing restaurants other than a BENIHANA Restaurant at any location, including within the Restaurant Area, including but not limited to restaurants using the trademarks RA® SUSHI or HARU®; (ii) own, operate, or license to others the right to own and operate, BENIHANA Restaurants outside the Restaurant Area, even if those BENIHANA Restaurants compete with the Restaurant or draw customers from the Restaurant Area; (iii) directly or indirectly, produce, distribute, sell (at wholesale, retail or otherwise), or license the sale of any product or service using the Marks, or other marks, through alternative channels of distribution (including, by way of example only, grocery stores, convenience stores, internet sales, catalog sales, telemarketing or other direct marketing) regardless of the proximity to, or the competitive impact on, the Restaurant; (iv) license others to use the BENIHANA System and the Marks for the operation of BENIHANA Restaurants within Special Distribution Opportunities (as defined below), including within the Restaurant Area; (v) advertise and promote the BENIHANA System within the Restaurant Area; or (vi) purchase, acquire, be acquired by, merge or affiliate with, or engage in any transaction with other businesses (whether or not these businesses are competitive with the Restaurant), including competing

franchise systems with units operating in the Restaurant Area, and to convert and operate, or license others the right to operate these units under the Marks and the BENIHANA System.

1.6.1 For purposes of this Agreement, “Special Distribution Opportunities” means captive venue locations often available only in connection with third-party food service provision contracts, including, without limitation, restaurants or other retail locations at: airports and other public transportation facilities; motorways, turnpikes and toll-roads; shopping malls; entertainment and sports complexes; hotels or casinos; convention centers; health-care or corporate campuses; and military facilities.

ARTICLE 2. SITE SELECTION AND CONSTRUCTION OF THE RESTAURANT

2.1 Franchisee must construct the Restaurant in accordance with this Agreement at the Location approved by BNC under its then-existing site selection processes, and Franchisee will not relocate the Restaurant without BNC’s prior written consent.

2.2 If Franchisee has not secured an approved location as of the Effective Date, BNC may, at Franchisee’s request and subject to BNC’s availability, assist Franchisee in identifying a site for the Location and the Restaurant in accordance with BNC’s then-existing site selection processes. Franchisee acknowledges, however, that Franchisee will make the final decision whether to construct the Restaurant at any specific site approved by BNC, or at the Location. Franchisee acknowledges that BNC's approval of the Location is not an assurance, representation, warranty, promise, or guarantee by BNC that the Restaurant operated at the Location will be profitable or otherwise successful.

2.3 BNC personnel will consult with Franchisee in the planning, design, construction, and build-out of the Restaurant. Unless otherwise agreed, all consultations will be at BNC’s offices in Aventura, Florida (or other offices designated by BNC). If Franchisee requests, and BNC agrees,

that any consultation under this Section 2.3 be held at a location other than BNC's offices, Franchisee will pay all travel, lodging, living, and other expenses incurred by BNC personnel as part of any consultation away from BNC's offices. Nothing contained in this Section 2.3 means that BNC or any of its employees are authorized to or will act as construction managers or will, in any other capacity, actually supervise the design, construction, or build-out of the Restaurant.

2.4 BNC will, as applicable, provide Franchisee with BNC's then-current prototypical plans for a typical BENIHANA Restaurant most applicable to the Restaurant. Franchisee must, at Franchisee's sole expense, employ architects, designers, engineers, and others as necessary to complete, adapt, modify, or substitute the sample plans and specifications, and Franchisee must any modified plans to BNC for review and approval. BNC will review promptly all submitted plans and specifications and will approve or provide comments to Franchisee on the plans and specifications. Franchisee must not begin construction of the Restaurant until BNC approves, in writing, the final plans and specifications for constructing the Restaurant. Once BNC approves the final plans, Franchisee will be responsible for causing the Restaurant to be completed in full accordance with such plans.

2.5 Franchisee must provide BNC access to the Restaurant during construction, and, if BNC determines that the Restaurant is not being built, or (after construction) was not built, in accordance with the final plans, BNC will have the right to require Franchisee to make all alterations or modifications of the Restaurant that BNC deems necessary.

2.6 BNC will consult with Franchisee, to the extent BNC deems necessary, on the construction and equipping of the Restaurant; it is, however, Franchisee's sole responsibility to diligently design, construct, equip and otherwise ready and open the Restaurant. Franchisee is responsible for obtaining all zoning classifications, permits, clearances, certificates of occupancy,

center clearances, or other required governmental approvals. BNC is not responsible for any delays in construction, equipping, or decoration of the Restaurant or for any loss resulting from the Restaurant design or construction.

2.7 Franchisee must use only licensed and qualified general contractors, designers, and architects in performing construction work at the Restaurant.

2.8 BNC expressly disclaims any warranty of the quality or merchantability of any goods or services provided by architects, contractors, or any other persons or entities to which it may refer Franchisee.

2.9 Franchisee may not open the Restaurant for business without having first obtained BNC's written authorization to do so and BNC's acknowledgement that the requirements of this Article 2 have been satisfied.

2.10 Franchisee must, within eighteen (18) months from the Effective Date, open to the public the Restaurant constructed, furnished, and equipped in accordance with this Agreement.

2.11 Franchisee must acquire or lease the Location at Franchisee's expense. If Franchisee leases the Location, Franchisee must obtain BNC's prior written approval before entering into a lease agreement. Franchisee must provide BNC with a copy of Franchisee's fully executed lease agreement immediately after signing. BNC has no obligation to negotiate the terms of Franchisee's lease. BNC may, however, require that Franchisee's lease include certain provisions, including, but not limited to:

(a) a requirement that Franchisee and Franchisee's landlord sign and deliver to BNC a collateral assignment to BNC of Franchisee's leasehold rights under in the form attached to this Agreement as Exhibit D, under which, upon termination or expiration of this Agreement, at BNC's option, all of Franchisee's rights under the lease will be assigned to BNC or its designee;

(b) a provision restricting the use of the premises solely to the operation of a BENIHANA Restaurant;

(c) a provision prohibiting Franchisee, without BNC's prior written consent, from subleasing or assigning any of Franchisee's occupancy rights or renewing or otherwise extending the lease term;

(d) a provision giving BNC the right to enter the premises to make modifications necessary to protect the Marks or the BENIHANA System or to cure any default under this Agreement;

(e) a provision requiring the landlord to give BNC written notice of Franchisee's defaults by Franchisee simultaneously with the issuance of any default notice sent to Franchisee.

ARTICLE 3. COMPLIANCE WITH BENIHANA SYSTEM AND BENIHANA STANDARDS

3.1 BNC will make the BENIHANA Standards available to Franchisee in the Operations Manual (as defined in Section 4.1 of this Agreement) and in other forms of communications that BNC, in its sole discretion, may modify at any time during the Franchise Term.

3.2 Franchisee must comply with the BENIHANA System and operate the Restaurant in accordance with the BENIHANA Standards. Franchisee acknowledges that compliance with the BENIHANA System, the BENIHANA Standards, and the provisions of the Operations Manual are reasonable requirements necessary to promote the goodwill associated with the BENIHANA System and the Marks to the mutual benefit of BNC, Franchisee, and other franchisees of BENIHANA Restaurants. Franchisee further acknowledges that complete uniformity may not always be possible or practical throughout all BENIHANA Restaurants, and BNC may, from time to time, permit certain deviations from the BENIHANA System or the BENIHANA Standards by Franchisee or other franchisees, as BNC deems appropriate in its sole discretion.

3.3 Franchisee will use the Location solely for the operation of the Restaurant, and Franchisee must not, during the Franchise Term conduct, or permit others to conduct, any business activity at the Restaurant or the Location other than the operation of a BENIHANA Restaurant.

3.3.1 Franchisee will not operate, permit, or grant any concession or license to operate at the Restaurant or the Location any vending machines, video or entertainment machines, games of skill, games of chance, or other similar device, without the specific and prior written consent of BNC.

3.4 The Restaurant must be open for, at a minimum, the hours and days specified or approved by BNC in writing, which hours may be changed from time to time by BNC.

3.5 Franchisee must designate, and retain in its employment, a person to serve as the “General Manager” of the Restaurant; and the General Manager must be responsible for, and devote his or her full time and best efforts to, supervision and management of the Restaurant. Franchisee also must otherwise staff the Restaurant with a sufficient number of employees trained in the BENIHANA System as required by BNC.

3.5.1 The General Manager must satisfy BNC’s educational and business criteria and applicable training requirements and be individually approved by BNC. If the General Manager ceases to be employed by Franchisee or is otherwise unavailable to manage the Restaurant, Franchisee must promptly, and in no event more than 120 days later, designate another person as General Manager, and that person must meet all criteria for a General Manager and be acceptable to and approved by BNC.

3.6 Franchisee must, at its expense, continuously during the Franchise Term, maintain the Restaurant in good condition and repair in accordance with the BENIHANA Standards. The required maintenance, includes, but is not limited to, the replacement of worn carpeting or flooring,

repainting and repair of walls, floors, wood trims, or ceilings, as needed, or the repair, refurbishment, or replacement of any damaged or worn fixtures, furniture, or decorative items, including all components of BNC's trade dress.

3.7 Franchisee may use in the Restaurant only those brands, types, and models of signs displaying the Marks, equipment, or fixtures approved by BNC and that meet all BNC specifications. Franchisee must purchase approved brands, types, and models of equipment, fixtures, and signs only from approved suppliers, unless otherwise agreed in writing by BNC.

3.8 Franchisee must purchase, install, and maintain, at its expense, a point of sale data processing system and software as designated or approved from time to time by BNC (the "POS System"). The POS System must contain a device that records accumulated sales that cannot be turned back or reset, and it must include a back-up power system for memory storage in the event of power loss. The POS System must provide a record of products sold, a menu mix report, and other reports required by BNC.

3.8.1 BNC has the right to retrieve all data and information directly from Franchisee's POS System as BNC deems necessary. Franchisee is responsible for the telephonic or transmission costs of such retrieval.

3.8.2 Franchisee must update, upgrade, or, as necessary, install new hardware or software programs and equipment whenever BNC implements such new hardware or software requirements for franchisees. BNC may in its sole discretion require Franchisee to enter into a separate maintenance agreement for the POS System.

3.9 Franchisee may use only advertising and promotional materials or items approved by BNC in advance of Franchisee's use. Franchisee must not use any menus, publicity, signs,

decorations, furnishings, equipment, or other material using or displaying the Marks without BNC's prior written approval.

3.10 Franchisee must use or offer for sale at the Restaurant only those food and paper products, services, supplies, and packaging that BNC designates or approves in writing. All such products and services, including the method and manner of sale, distribution, and delivery of such products, must meet the BENIHANA Standards. Franchisee must maintain at all times a sufficient supply of approved products to meet the demand of Franchisee's customers at the Restaurant.

3.10.1 Franchisee must discontinue offering for sale any product, or using any supplies, paper products, or packaging, that BNC at any time and in its sole discretion, no longer approves for sale or use at the Restaurant.

3.11 Franchisee must, unless BNC specifically agrees otherwise in writing, acquire all products, supplies, equipment, and materials used for operating the Restaurant from suppliers designated or approved by BNC in writing. Franchisee acknowledges that BNC may designate itself as a supplier of any item.

3.11.1 If Franchisee wishes to purchase items from a supplier not previously approved by BNC, Franchisee must first submit to BNC a written request for approval of the proposed supplier. The request must: (a) provide the name and address of the supplier; (b) provide all other information BNC may request (which may include reasonable financial, operational, and economic information regarding the supplier's business); and (c) identify the authorized products Franchisee wishes to purchase from such supplier.

3.11.2 In considering the request for approval, BNC may require that the supplier: (a) allow BNC to inspect the facility at which the supplier would produce or manufacture the product at issue; and (b) provide product samples to BNC or to a designated independent testing laboratory

for testing prior to approval and use. Franchisee or the supplier will pay all costs of any product testing.

3.12 BNC's standards, specifications, and other criteria for supplier approval are subject to change at any time in BC's discretion and are part of the BENIHANA Confidential Information. BNC does not, under its standard operating procedures, disclose such standards, specifications or other criteria to franchisees, proposed suppliers, or approved suppliers except as is necessary under the circumstances.

3.13 Nothing in this Agreement requires BNC to approve any specific supplier, and BNC may revoke its approval of any supplier or product at any time, effective upon written notice to Franchisee. If BNC provided written notice of disapproval of a supplier or a product, Franchisee must immediately discontinue ordering products manufactured by the disapproved supplier and immediately cease offering for sale any disapproved product.

3.14 BNC has the right to derive revenue and other material benefits in consideration of purchases by Franchisee or other franchisees of BNC, including payments of other financial concessions from designated or approved suppliers.

3.15 BNC has the right, in its discretion, to designate any geographical area for purposes of establishing a purchasing program ("Purchasing Program"). Franchisee must participate in any Purchasing Program existing in the area encompassing the Restaurant when Franchisee opens for business or that is established during the Franchise Term.

3.16 If Franchisee develops any new modification, concept, process, improvement, or slogan in the operation or promotion of the Restaurant (a "Business Improvement"), or relating to the BENIHANA System, the Business Improvement will be deemed a work made for hire. Franchisee must promptly notify BNC of, and provide BNC with all necessary information

regarding the Business Improvement. Franchisee acknowledges that any Business Improvement is BNC's sole and exclusive property, and BNC may, without compensation to Franchisee, use the same in connection with the BENIHANA System or the operation or franchising of other BENIHANA Restaurants.

3.17 Franchisee must operate the Restaurant in compliance with all applicable local, state, and federal laws, and compliance with those laws is a requirement of compliance with the BENIHANA Standards and the BENIHANA System. Franchisee must provide to BNC, within five (5) business days of receipt by Franchisee, all reports of any governmental agency related to the Restaurant, specifically including, but not limited to, reports of inspections by any health department or any agency with regulatory or supervisory jurisdiction over the Restaurant.

3.18 Franchisee must at all times during the Franchise Term comply with Payment Card Industry Data Security Standards Requirements ("PCI DSS"), and any other similar requirements or specifications designated by BNC.

ARTICLE 4. SERVICES AVAILABLE TO FRANCHISEE

4.1 BNC will provide Franchisee with access to the Operations Manual during the Franchise Term. For purposes of this Agreement, "Operations Manual" means the BENIHANA University website, all written manuals for use by franchisees or operators of BENIHANA Restaurants, and all product, service, and facility specifications and standards issued by BNC. All parts of the Operations Manual may be supplemented or modified by BNC in its sole discretion at any time.

4.2 BNC will provide to Franchisee BNC's then-current initial training program before Franchisee opens the Restaurant ("Initial Training"). The Initial Training provided by BNC will be subject to the terms set forth in Article 5 of this Agreement, and, unless otherwise specified by BNC, may take place in whole, or in part, at a location designated within the United States.

4.3 BNC will provide pre-opening and opening assistance and training of additional employees of Franchisee (other than those trained at the Initial Training) at the Restaurant (“In-Restaurant Training”) as deemed appropriate by BNC in its discretion. The In-Restaurant Training provided by BNC is subject to the terms set forth in Article 5 of this Agreement.

4.4 BNC in its discretion will provide additional on-going training after the opening of the Restaurant, for chefs, general managers, and other restaurant personnel, subject to BNC’s availability and openings for such training.

ARTICLE 5. TRAINING

5.1 Franchisee must, unless specifically excused by BNC based on prior experience, attend and complete to BNC’s satisfaction all Initial Training and In-Restaurant Training before opening of the Restaurant. Franchisee agrees that a General Manager, Chief Chef, and Chief Sushi Chef, and all other persons required by BNC, will attend, participate in, and successfully complete Initial Training and In-Restaurant Training at locations designated by BNC, which Franchisee acknowledges may include locations within the United States of America.

5.2 The Initial Training, which may be modified by BNC in its sole discretion, generally consists of each trainee working in a BENIHANA Restaurant for a period of eight (8) to twelve (12) weeks, or until the trainee is properly trained to BNC’s reasonable satisfaction.

5.2.1 Franchisee has the right, at no additional fee, to bring up to five (5) chefs, a General Manager, and, if required by BNC or requested by Franchisee, and subject to availability of space, one principal of Franchisee, to the Initial Training. Franchisee must obtain BNC’s prior written consent before bringing any additional employees to the Initial Training, and Franchisee must pay to BNC its then-current training fee, which may include salaries of all BNC employees providing such training, for each additional employee BNC agrees to train.

5.2.2 Unless otherwise agreed by BNC, Initial Training commences approximately four (4) months before the expected opening date of the Restaurant.

5.3 The nature and scope of In-Restaurant Training will be based upon the experience of Franchisee and Franchisee's employees, the type of facility at the Location, sales volume of the Restaurant as projected by Franchisee, and other factors considered by BNC in its discretion.

5.3.1 In-Restaurant Training will be for a period BNC deems necessary to prepare for opening the Restaurant. There will be no additional fee for In-Restaurant Training, but Franchisee will be responsible for all travel, living, and lodging expenses for BNC's personnel providing In-Restaurant Training.

5.3.2 At Franchisee's request and subject to BNC's prior approval and availability, additional BNC personnel may be made available to assist with In-Restaurant Training, provided that Franchisee reimburses BNC for the salaries and wages of such additional personnel. Additionally, if Franchisee requests that In-Restaurant Training be provided for more than twenty (20) working days, Franchisee will pay all salaries, wages, travel expenses, and living and lodging expenses of BNC's personnel during the extended In-Restaurant Training Period.

5.4 All training programs will be at such times and places designated by BNC. If, at Franchisee's request, BNC in its discretion conducts Initial Training other than at BNC's principal office location, Franchisee will reimburse BNC for the reasonable out-of-pocket expenses incurred by BNC's training instructors, including but not limited to wages, travel expenses, food and lodging, and auto rental.

5.5 Franchisee and other employees of Franchisee designated by BNC will also be required to attend continuing courses, seminars, and other training programs ("Ongoing Training") that BNC may require from time to time.

5.5.1 Ongoing Training may, in BNC's sole discretion, be held at either BNC's principal place of business, at the Restaurant, or at a designated BENIHANA Restaurant. Franchisee will be responsible for all expenses incurred in connection with Ongoing Training, including, without limitation, salaries or wages, transportation, lodging, and meals of Franchisee's employees.

5.5.2 If BNC agrees to conduct any Ongoing Training at the Location, Franchisee will reimburse BNC for the reasonable out-of-pocket expenses incurred by BNC's training instructors in providing such Ongoing Training, including but not limited to travel expenses, food and lodging, and auto rental.

5.6 Franchisee will provide to its employees, at Franchisee's expense, all training-related materials BNC may require in any other form, including web-based training, video-conferencing, or any other training that may be provided without face-to-face instruction.

ARTICLE 6. THE MARKS AND CONFIDENTIAL INFORMATION

6.1 BNC represents that its wholly-owned subsidiary, Noodle Time, Inc, a corporation formed under Florida law and having its principal office at 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180, owns all rights and interests in and to the Marks in the United States and elsewhere. BNC also represents that, under a Master License Agreement dated March 31, 1997 ("Master License") and an Addendum to Master License Agreement dated May 8, 2009, both executed by BNC and Noodle Time, Inc., BNC is the exclusive licensee of the Marks in the United States and elsewhere, with rights of enforcement, development, and publicizing of the Marks and the goodwill associated with and symbolized by them, including the right to use and sublicense the Marks in the United States. Thus, BNC covenants that it has the right and authority to sublicense the Marks to Franchisee under this Agreement.

6.2 Franchisee acknowledges that the Marks are valid and subsisting and that Franchisee had no part in the creation or development of the Marks. Franchisee disclaims any and all right, title, or ownership interest in the Marks or the goodwill associated with them. Any goodwill arising from Franchisee's use of the Marks will inure solely and exclusively to the owner of the Marks, and Franchisee specifically acknowledges and agrees that, upon expiration or termination of this Agreement, Franchisee has no goodwill associated with its prior uses of the Marks or the BENIHANA System.

6.3 Franchisee will use only the Marks BNC designates and only in the manner and to the extent specifically permitted in this Agreement or otherwise by BNC in writing. Franchisee may use and display such Marks only in connection with the operation of the Restaurant and in compliance with the BENIHANA Standards. Any unauthorized use of the Marks is an infringement of BNC's rights and a breach of this Agreement.

6.4 All advertising, publicity, signs, decorations, furnishings, equipment, or other materials employing any of the Marks must be submitted to BNC for its approval prior to publication or use.

6.5 Franchisee may not use the Marks or anything confusingly similar as part of Franchisee's corporate or other legal name, or as part of any e-mail address, domain name, or other identification of Franchisee or Franchisee's business in any medium.

6.5.1 Franchisee must display at the Restaurant, and include on business forms such as letterhead, invoices, order forms, receipts and contracts, a written statement that the Restaurant and Franchisee's business are "independently owned and operated" as a franchisee of BNC.

6.6 Franchisee may not, without BNC's prior written approval, use the Marks to advertise or sell products or services through the mail or by any electronic or other medium, including the Internet.

6.6.1 Franchisee must obtain BNC's express prior written consent before developing, creating, generating, owning, licensing, or using in any manner any medium (including, without limitation, an internet page, domain name, website, web-page, bulletin board, newsgroup, or other Internet-related medium) using or displaying the Marks, or any of them, or any words, symbols or terms confusingly similar to the Marks. BNC's approval of any such use will be given only in accordance with procedures, policies, standards, and specifications that BNC may establish from time to time. Any approval granted by BNC may be revoked upon written notice to Franchisee.

6.6.2 BNC has the sole right to establish an Internet "home page" using any of the Marks, and to regulate the establishment and use of linked home pages by Franchisee and all other BENIHANA franchisees.

6.6.3 BNC has the right, at any time, to establish procedures, limitations and regulations regarding the operation of any websites, and, Franchisee will immediately comply with all such procedures, limitations and regulations.

6.7 Franchisee must not do anything, directly or indirectly, to infringe upon, harm, or contest BNC's rights in the Marks or in any other symbols, logos, marks, or names that incorporate the Marks.

6.7.1 Franchisee must not take any action to apply for the registration of the Marks.

6.7.2 Franchisee must execute any documents BNC deems necessary to obtain protection for the Marks or to maintain their continued validity and enforceability.

6.8 Franchisee must immediately notify BNC of any known claim to or infringement of the Marks, or any claim of unfair competition or other challenge to Franchisee's right to use any Marks. BNC has the sole and exclusive right, in BNC's sole discretion, at BNC's own cost and expense, and for BNC's own use and benefit, to initiate suit or take other action BNC deems proper

to restrain any infringement or defend any other such claim. Franchisee agrees to cooperate with BNC in the prosecution of any such suit.

6.9 BNC may, in its sole discretion, require that Franchisee discontinue, modify, or substitute any of the Marks in connection with any pending or threatened litigation involving Franchisee's use of the Marks.

6.10 BNC reserves the right to modify the Marks and to substitute different Marks for use in identifying the BENIHANA System and the BENIHANA Restaurant, and Franchisee must comply with all such modifications and/or substitutions.

ARTICLE 7. FRACHISE FEE, ROYALTIES, AND ADVERTISING CONTRIBUTIONS

7.1 Franchisee must pay to BNC in full upon BNC's acceptance and execution of this Agreement an initial non-refundable franchise fee ("Franchise Fee") of Forty Thousand United States Dollars (\$40,000).

7.2. During the Franchise Term, Franchisee must pay to BNC on a monthly basis a recurring, non-refundable royalty for the use of the Marks ("Royalties") in the following amounts: (a) for the first five years of the Franchise Term, five percent (5.0%) of Gross Sales (as defined in this Agreement) of the Restaurant; and (b) after the first five years of the Franchise Term, six percent (6.0%) of Gross Sales (as defined in this Agreement).

7.3. During the Franchise Term, Franchisee must pay to BNC on a monthly basis as a recurring, non-refundable advertising fee for the use of the Marks ("Advertising Contributions") of ~~one-two~~ percent (21.0%) of Gross Sales (as defined in this Agreement) of the Restaurant.

7.4 Royalties and Advertising Contributions are due and must be paid by Franchisee to BNC on the fifteenth (15th) day of each calendar month based upon Gross Sales at the Restaurant for the preceding calendar month. If the fifteenth day of any month is a Saturday, Sunday, or national

holiday, Royalties and Advertising Contributions will be due and payable on the first business day following the fifteenth day of the month.

7.5 Each obligation of Franchisee not discharged by payment in accordance with this Agreement is due as a separate and independent obligation and will continue in full force until discharged as provided herein.

7.6 Franchisee agrees to participate in BNC's specified program or procedure for sales reporting and payment of fees that are due, whether it is electronic fund transfer or some successor program. Franchisee agrees to assume the costs associated with maintaining Franchisee's capability to report sales and transfer funds to BNC.

7.6.1 Franchisee agrees to sign and deliver to BNC an authorization in the form attached as Exhibit G hereto and all other documents necessary to unconditionally and irrevocably authorize BNC to debit automatically by bank draft or other recognized method Franchisee's business operating account for payment on the due dates for Royalties, Advertising Contributions, and any other amounts due under this Agreement. Franchisee agrees that adequate funds will be available for withdrawal by electronic transfer on each due date from the business operating account to be debited.

7.7 In this Agreement, "Gross Sales" means all revenue from the sale of products and services and all other income of every kind and nature related to the Restaurant, whether for cash, trade or barter, by redemption of gift certificates or cards, credit transactions, or otherwise, regardless of collection, including, without limitation, all revenues derived from catering services, guest parking charges, receipts from mail or telephone orders received at or filled from the Restaurant, deposits not refunded to purchasers, orders taken at the Restaurant that may be filled elsewhere, and payments to Franchisee by any concessionaire, franchisee, or person otherwise in

the Restaurant with BNC's approval. "Gross Sales" does not include sales taxes collected by Franchisee from customers for payment to the appropriate taxing authority.

7.8 If Franchisee fails to send to BNC a Gross Sales Statement in any month, BNC will, to the extent permitted by applicable law, be entitled to debit Franchisee's business operating account for one hundred twenty percent (120%) of the most recent Royalty and Advertising Contributions paid under this Agreement. If the Royalty and Advertising Contributions debited are less than the Royalty and Advertising Contributions actually owed to BNC (once Franchisee's actual Gross Sales have been determined), Franchisee must pay, and BNC is authorized to debit Franchisee's account for, the balance due. If the Royalty and Advertising Contributions debited are more than the Royalty and Advertising Contributions actually owed to BNC (once Franchisee's actual Gross Sales have been determined), BNC will credit the excess amount debited against the amount BNC otherwise would debit from Franchisee's account during the following month.

7.9 Any payment not received by BNC when due under this Agreement will bear interest from the due date until payment at a rate of interest (calculated on a daily basis based upon a 365-day year) equal to the lesser of 18% per annum or the maximum allowed by law (as of the date of non-payment).

ARTICLE 8. BOOKS, RECORDS, AND REPORTS

8.1 Franchisee must, on the fifteenth (15th) day of each month (or the next business day if the fifteenth day is Saturday, Sunday, or holiday), deliver to BNC a written statement of Gross Sales for the preceding calendar month ("Gross Sales Statement"). The Gross Sales Statement must be certified as accurate by Franchisee, a financial officer of Franchisee, or Franchisee's principal accountant responsible for overseeing the Restaurant's books and records.

8.2 Franchisee must, at its expense, submit to BNC in the form prescribed by BNC, and maintain readily available for BNC's inspection, review and/or auditing, the following additional reports, financial statements, and other data:

(a) a profit and loss statement and POS sales reports for each month during the Franchise Term, due within thirty (30) days after the end of each month;

(b) within ninety (90) days following the end of each fiscal year during the Franchise Term, an unaudited financial statement for the preceding fiscal year with such detail and in a format as specified by BNC, together with a certificate executed by Franchisee certifying that such financial statement is true and accurate;

(c) copies of Franchisee's operating reports submitted to Franchisee's landlord if required under Franchisee's lease, simultaneously with Franchisee's submission of such reports to Franchisee's landlord;

(d) copies of Franchisee's local, state or federal income tax returns and any local, state, or federal sales tax returns; and

(e) such other forms, reports, records, information, and data as BNC may reasonably designate.

8.3 Along with each report required under this Article 8, Franchisee must submit a certificate signed by Franchisee certifying that the financial or other information provided is true and accurate.

8.4 Franchisee must keep full, complete, and accurate books of account and records with respect to Gross Sales and operation of the Restaurant and retain those books and records for at least five (5) years from the dates of their preparation.

8.4.1 If an audit, review, or inspection of Franchisee's books and records is in progress,

or a controversy should arise between the parties hereto regarding the Royalties or Advertising Contributions paid or due, Franchisee must retain all books and records for any relevant period until such audit, review, inspection, or controversy is concluded or otherwise resolved.

8.4.2 All books and records relating to Gross Sales or operation of the Restaurant must be maintained at the Restaurant or, with BNC's prior written consent, at Franchisee's main offices.

8.5 BNC has at all reasonable times a right to inspect, audit, photocopy, or examine Franchisee's books, financial records, and tax returns, including without limitation, Franchisee's general ledger, balance sheets, profit and loss statements, and stockholder's registry book. BNC also has the right, at any time, to have an independent audit made of Franchisee's books and records.

8.5.1 If any inspection, review, or audit reveals that Franchisee understated any payments due in any report submitted to BNC, then Franchisee will pay, and BNC will have the independent right to immediately debit from Franchisee's bank account, the payments due to BNC, with interest from the date each amount was due until it was debited or paid, at the rate of 18% per annum, or the maximum rate permitted by law, whichever is less.

8.5.2 If an inspection, review, or audit discloses an understatement in any report of 3% or more, Franchisee must also pay, and BNC independently may debit from Franchisee's bank account, an amount to reimburse BNC for all costs and expenses incurred by BNC in connection with the inspection, review, or audit, including, without limitation, travel, lodging, wages, and reasonable accounting and legal costs.

8.5.3 The foregoing remedies are in addition to any other remedies BNC may have under this Agreement.

ARTICLE 9. ADVERTISING, MARKETING, AND PROMOTION

9.1 Franchisee acknowledges the value of advertising the Marks and the importance of advertising, marketing, and promotion to the development and maintenance of goodwill and public awareness and a positive image of the Marks, BENIHANA Restaurants, and the BENIHANA System.

9.2 Franchisee acknowledges and agrees that the Advertising Contributions paid by Franchisee under this Agreement may be commingled with BNC's general funds and nothing in this Agreement will be interpreted to mean that BNC's receipt of any Advertising Contributions constitutes a trust fund or any other fund dedicated exclusively for advertising or promotion.

9.2.1 Without creating any specific obligations on BNC to apply Advertising Contributions in any specific manner other than in BNC's sole and absolute discretion, BNC intends as a general matter to use Advertising Contributions for expenses related to brand advertising, public relations, and in-store, local, national, or regional advertising placed by BNC.

9.2.2 BNC undertakes no obligation to make expenditures for Franchisee that are equivalent or proportionate to Advertising Contributions paid by Franchisee under this Agreement or to insure that Franchisee benefits directly or on a pro rata basis from any expenditures of Advertising Contributions.

9.3 In addition to Advertising Contributions to be paid to BNC under Section 7.3 of this Agreement, Franchisee must spend in each of Franchisee's fiscal years an amount ("Local Spend") that is not less than ~~four~~two percent (42%) of Gross Sales (as defined in this Agreement) in the prior fiscal year. Local Spend is intended to and may be used for local television, radio, digital, magazine, newspaper advertising, direct mail, billboard advertising, coupons, promotional

brochures and literature, point-of-sale advertising materials, and other marketing specific to the Restaurant (“Local Advertising”).

9.4 All Local Advertising must be approved in advance in writing by BNC and conducted in a dignified manner that conforms to all standards and requirements BNC may specify. If Franchisee submits Local Advertising materials to BNC and does not receive written disapproval from BNC within 15 days of the date of receipt by BNC of such samples or materials, BNC will be deemed to have approved them. BNC may revoke its approval of any such plans or materials at any time effective upon written notice to Franchisee.

9.5 Franchisee will submit to BNC from time to time, but in no event less frequently than quarterly, evidence reasonably satisfactory to BNC demonstrating Franchisee’s compliance with its Local Spend and Local Advertising obligations.

9.6 Franchisee is not permitted to offer specific discounts or price points to customers outside of the Restaurant Area, except to the extent that Franchisee has received BNC’s prior written authorization.

ARTICLE 10. INSPECTIONS

10.1 BNC representatives have the right to enter and inspect the Restaurant, and examine and test food products and supplies, to determine whether Franchisee is operating the Restaurant in accordance with this Agreement. Inspections will be conducted during normal business hours.

10.2 BNC will notify Franchisee of any deficiencies observed during an inspection and Franchisee must promptly and diligently correct any such deficiencies. If Franchisee fails to correct any deficiency within a reasonable time as determined by BNC or as provided under this Agreement, BNC will have the right and authority (without any obligation to do so) to correct such deficiencies and to charge Franchisee a reasonable fee for BNC’s expenses in doing so. Franchisee

will pay the expenses upon demand. The foregoing remedy is in addition to all other remedies BNC may have, including the right to declare Franchisee in default under this Agreement.

ARTICLE 11. TRANSFER OF INTEREST

11.1 BNC may assign its rights under this Agreement to any person, firm, association, or corporation (“BNC Transferee”) provided the BNC Transferee agrees in writing to assume BNC’s obligations under this Agreement. Upon any assignment by BNC and assumption by a BNC Transferee of BNC’s obligations under this Agreement, BNC will have no further obligations or liabilities under this Agreement.

11.2 Franchisee acknowledges that Franchisee’s rights and duties under this Agreement are personal to Franchisee and that BNC has granted entered this Agreement in reliance on Franchisee’s business skill, financial capacity, and personal character. Accordingly, neither Franchisee, any immediate or remote successor to Franchisee’s interest in this franchise, nor any individual, partnership, corporation, limited liability company or other legal entity that directly or indirectly owns an interest in the franchise license granted in this Agreement or in Franchisee (if Franchisee is a corporation, limited liability company or partnership) may, without BNC’s prior written consent as provided in this Agreement, sell, assign, transfer, convey, or give away any direct or indirect interest in the franchise license or in Franchisee (a “Disposition”). Any purported Disposition, by operation of law or otherwise, made without BNC’s written consent required by this Section 11.2 is null and void.

11.3 If Franchisee is an entity, any assignment, sale, pledge, or transfer of any ownership interest in Franchisee (“Ownership Interest”) will be a Disposition requiring BNC’s prior written consent. Unless otherwise agreed by BNC, any new owner of an Ownership Interest will be

required to personally guarantee Franchisee's obligations under this Agreement by signing a Personal Guaranty in the form attached hereto as Exhibit B.

11.4 BNC will not unreasonably withhold its consent to a Disposition of any Ownership Interest held by an owner of less than fifty percent (50%) of Franchisee (a "Minority Ownership Interest") provided that all of the following conditions are met:

(a) Franchisee's monetary obligations to BNC have been satisfied in full;

(b) the seller of the Minority Ownership Interest releases all claims against BNC, agrees to remain obligated under the non-competition and non-disclosure of confidential information covenants in this Agreement, and expressly agrees to remain primarily liable under this Agreement for two years after the transfer;

(c) BNC is paid an assignment fee of \$1,000;

(d) Franchisee provides BNC with copies of all relevant corporate or partnership documents that, among other things, evidence the restrictions on further transfer imposed by this Agreement;

(e) any new owner of the Minority Ownership Interest: (i) is of good moral character and reputation; (ii) meets BNC's then-current criteria for minority owners of Franchisees, including any regulatory requirements imposed on BNC by any governmental authority; (iii) executes and delivers to BNC a written agreement assuming the all obligations of the seller(s) of the Minority Ownership Interest; and (iv) signs a personal guaranty of Franchisee's obligations as BNC requires in its sole discretion.

11.4.1 If any of the foregoing conditions are not met to BNC's satisfaction, BNC will have the unfettered right to refuse to consent to the Disposition of the Minority Ownership Interest.

11.5 If Franchisee decides to accept a bona fide offer from a third-party purchaser (“Proposed Transferee”) to purchase the franchise license rights granted under this Agreement, the Restaurant, or any other interest that will result in a transfer of fifty percent (50%) or more of Franchisee (a “Controlling Ownership Interest”) (collectively, a “Third Party Disposition”), Franchisee must, before consummating the Third Party Disposition, notify BNC in writing of each such offer and provide all information and documentation relating to the offer as BNC may require. BNC will have the right and option to acquire the Controlling Ownership Interest on the same terms and conditions offered by the Proposed Transferee.

11.5.1 Any offer by a Proposed Transferee for a Controlling Ownership Interest presented to BNC under this Article 11 must be in writing and include a signed copy of the agreement between Franchisee and the Proposed Transferee and a description of, and information concerning, the Proposed Transferee and any principals, including financial statements and relevant restaurant operating experience, if any.

11.5.2 BNC has thirty (30) days after receipt from Franchisee of the written offer in which to accept the offer or waive its right of first refusal (“ROFR Decision”). BNC will communicate its ROFR Decision in writing delivered to Franchisee. If BNC does not communicate its ROFR Decision with such thirty (30) day period, BNC will be deemed to have waived its right of first refusal.

11.5.3 If BNC exercises its right of first refusal and accepts the offer, closing on such purchase will be on a date specified by BNC in the notice of exercise, which date will be the later of the date of closing specified in the agreement between Franchisee and the Proposed Transferee or forty-five (45) days from BNC’s acceptance.

11.5.4 If BNC waives its right of first refusal, BNC will, within fifteen (15) days after

the expiration of the thirty-day period set forth in Subsection 11.5.2 above, advise Franchisee whether BNC consents to the Third Party Disposition. If BNC consents to the Third Party Disposition, then Franchisee may conclude the sale to the Proposed Transferee on the terms and conditions of the written agreement submitted to BNC.

11.5.5 A change of any material terms of an agreement for a Third Party Disposition, including but not limited to price, payment terms, interest being transferred by Franchisee, or the identity of the Proposed Transferee or any holder of any Ownership Interest in the Proposed Transferee, is deemed a new offer, subject to BNC's right of first refusal contained herein.

11.6 BNC agrees not to unreasonably withhold its consent to any Third-Party Disposition of a Controlling Ownership Interest provided: (a) BNC has not exercised its right of first refusal granted under Section 11.5; (b) all of Franchisee's monetary obligations to BNC have been satisfied in full; (c) Franchisee releases all claims it may have against BNC and agrees to remain obligated under the non-competition and non-disclosure of confidential information covenants in this Agreement; (d) Franchisee expressly agrees to remain primarily liable under this Agreement for three (3) years after the Third-Party Disposition; (e) BNC is paid an assignment fee of \$10,000; and (e) the Proposed Transferee: (i) is of good moral character and reputation; (ii) meets BNC's then current criteria for new franchisees, including completion of all required training; (iii) executes and delivers to BNC a written agreement assuming all of Franchisee's obligations under this Agreement; (iv) provides to BNC personal guaranties signed by all principals of the Proposed Transferee BNC designates as required guarantors; (v) has a General Manager who has completed the training required by BNC; and (vi) has provided BNC with copies of all relevant corporate or partnership documents that, among other things, evidencing the restrictions on transfer imposed by this Agreement.

11.6.1 Unless all of the foregoing conditions are satisfied to BNC's satisfaction, BNC has the unfettered right in its sole discretion to refuse to consent to the Third-Party Disposition of a Controlling Ownership Interest.

11.7 Upon the death or mental incapacity of any person with a 25% or more ownership interest in the franchise license or in Franchisee (if Franchisee is a corporation, limited liability company or partnership), the executor, administrator, or personal representative of such person must transfer his or her interest to a third party approved by BNC within six (6) months after such death or mental incapacity (the "Transfer Period"). Any transfer under this Section 11.7 by devise or inheritance will be subject to the same conditions as an *inter vivos* transfer.

11.7.1 In the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions of ownership in this Article 11, the personal representative of the deceased person will have an additional period of up to six (6) months from the date such individual is disapproved by BNC (the "Extension Period") to dispose of the deceased's interest in the franchise license or in Franchisee.

11.7.2 Notwithstanding the foregoing, the following conditions must be met during the Transfer Period and any Extension Period: (i) the executor, administrator, or personal representative, as applicable, must provide BNC with documentation reasonably satisfactory to BNC evidencing the authority to receive an assignment or to dispose of the deceased's interest; (ii) the Restaurant remains open and operating in compliance with this Agreement; and (iii) a General Manager approved by BNC who has completed the training required by BNC is designated to operate the Restaurant during the Transfer Period or Extension Period, as applicable.

11.7.3 BNC in no way assumes any liability in connection with the legal authority of the deceased's executor, administrator, heir, beneficiary, or personal representative to receive an

assignment or to dispose of the deceased's interest in the franchise license or in Franchisee.

11.7.4 If a General Manager acceptable to BNC has not been designated to operate the Restaurant during the Transfer Period or any Extension Period, BNC will have the right, at its option, to step in and itself, or through a third party designated by BNC, operate the Restaurant during such period(s). BNC or its designee will be entitled to a reasonable fee for such services, in addition to compensation for all costs and expenses incurred in providing such services.

11.7.5 If the foregoing conditions are not satisfied, or if the deceased's interest is not transferred or disposed of before the expiration of the Transfer Period or Extension Period, if applicable, BNC may immediately terminate this Agreement.

11.8 Notwithstanding any other provision of this Article 11, BNC will consent to an assignment of this Agreement by an individual franchisee to an entity that is wholly-owned by the same individual (or by more than one individual franchisee to an entity owned in the same proportions as the individual ownership) provided that both the individual assignor(s) and the entity assignee sign an Assignment and Assumption Agreement in the form attached as Exhibit E hereto.

11.9 BNC's consent to a transfer of any interest in the franchise license granted herein or in Franchisee will not be a waiver of any claims BNC may have against the transferring party or a waiver of BNC's right to demand exact compliance by the transferee with any terms of this Agreement.

ARTICLE 12. INSURANCE AND INDEMNIFICATION

12.1 Franchisee must obtain and maintain throughout the Franchise Term insurance coverage (including without limitation, broad form comprehensive general liability coverage, products liability coverage, business interruption coverage, and employers' liability insurance) as required

under this Agreement or applicable law. Franchisee must obtain BNC's approval of all insurance contracts before entering into any such contracts.

12.2 Each insurance policy obtained by Franchisee must name BNC and any affiliates designated by BNC as additional insureds. BNC will have the right to reasonably consent to the types and amounts of insurance coverage and the issuing companies. Insurance maintained by Franchisee must include, at a minimum, the following:

(a) comprehensive general liability insurance (with products, completed operations and contractual liability and independent contractors and escalators coverage) and comprehensive motor vehicle insurance (for owned and non-owned vehicles) against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Restaurant (or otherwise in conjunction with Franchisee's conduct of business pursuant to this Agreement) under one (1) or more policies of insurance, each on an occurrence basis, with single-limit coverage for personal and bodily injury, death and property damage in the amount of at least five million dollars (\$5,000,000) (or such other amount as BNC reasonably requires);

(b) All-risk building and contents insurance including fire, flood and earthquake, vandalism and theft insurance for the replacement value of the Restaurant and its contents;

(c) business interruption insurance for a period adequate to reestablish normal business operations; and

(d) builders' risk insurance on a completed value non-reporting basis during the period of any remodeling of the Restaurant. Franchisee will only be required to obtain and maintain the insurance specified under this subsection 12.2(d) during the period in which any construction and/or remodeling work is being performed.

12.3 Franchisee must provide to BNC certificates of insurance for all issued insurance policies Franchisee is required to obtain under Article 12 immediately after issuance. Franchisee must also provide to BNC copies of all amendments, notices of cancellations, or cancellations of such policies.

12.3.1 If Franchisee fails to obtain or maintain in force any insurance required under this Agreement, BNC has the right, but not the obligation, to purchase such insurance and, if BNC does so, Franchisee must promptly pay to BNC upon demand 105% of the cost of the insurance

purchased by BNC to reimburse BNC for the insurance cost and its administrative expense related to Franchisee's failure to comply with Article 12.

12.4 Franchisee agrees, during and after the Franchise Term, to indemnify, defend, and hold harmless BNC and its affiliates and their respective stockholders, members, agents, officers and directors, from and against any and all losses, costs, damages, expenses, claims, demands, proceedings, suits, and liabilities, including attorneys' fees and costs, arising directly or indirectly from, as a result of, or in connection with the construction, operation, condition, use or occupancy of the Restaurant.

12.4.1 If the indemnity provided herein arises in connection with a claim made by a third-party ("Third-Party Claim") in respect of a Material Claim (as defined below), BNC has the right, but not the obligation, to take any action it may deem necessary, in its sole discretion, to protect or defend itself and the persons and entities indemnified against any such Third-Party Claim, without regard to the expense, forum, or other parties that may be involved.

12.4.2 BNC also has the right, but not the obligation, to exercise sole and exclusive control over the defense of any Third-Party Claim arising in respect of a Material Claim, and over the settlement, compromise or other disposition thereof, as well as the right to be represented by counsel of its own choosing.

12.4.3 Franchisee's obligations hereunder include the cost of BNC's defense of any Third-Party Claim, the amount of any final judgment (including interest through the date of payment) which may be rendered against BNC, and any settlement reasonably agreed to by BNC.

12.4.4 For purposes hereof, a "Material Claim" means any Third Party Claim that: (i) has any legal or factual merit whatsoever, as supported by an opinion of a reputable counsel selected by BNC; (ii) involves a claim or subject matter creating any material risk of adverse

publicity or potential damage to the Marks, the BENIHANA brand, or the reputation of BNC, the Marks, or the BENIHANA brand; or (iii) could result in a judgment against BNC for an amount in excess of \$500,000.

12.5 The indemnification referred to in Section 12.4 does not include claims, demands, proceedings, suits, losses, damages, or liabilities arising directly or indirectly from, as a result of, or in connection with BNC's registration of the Marks.

12.6 Notwithstanding anything contained in Section 12.4 to the contrary, Franchisee's obligation to indemnify (but not its obligation to defend) BNC, or any other person or entity under Section 12.4, does not apply to the extent any loss or damage is adjudged by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from BNC's negligence or willful misconduct and was not, in any amount whatsoever, caused by the acts, errors, omissions, negligence or misconduct of Franchisee, Franchisee's employees, agents, contractors or affiliates.

12.6.1 Franchisee may not rely on any exception to its indemnity obligation under Section 12.6.1 if the claims are asserted against BNC or any other party covered by Section 12.4 on the basis of: (i) imputed or secondary liability for the acts of Franchisee or its employees, such as vicarious liability, agency, or apparent agency; or (ii) any failure by BNC to compel Franchisee to comply with the provisions of this Agreement, including compliance with the BENIHANA standards, applicable laws, or other requirements.

ARTICLE 13. DEFAULT AND TERMINATION

13.1 If Franchisee commits an act of default under this Agreement and fails to cure the default after any required notice and within the applicable cure period, this Agreement will terminate automatically with no requirement of further notice by BNC or to Franchisee. The cure period applicable to any act of default is set forth below

13.1.1 If a cure period for an act of default is not specifically set forth in this Agreement, it will be thirty (30) days from the date of BNC's notice to Franchisee.

13.1.2 No cure period is allowed for certain acts of default specified below.

13.1.3 If applicable law requires a longer notice period or a longer cure period than provided in this Agreement, then the period required by law will be substituted for time period provided below.

13.2 The following acts are each a material act of default under this Agreement and are good cause for termination:

13.2.1 If the Restaurant does not open for business to the public within eighteen (18) months from the date of this Agreement, or such later date as approved by BNC in writing. There is no cure period for an act of default under this provision.

13.2.2 Franchisee does not begin the design, construction, equipping, and process of opening the Restaurant within six (6) months of the date of this Agreement, or such later date approved by BNC in writing. There is no cure period for an act of default under this provision.

13.2.3 Franchisee files a petition or application seeking relief under any federal or state bankruptcy, insolvency or similar law, or a third-party files a petition or application under any federal or state bankruptcy, insolvency or similar laws seeking to have Franchisee adjudicated a bankrupt, and the petition is not dismissed within ninety (90) days after it is filed. Subject to, and to the fullest extent allowed by, applicable law, this Agreement will terminate without notice or cure period upon the occurrence of this act of default as if the date of filing were the expiration date, and Franchisee expressly consents to BNC being granted relief from the automatic stay of proceedings against Franchisee. Franchisee further agrees not to seek an injunctive order from any

court in any jurisdiction relating to insolvency, reorganization, or arrangement proceedings that would have the effect of staying or avoiding this provision.

13.2.4 Franchisee becomes insolvent, a receiver or custodian (permanent or temporary) of Franchisee's property or any part thereof is appointed by a court of competent authority, or Franchisee makes a general assignment for the benefit of creditors. There is no cure period for an act of default under this provision.

13.2.5 A final judgment against Franchisee remains unsatisfied of record for thirty (30) days or longer (unless a supersedeas or other appeal bond is filed), execution is levied against Franchisee's business or property at the Location, or a suit to foreclose any lien or mortgage against the Restaurant premises or any furniture, fixtures, or equipment at the Restaurant is filed against Franchisee and not dismissed within thirty (30) days. The cure period for an act of default under this provision is five (5) days after notice by BNC following expiration of any other period set forth in the provision.

13.2.6 Franchisee fails to performance any material term, condition, or obligation of payment to Franchisee's suppliers or others arising out of the purchase or lease of products, furniture, fixtures, or equipment in connection with the Restaurant.

13.2.7 Franchisee fails to pay when due any Royalties, Advertising Contributions, or other amounts due and payable to BNC under this Agreement. The cure period for an act of default under this provision is ten (10) days after notice by BNC to Franchisee.

13.2.8 Franchisee fails to submit any Gross Sales Statement or other financial report required under this Agreement, or unintentionally files an inaccurate Gross Sales Statement or other financial report required under this Agreement. The cure period for an act of default under this provision is thirty (30) days after notice by BNC to Franchisee.

13.2.9 Franchisee knowingly submits to BNC a false Gross Sales Statement or any other false financial report required under this Agreement. There is no cure period for an act of default under this provision.

13.2.10 Franchisee fails to operate the Restaurant in accordance with the BENIHANA Standards as to cleanliness, safety, health, and sanitation. The cure period for an act of default under this provision is five (5) days after notice by BNC.

13.2.11 Franchisee fails to rectify immediately, upon notice to Franchisee by BNC or any other governmental agency or authorized private food safety inspector, a hazardous situation, or immediately remove from the Restaurant any hazardous product. For purposes of the foregoing sentence, “hazardous situations” are those situations or conditions that have the potential to cause injury, illness, or death, and a “hazardous product” is any product unfit for human consumption or that has the potential to cause injury, illness, or death. There is no cure period for an act of default under this provision.

13.2.12 Franchisee sells at the Restaurant products not approved by BNC for sale at the Restaurant, or sells products that do not conform to the product specifications established by BNC. The cure period for an act of default under this provision is five (5) days after notice by BNC to Franchisee.

13.2.13 Franchisee fails to sell or offer for sale at the Restaurant any product BNC requires to be sold or offered for sale at the Restaurant. The cure period for an act of default under this provision is ten (10) days after notice by BNC to Franchisee.

13.2.14 Franchisee fails to use at the Restaurant any furniture, fixtures, equipment or signage BNC requires to be used at the Restaurant.

13.2.15 Franchisee uses at the Restaurant any furniture, fixtures, equipment or signage not approved by BNC for use at the Restaurant.

13.2.16 Franchisee fails to repair and maintain the Restaurant, or the furniture, fixtures, equipment, or signage at the Restaurant to the standards required by BNC.

13.2.17 Franchisee fails to operate the Restaurant in accordance with any BENIHANA Standards (other than those as to cleanliness, safety, health and sanitation) as to operating procedures or system and methods of operation (including, without limitation, standards related to quality and quantity of food products served).

13.2.18 Franchisee fails to obtain and maintain all insurance required under Article 12 of this Agreement, with all required terms and policy provisions required by this Agreement. The cure period for an act of default under this provision is ten (10) days after notice by BNC to Franchisee.

13.2.19 Franchisee violates any governmental law, ordinance, rule, or regulation in connection with operating the Restaurant, and Franchisee fails to correct the violation within twenty (20) days after notification by the governmental body or authority. The cure period for an act of default under this provision is five (5) days from notice by BNC to Franchisee, after expiration of the twenty (20) days from notification by the governmental body or authority; provided, however, the five (5) day cure period will be stayed if Franchisee raises a bona fide dispute as to the validity of the alleged violation of the legality of the law, ordinance, rule, or regulation at issue, and Franchisee takes action in an appropriate court or other forum to address the dispute.

13.2.20 Franchisee vacates, abandons, ceases to occupy, or loses its right to possession of the Restaurant or the Location. The cure period for an act of default under this provision is five (5) days after notice by BNC to Franchisee.

13.2.21 Franchisee abandons the franchise relationship with BNC. It is an abandonment of the franchise relationship with BNC if Franchisee ceases to do business at the Restaurant. The cure period for an act of default under this provision is five (5) days after notice by BNC to Franchisee.

13.2.22 Franchisee fails to comply with the restrictions on BENIHANA Confidential Information, or any covenants set forth in Article 6 or Article 18 of this Agreement, Franchisee misuses or makes any unauthorized use of the Marks or any other identifying characteristics of the BENIHANA System, or Franchisee otherwise materially impairs the goodwill associated the Marks or BNC's rights in the Marks. There is no cure period for an act of default under this provision.

13.2.23 Franchisee or its principals sell, assign, transfer, encumber, or license any interest in Franchisee, in this Agreement, in the franchise license, or in the Restaurant without BNC's prior written consent and otherwise as permitted under this Agreement. There is no cure period for an act of default under this provision.

13.2.24 Franchisee violates any other obligation, provision, or condition of this Agreement not specifically identified in this Article 13.

13.2.25 Franchisee commits three (3) or more acts of default under this Agreement within any consecutive twelve (12) month period, even if Franchisee cures any of the three acts of default. There is no cure period under this provision, so that if two prior defaults occur within a twelve

(12) month period, this Agreement will terminate immediately upon the occurrence of a third act of default and a notice of default and termination delivered by BNC to Franchisee.

13.2.26 Franchisee, or any individual with an Ownership Interest in Franchisee, is convicted in a court of competent jurisdiction of: (i) an offense punishable by a term of imprisonment in excess of one (1) year; or (ii) any offense for which a material element is fraud, dishonesty, or moral turpitude. There is no cure period for an act of default under this provision.

ARTICLE 14. OBLIGATIONS UPON TERMINATION OR EXPIRATION

14.1 Upon termination or expiration of this Agreement for any reason, all rights granted to Franchisee under this Agreement will immediately terminate, and Franchisee must strictly comply with the following obligations:

14.1.1 Franchisee must immediately cease operating the Restaurant or using the fixtures, displays, decorations, stationery, forms, advertising materials, and other articles used in connection with the Restaurant.

14.1.2 Franchisee must immediately and permanently cease using in any manner whatsoever: (i) any Confidential Information; (ii) the BENIHANA System, and any of BNC's methods, procedures, and techniques associated with the BENIHANA System; and (iii) the BENIHANA trade dress and distinctive forms, slogans, signs, symbols and devices associated with the BENIHANA System.

14.1.3 Franchisee must, within five (5) days of expiration or termination, deliver to BNC all manuals, including the Manual, and all other records, correspondence, and instructions containing Confidential Information, or other information relating to the operation of the Restaurant, all of which are acknowledged to be BNC's property, and Franchisee will not keep any copy or record of any of the foregoing, with the exception of Franchisee's copy of this

Agreement, any correspondence between the parties, and any other documents Franchisee reasonably needs for compliance with any provision of law.

14.1.4 Franchisee must immediately and permanently cease using in any manner the Marks, or any confusingly similar trademark, service mark, trade name, or insignia.

14.1.5 Franchisee must not directly or indirectly identify itself in any manner as a franchisee, or former franchisee, of BNC or as an authorized user of the BENIHANA System or the Marks.

14.1.6 Franchisee must furnish BNC with evidence satisfactory to BNC of Franchisee's compliance with Franchisee's obligations under Sections 14.1.3, 14.1.4, and 14.1.5 within seven (7) days after termination or expiration of this Agreement.

14.1.7 Franchisee must immediately make or cause to be made modifications and alterations to the Restaurant to distinguish the appearance of the Restaurant from that of other BENIHANA Restaurants, including all specific changes BNC may request for that purpose. Franchisee must furnish BNC with evidence satisfactory to BNC of Franchisee's compliance with this obligation within seven (7) days after termination or expiration of this Agreement.

14.1.7.1 If Franchisee fails to comply with the requirements of this Section 14.1.7, in addition to any other rights BNC has under this Agreement, BNC has the right to enter upon the premises where the Restaurant was operated, without being guilty of trespass or any other tort, for the purpose of making or causing to be made, at Franchisee's expense, the changes required by this Agreement.

14.1.8 Franchisee must promptly pay all sums owing to BNC and its subsidiaries and affiliates.

14.1.9 Franchisee must take all actions necessary to cancel any assumed names or equivalent registrations containing any of the Marks.

14.1.10 Franchisee must: (i) at BNC's option, assign to BNC, or its designee, any interest Franchisee has in any lease for the Location and the Restaurant; and (ii) take all steps necessary to assign to BNC or its designee the telephone numbers used in connection with operating the Restaurant as provided in the Conditional Assignment of Telephone Numbers attached as Exhibit C hereto.

14.2 If Franchisee continues to operate, or subsequently begins to operate any other business at the Location, Franchisee must not use any reproduction, counterfeit, copy, or colorable imitation of the Marks or the BENIHANA trade dress, either in connection with such other business or the promotion thereof, and Franchisee must not use any designation of origin or description or representation that falsely suggests or represents an association or connection with BNC constituting unfair competition.

14.3 If this Agreement is terminated based on any default by Franchisee, Franchisee will be liable to BNC for all damages, costs, and expenses, including reasonable attorneys' fees, incurred by BNC as a result of Franchisee's default and termination; Franchisee's obligation under this subsection will give rise to and remain, until paid in full, a lien in favor of BNC against any and all personal property, furnishings, equipment, signs, fixtures, and inventory related to the operation of the Restaurant.

14.4 Franchisee will pay to BNC all damages, costs, and expenses, including reasonable attorneys' fees, incurred by BNC subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Agreement.

14.5 BNC has the option, which it can exercise within thirty (30) days after expiration or termination, to purchase from Franchisee any or all of Franchisee's furnishings, equipment, signs, fixtures, supplies, or inventory related to the operation of the Restaurant, at a price equal to Franchisee's cost or fair market value, whichever is less.

14.5.1 If the parties cannot agree on a fair market value within a reasonable time, BNC will designate an independent appraiser, whose determination will be binding.

14.5.2 If BNC elects to exercise its purchase option under this subsection, BNC has a right to set off against the purchase price all amounts due from Franchisee and the cost of the appraisal.

14.6 Franchisee must comply with all obligations which by their nature survive the termination or expiration of this Agreement, including, without limitation, the covenants contained in Article 18 of this Agreement.

ARTICLE 15. DISPUTE RESOLUTION

15.1 Except as provided in Section 15.3 of this Agreement, all controversies, disputes, or claims between BNC and Franchisee, any other signatory to this Agreement, or BNC's and Franchisee's subsidiaries, affiliates, shareholders, officers, directors, agents, or employees arising out of or related to this Agreement or any other agreement between Franchisee and BNC will be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with the AAA Rules for Commercial Disputes.

15.1.1 The place of arbitration will be Miami, Florida, where the award will be rendered.

15.1.2 The arbitration panel will consist of three members, one appointed by BNC, one appointed by Franchisee, and one chosen by the two arbitrators appointed by the parties.

15.1.3 The arbitrators are not authorized to award punitive or exemplary damages, and any award including such damages will not be enforceable by any court.

15.1.4 Franchisee and BNC agree that any arbitration will be conducted only on an individual, and not a class-wide, basis. No arbitration proceeding between Franchisee and BNC may be consolidated with any other arbitration proceeding involving BNC and any other person or entity.

15.1.5 Except as otherwise provided, each party will bear its own attorneys' fees, expert witness fees, and other court or arbitration costs incurred in connection with any arbitration between BNC and Franchisee.

15.2 BNC and Franchisee agree that this Agreement evidences a transaction involving interstate commerce and that the enforcement of this arbitration provision and the confirmation of any award issued to either party by reason of an arbitration conducted pursuant to this arbitration provision is governed by the United States Federal Arbitration Act, codified at 9 U.S.C. § 1, *et seq.* (the "FAA"). The parties also agree that any such award is eligible for and subject to confirmation by a court in accordance with applicable law and procedure.

15.3 Any other provision of this Agreement notwithstanding, the following claims and matters expressly are excluded from the coverage of the arbitration provision in Section 15.1 of this Agreement:

15.3.1 Injunctive or Extraordinary Remedies. Notwithstanding the provisions of Section 15.1 above, BNC may bring an action in any court of competent jurisdiction for injunctive or other extraordinary relief, as BNC deems necessary or appropriate: (i) prohibiting violations of Franchisee's obligations under Article 6 and Article 18 of this Agreement; (ii) prohibiting the use or display of the Marks; or (iii) compelling Franchisee to take steps reasonably necessary to

preserve BNC's reputation, goodwill and proprietary rights, including removal of any displays of the Marks or otherwise distinguishing any business at the Location from a BENIHANA Restaurant.

15.3.2 Franchisee and BNC acknowledge and agree that the United States District Court for the Southern District of Florida ("Southern District of Florida") shall be the venue and exclusive proper forum in which to adjudicate any case or controversy arising, either directly or indirectly, under or in connection with this Agreement that is subject to Section 15.3 of this Agreement. Franchisee and BNC agree that they are subject to personal jurisdiction in the Southern District of Florida and that, in the event of litigation brought as provided in Section 15.3, they will not contest or challenge the in personam jurisdiction or venue of the Southern District of Florida. If and only if the Southern District of Florida lacks subject matter jurisdiction over any matter litigated under this Agreement, then the Circuit Court for the 11th Judicial Circuit (or its successor) in and for Miami-Dade County, Florida ("11th Judicial Circuit") shall be the venue and exclusive proper forum for such litigation. Franchisee and BNC agree that they are subject to personal jurisdiction in the 11th Judicial Circuit, and, in any litigation brought in that court under this Section 15, Franchisee and BNC agree they will not contest or challenge the in personam jurisdiction or venue of the 11th Judicial Circuit.

15.3.3 Franchisee acknowledges that Franchisee's failure to comply fully with any of the terms of this Agreement respecting Franchisee's obligations to cease, upon termination or expiration of this Agreement, any use of or affiliation with the Marks or the BENIHANA System would cause irreparable damage to BNC and BNC's other franchisees, and that BNC has the immediate right to seek a preliminary order or injunction enforcing those obligations during the pendency of all arbitration or other proceedings, based on the posting of a bond in the amount of

Five Thousand Dollars (\$5,000.00). This covenant is independent, severable, and enforceable notwithstanding any other rights or remedies BNC may have.

ARTICLE 16. INDEPENDENT CONTRACTOR

16.1 Franchisee acknowledges and agrees it is an independent contractor and is not an agent, partner, joint venturer, joint employer, or employee of BNC or any BNC affiliate, and no fiduciary relationship exists between the parties.

16.2 Franchisee will be the sole and exclusive employer of its employees, with the sole right to hire, discipline, discharge and establish wages, hours, benefits, employment policies, and other terms and conditions of employment for its employees without consultation or approval from BNC. BNC will have no control over the terms and conditions of employment of Franchisee's employees.

16.3 Franchisee will have no right to bind or obligate BNC, Benihana, Inc., or Benihana of Tokyo in any way; nor may Franchisee represent that it has any right to do so.

16.4 In all public records and in Franchisee's relationships with other persons, including on stationery, business forms, and checks, Franchisee will indicate independent ownership of the Restaurant and that Franchisee operates the Restaurant under a franchise license granted by BNC.

16.5 Franchisee must exhibit at the franchised Restaurant, in such places as may be designated by BNC, a notification that the Restaurant is operated by Franchisee as an independent contractor and not by BNC, Benihana, Inc., or Benihana of Tokyo.

ARTICLE 17. ADDITIONAL FRANCHISE TERM AT EXPIRATION

17.1 This Agreement will not automatically renew upon the expiration of the Franchise Term.

17.2 Franchisee will have an option to acquire a franchise agreement (“Successor Franchise Agreement”) with respect to the Location for an additional period equal to the standard period of time offered to new BNC franchisees at the time of the expiration of the Franchise Term. Franchisee’s right to enter a Successor Franchise Agreement will exist if, and only if, each of the following terms and conditions has been met to BNC’s reasonable satisfaction:

17.2.1 Franchisee submits to BNC a written application for a Successor Franchise Agreement at least three hundred sixty-five (365) days before expiration of the Franchise Term;

17.2.2 Franchisee signs and returns to BNC for final approval and signing a Successor Franchise Agreement at least thirty (30) days before expiration of the Franchise Term. Any Successor Franchise Agreement issued to Franchisee will be the then-current form of Franchise Agreement being offered to franchisees as of the date of the expiration of the Franchise Term. The Successor Franchise Agreement may contain provisions, terms, and conditions substantially different from those contained herein, including without limitation, different or increased Royalties, Advertising Contributions, operating standards, training or equipment requirements, duration or renewal terms;

17.2.3 Franchisee, at the expiration of the Franchise Term and within the twenty-four (24) months prior thereto, is not and was not in default in the performance of any obligation under this Agreement, whether or not any notice of default was provided to Franchisee;

17.2.4 Franchisee submits to BNC all information and documentation as reasonably requested by BNC as a prerequisite for the issuance of a franchise agreement as of the date of the expiration of the Franchise Term;

17.2.5 Franchisee meets all of BNC's then-existing legal, financial, and operational standards applicable to new franchisees contained in the then-current form of franchise agreement and the then-current operating standards in effect for the BENIHANA System;

17.2.6 Franchisee re-models or contracts to re-model the Restaurant, including building, signs, equipment, furnishings, and décor, to the extent required and approved by BNC to reflect the then-current image of BENIHANA Restaurants;

17.2.7 Franchisee tenders to BNC, in lieu of the Franchisee Fee specified in the Successor Franchisee Agreement, an administrative fee equal to twenty percent (20%) of the Franchise Fee in existence on the date of the expiration of the Franchise Term;

17.2.8 Franchisee executes a general release, in the form BNC requires, of any and all claims against BNC and its affiliates, successors, and assigns, and their respective officers, directors, agents and employees; and

17.2.9 Franchisee satisfies all monetary obligations owed to BNC by Franchisee and Franchisee's affiliates.

ARTICLE 18. TRADE SECRETS; RESTRICTIVE COVENANTS

18.1 Franchisee acknowledges and agrees that it will receive valuable and specialized training, including operations training in the BENIHANA System, beyond Franchisee's present skills, experience, and knowledge and that of Franchisee's principals or employees. Franchisee further acknowledges that Franchisee will receive access to BNC's Confidential Information (as defined in this Agreement) that will provide a competitive advantage to Franchisee.

18.2 As a condition of training Franchisee, sharing the Confidential Information with Franchisee, and granting Franchisee a franchise license to operate the Restaurant under the

BENIHANA System and use BNC's intellectual property, BNC requires the covenants set forth in this Article 18 as protection for BNC's legitimate business interests and the interests of other franchisees in the BENIHANA System.

18.3 Franchisee covenants that during the Franchise Term, except as BNC otherwise approves in writing, Franchisee will devote full time, energy, and best efforts to the management and operation of the Restaurant.

18.4 Franchisee will not, during the Franchise Term or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, association, limited liability company or corporation any confidential information, proprietary information, knowledge, or know-how concerning the Restaurant and the BENIHANA System, including, without limitation, recipes, products, proprietary formulations, technology, operational details, advertising techniques and any and all information, knowledge, know-how and techniques BNC designates as confidential, including the Operations Manual, the BENIHANA Standards and the BENIHANA System, which may be communicated to Franchisee or of which Franchisee may be apprised by virtue of Franchisee's training and/or operation of the Restaurant ("Confidential Information").

18.4.1 Confidential Information does not include information Franchisee can demonstrate came to Franchisee's attention before BNC's disclosure; or which, at or after the time of disclosure by BNC to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.

18.4.2 Franchisee will divulge Confidential Information only to such of Franchisee's employees as must have access to it in order to operate the Restaurant.

18.4.3 As a condition of employment, Franchisee must require Franchisee's General Manager, any other personnel employed by Franchisee who has received or will receive training

from BNC, and any personnel having access to any Confidential Information to execute covenants that they will maintain the confidentiality of information they receive in connection with their employment at the Restaurant. At BNC's option, BNC may require that such confidentiality and restrictive covenant agreements be in the form attached to this Agreement as Exhibit F, which form includes specific identification of BNC as a third party beneficiary of such covenants with the independent right to enforce them. Franchisee must provide BNC with a copy of all executed covenants within five (5) days after hiring any such General Manager or other employees.

18.5 Franchisee and its principals covenant that, during the Franchise Term and for a period of two (2) years after the expiration or termination hereof, neither Franchisee nor any principal will directly or indirectly:

(a) divert or attempt to divert any business or customer of the Restaurant to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the BENIHANA System;

(b) employ or seek to employ any person (or induce such person to leave his or her employment) who is, or has within the one (1) year prior to such expiration or termination been, employed by BNC, any of its affiliates, including, without limitation HARU® or RA SUSHI® Restaurants ("Affiliated Company"), or any other franchisee operating under the BENIHANA System;

(c) own, maintain, operate, or have any direct or indirect interest in any restaurant or food service business that is or holds itself out to the public as a Japanese teppanyaki style or sushi restaurant or food service (a "Competing Business") within 150 kilometers of the Location; or

(d) own, maintain, operate, or have any direct or indirect interest in any Competing Business which business is, or is intended to be, located within a ten (10) kilometer radius of any BENIHANA Restaurant, or any other restaurant which is owned, operated, or franchised by BNC, Benihana of Tokyo, Benihana, Inc., or any Affiliated Company.

18.6 Franchisee understands and acknowledges that BNC has the right, in its sole discretion, to reduce the scope of any covenant set forth in Section 18.5, or any portion thereof, without Franchisee's consent, effective immediately upon Franchisee's receipt of written notice thereof; and Franchisee agrees that it will comply forthwith with any covenant as so modified.

18.7 Franchisee acknowledges and agrees that any failure to comply with the covenants and agreements in this Article 18, or with the covenants and agreements in Article 6 with respect to the Marks, will result in irreparable injury to BNC for which no adequate remedy at law may be available, and, therefore, BNC will be entitled, in addition to any other remedies BNC may have at law or in equity, to obtain specific performance of, or an injunction against the violation of, the requirements of this Article 18 and such requirements of Article 6, without showing actual or threatened damage and without the necessity of posting bond.

18.7.1 Franchisee agrees to pay all court costs and reasonable attorney's fees incurred by BNC in obtaining specific performance of, or an injunction against violation of, the requirements of this Article 18 or Article 6.

18.8 Franchisee expressly agrees that no claim Franchisee may have or assert against BNC, whether or not arising from this Agreement, will constitute a defense to the enforcement by BNC of the covenants in this Article 18.

18.9 Franchisee acknowledges and agrees that the length and term of the geographical restrictions in Section 18.5 are fair and reasonable and do not impose a greater restraint than is necessary to protect the goodwill associated with the Marks or other business interests of BNC.

18.10 Franchisee agrees that Franchisee's full, uninhibited, and faithful observance of each of the covenants contained in this Article 18 will not cause any undue hardship, financial or otherwise, and that the enforcement of each of the covenants in this Article 18 will not impair Franchisee's ability to obtain employment commensurate with Franchisee's abilities and on terms fully acceptable to Franchisee or otherwise to obtain income required for the comfortable support of Franchisee, Franchisee's family, and the satisfaction of Franchisee's creditors.

18.11 Franchisee agrees that Franchisee's use or exploitation of the special knowledge of the business of a BENIHANA Restaurant (and anyone acquiring knowledge from Franchisee) in competition with BNC or BNC franchisees would cause BNC and other BNC franchisees irreparable injury and loss.

18.12 If, following expiration, termination, or transfer of this Agreement, Franchisee violates the post-term covenants set forth in this Article 18, Franchisee acknowledges and agrees that the post-term period of two (2) years will be extended to begin on the date Franchisee first complies with such covenants so as to provide BNC with the full benefit of the post-term covenant period uninterrupted by Franchisee's interference.

**ARTICLE 19: CORPORATION, LIMITED LIABILITY COMPANY,
PARTNERSHIP**

19.1 If Franchisee is a corporation or limited liability company, the following requirements apply:

19.1.1 Franchisee will be newly organized and Franchisee's charter will at all times provide that Franchisee's activities are confined exclusively to operating the Restaurant identified in this Agreement.

19.1.2 If Franchisee is a corporation, limited liability company, or other entity, copies of Franchisee's Articles of Incorporation, By-laws, Certificate of Organization, Operating Agreement, partnership agreement, or other applicable governing documents, and any amendments thereto, including any resolution of directors or managers authorizing the signing of this Agreement must be provided to BNC before either Franchisee or BNC signs the Agreement.

19.1.3 Franchisee must maintain stop-transfer instructions against the transfer on Franchisee's records of any equity securities; membership interests, or partnership interests; and each stock certificate, membership interest or other ownership document, as applicable, must have conspicuously endorsed upon its face a statement in a form satisfactory to BNC that it is held subject to, and that any assignment or transfer thereof is subject to, all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section 19.1.3 will not apply to a publicly-held corporation.

19.1.4 Franchisee must maintain a current list of all owners of record and all beneficial owners of any stock, membership, General or limited partnership interests, or other ownership interests in Franchisee, and Franchisee must furnish the list to BNC upon request.

19.1.5 All shareholders, members, managers, partners, or other owners of Franchisee must jointly and severally guarantee Franchisee's performance under this Agreement and bind themselves to the terms of this Agreement; provided, however, that the requirements of this Section 19.1.5 will not apply to a publicly-held corporation.

19.2 Without limiting the foregoing, the parties acknowledge and agree that _____ will personally guarantee Franchisee's performance under this Agreement and agree to be personally bound by the terms of this Agreement.

ARTICLE 20. MISCELLANEOUS

20.1 This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and no representations, inducements, promises or agreements, oral or otherwise, between the parties not contained in this Agreement will be of any force or effect. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim the representations BNC made in the franchise disclosure document BNC furnished to Franchisee.

20.2 No delay or failure by BNC to exercise any right or power under this Agreement, delay or failure by BNC to insist upon strict compliance by Franchisee with any obligation hereunder, or custom or practice of the parties at variance with the provisions of this Agreement, will be a waiver of BNC's right to exercise any such rights or powers or to demand strict and exact performance by Franchisee of all provisions of this Agreement.

20.3 This Agreement is binding upon and inures to the benefit of the parties and their permitted successors and assigns.

20.4 Neither BNC nor Franchisee is liable to perform any obligations under this Agreement if such failure to perform is due to strikes, lockouts, stoppages, accidents, transportation delays, war, government regulations, acts of God, or other causes beyond the reasonable control of BNC or Franchisee, and the happening of any such cause of delays will extend the time of performance by the time occasioned by any such cause of delay.

20.4.1 Notwithstanding any other provision of this Agreement, no delay referred to in Section 20.4 will operate to extend the Franchise Term beyond its otherwise scheduled expiration date.

20.5 If any provision of this Agreement is invalid or incapable of being enforced by reason of any rule of law or public policy, all other provisions of this Agreement will nevertheless remain in full force and effect, and no provision of this Agreement is deemed dependent upon any other provision unless expressly stated in this Agreement.

20.6 This Agreement may be changed, modified, or amended only by an instrument in writing signed by BNC and Franchisee.

20.7 All notices required or permitted to be given hereunder must be in writing, sent by certified or registered mail, return receipt requested, or by Express Mail, Federal Express or equivalent overnight delivery service, as follows:

20.7.1 If to BNC, addressed to BNC at the address set forth at the head of this Agreement, to the attention of BNC's General Counsel; and

20.7.2 If to Franchisee, addressed to it at the address set forth in the Contract Data Schedule attached to this Agreement, with a copy to _____.

20.7.3 Either party may change its address for receipt of notices, from time to time, by written notice to the other as set forth herein. Notices are deemed given when delivered or when first refused (as evidenced by the receipt or delivery records of the delivery agent).

20.8 This Agreement is governed by and construed in accordance with the laws of the State of Florida, USA, without regard to the conflict of law principles thereof.

20.9 This Agreement may be executed in any number of counterparts, each of which when signed and delivered will be deemed an original, but such counterparts together will constitute but one and the same instrument.

20.10 All terms and words used in this Agreement, regardless of the number or gender in which they are used, will 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 may require, as if such words had been fully and properly written in the appropriate number and gender.

20.11 The various titles of the Articles herein are used solely for convenience and will not be used for interpreting or construing any word, clause, paragraph, or section of this Agreement.

ARTICLE 21: ACKNOWLEDGMENTS

21.1 Franchisee acknowledges that Franchisee has conducted an independent investigation of the franchised business licensed hereunder.

21.2 Franchisee recognizes that the business venture contemplated by this Agreement involves business risks, and its success will be largely dependent upon Franchisee's ability as an independent businessperson.

21.3 BNC expressly disclaims the making of, and Franchisee acknowledges that Franchisee has not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.

21.4 Franchisee acknowledges that Franchisee received BNC's Franchise Disclosure Document at least ten (10) calendar days before the date on which Franchisee signed this Agreement.

21.5 Franchisee acknowledges that Franchisee has read and understood this Agreement, the attachments hereto and all agreements relating thereto, if any, and that BNC has accorded

Franchisee ample time and opportunity to consult with advisors of Franchisee's own choosing about the potential benefits and risks of entering into this Agreement.

21.6 Except as set forth in any disclosure document, Franchisee acknowledges that Franchisee is relying solely on BNC and not on any affiliated entity or parent company related to BNC with regard to BNC's financial and other obligations under this Agreement.

21.7 Anti-Terrorist Activities and Representations. Franchisee certifies and warrants that neither Franchisee, nor any of Franchisee's owners, principals, employees, or associates (including all shareholders, members or partners., as applicable) is: (i) a person or entity designated by the U.S. Government on the list of the Specially Designated Nationals and Blocked Persons (the "SDN List"), as maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") at <http://www.ustreas.gov/offices/enforcement/ofac/sdn>, with which a U.S. person or entity cannot deal with or otherwise engage in business transactions; (ii) a person or entity otherwise the target of U.S. economic sanctions or trade embargoes enforced and administered by OFAC, such that a U.S. person or entity cannot deal or otherwise engage in business transactions with Franchisee or Franchisee's shareholders, members or partners; (iii) wholly or partly owned or controlled by any person or entity on the SDN List, including, without limitation by virtue of such person being a director or owning voting shares or interests in an entity on the SDN List; (iv) a person or entity acting, directly or indirectly, for or on behalf of any person or entity on the SDN List; or (v) a person or entity acting, directly or indirectly, for or on behalf of a foreign government that is the target of the OFAC sanctions regulations such that the entry into this Agreement would be prohibited under U.S. law.

21.8 Franchisee must comply with, and assist BNC to the fullest extent possible in BNC's efforts to comply with, the Anti-Terrorism Laws (as defined below). Franchisee will not hire or

otherwise deal with any person listed on the SDN List, as it may be modified from time to time. Franchisee is solely responsible for determining actions Franchisee must take to comply with all Anti-Terrorism Laws. Franchisee specifically acknowledges and agrees that Franchisee's indemnification obligations under this Agreement apply to Franchisee's obligations under Section 21.7 and this Section 21.8. Any misrepresentation by Franchisee under this Section 21.8, or any violation of any Anti-Terrorism Laws by Franchisee, Franchisee's owners, principals or employees, will constitute grounds for immediate termination without opportunity to cure of this Agreement and any other agreement between Franchisee and BNC or BNC's affiliates.

21.9 As used herein, "Anti-Terrorism Laws" means Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT ACT, and all other present and future federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any Governmental Authority (including, without limitation, The United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts and acts of war.

[signatures on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on this [day] day of month, 202__ at [place of signing].

ATTEST:

BENIHANA NATIONAL CORP.

By: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____

Title: _____

Date: _____

ATTEST:

[FRANCHISEE]

By: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____

Title: _____

Date: _____

FRANCHISE AGREEMENT (CONCESSION MODEL)

This FRANCHISE AGREEMENT (the "Agreement") made and entered as of this ____ day of _____ 20__ by and between Benihana National Corp. ("BNC"), a Delaware corporation, whose principal office address is 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180 and _____, a _____, having its principal business address at _____ ("Franchisee").

INTRODUCTION

A. BNC is the exclusive licensee in the United States of America, including its territories and possessions (collectively, the "Territory") of all proprietary and other property rights and interests in and to certain trade names, service marks and/or trademarks, including BENIHANA®, BENIHANA OF TOKYO®, and the "Flower" symbol (collectively, the "Marks").

B. BNC owns, operates, sponsors, franchises, and licenses the Marks for use at a system of restaurants utilizing the Marks and operating under the name BENIHANA (the "BENIHANA Restaurants"); and the BENIHANA Restaurants offer distinctive products and services utilizing a distinctive business format, including color schemes, designs, signage, equipment, layouts, operating systems, methods, procedures, standards, techniques and proprietary information, and marketing and advertising standards and formats, all of which have been and may be modified, amended, supplemented or further developed from time to time (the "BENIHANA System"); and

C. As part of the BENIHANA System, BNC has and continues to establish specific operating standards for various aspects of the BENIHANA System, including the location, physical characteristics and operating procedures and business processes of BENIHANA Restaurants; the BENIHANA menu; products sold; product specifications; qualifications of suppliers; qualifications, organization and training of franchisees and their personnel; marketing of products and the BENIHANA System in use at BENIHANA Restaurants; and all other things affecting the experience of consumers who patronize BENIHANA Restaurants (the "BENIHANA Standards").

D. BNC has expended time, effort and money to acquire experience and skill in the development of the BENIHANA System and the BENIHANA Standards, and BNC continues to develop, use and control the use of the Marks in order to identify for the public the source of services and products marketed and offered at BENIHANA Restaurants, and to represent the high standards of quality, cleanliness, appearance and service that are part of the BENIHANA System as represented by the BENIHANA Standards.

E. Franchisee understands and acknowledges the importance of the BENIHANA Standards relating to product quality, cleanliness, appearance and customer service that are part of the BENIHANA System, and Franchisee acknowledges the necessity of operating the BENIHANA Restaurant franchised under this Agreement in conformity with all requirements of the BENIHANA System, including the BENIHANA Standards.

F. Franchisee desires to acquire a license to use the Marks and the BENIHANA System in connection with the operation of a BENIHANA Restaurant at a single location specified in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. GRANT OF FRANCHISE; FRANCHISE TERM

1.1 The Introduction paragraphs set forth above are hereby incorporated in this Article 1 by reference as if set forth fully herein.

1.2 BNC hereby grants to Franchisee and Franchisee accepts a non-exclusive license to operate a single quick-service retail food location, with a limited menu and requiring limited equipment, branded as a BENIHANA® outlet (the “Restaurant”) at the location identified in the accompanying Contract Data Sheet attached as Exhibit A hereto (the “Location”), using the Marks and the BENIHANA System solely in accordance with the BENIHANA Standards and the particular terms of this Agreement.

1.3 Unless sooner terminated in accordance with the provisions of this Agreement, this

Agreement and the franchise and license granted hereunder shall be for a period ending fifteen (15) years from the date the Restaurant opens for business to the public (the “Franchise Term”). Franchisee agrees to operate the Restaurant in accordance with this Agreement at the Location for the entire Franchise Term.

1.3.1 Notwithstanding anything in Section 1.3 above, after the first five years of the Franchise Term, BNC will have the option, on ten (10) days’ notice, to terminate the Franchise Agreement if average monthly sales for any prior six-month period are below \$400,000.

1.4 The grant of this franchise does not grant, or imply the grant of, rights with regard to any other BENIHANA Restaurant at any other Location. Franchisee shall have no right whatsoever under this Agreement or otherwise to use, license, sublicense, or franchise others to use the Marks or the BENIHANA System. Franchisee acknowledges that Franchisee is not granted any options, rights of first refusal or development opportunities.

1.5 During the Franchise Term, if and only if Franchisee is in full compliance with the terms and conditions of this Agreement, and subject to BNC’s rights set forth in Section 1.7 of this Agreement, BNC shall not operate or license any person or entity other than Franchisee to operate, a BENIHANA Restaurant at any location that is within the “Restaurant Area” specified in the Contract Data Sheet attached to this Agreement.

1.6 Franchisee expressly acknowledges that the franchise granted under this Agreement is non-exclusive and that any geographic limitation on BNC’s rights to use or license the Marks under this Agreement relates solely to the operation of a BENIHANA Restaurant at the Location.

1.7 Nothing in this Agreement is intended to or shall limit in any way any rights of BNC or its affiliates to: (i) own and operate, or license others the right to own and operate, competing restaurants other than a BENIHANA Restaurant at any location, regardless of the proximity to the Restaurant, including but not limited to restaurants using the trademark RA® Sushi; (ii) own and operate, or license others the right to own and operate, BENIHANA Restaurants, including another business similar to the Restaurant outside the Restaurant Area, even if such BENIHANA Restaurants compete with the Restaurant or draw customers

from the Restaurant Area; (iii) engage, directly or indirectly, at wholesale, retail or otherwise, in the production, distribution, license and/or sale of any product or service under the Marks, or other marks, anywhere, regardless of the proximity to, or the competitive impact on, the Restaurant, through alternative channels of distribution (by way of example only, grocery stores, conveniences stores, internet sales, catalog sales, telemarketing or other direct marketing); (iv) license others to use the BENIHANA System and the Marks for the operation of BENIHANA Restaurants within Special Distribution Opportunities (as defined below); (v) advertise and promote the BENIHANA System within the Restaurant Area; and (vi) purchase, acquire, be acquired by, merge or affiliate with or engage in any transaction with other businesses (whether or not these businesses are competitive with the Restaurant), including competing franchise systems with units operating in the Restaurant Area, and to convert and operate, or license others the right to operate these units under the Marks and the BENIHANA System.

(a) For purposes of this Agreement, “Special Distribution Opportunities” shall mean captive venue locations, generally available only in connection with third-party food service provision contracts, including, without limitation, restaurants or other retail locations at airports and other public transportation facilities, turnpikes and toll-roads, entertainment and sports complexes, hotels, casinos, convention centers, and military facilities.

ARTICLE 2. SITE SELECTION AND CONSTRUCTION OF THE RESTAURANT

2.1 Franchisee shall construct the Restaurant in accordance with the provisions of this Agreement at the Location, and Franchisee shall not relocate the Restaurant without BNC’s prior written consent.

2.2 Franchisee shall acquire or lease the Location at Franchisee’s expense. If Franchisee leases the Location, Franchisee must obtain BNC’s prior written approval before entering into a lease agreement. Franchisee shall provide BNC with a copy of Franchisee’s fully executed lease agreement immediately after signing. BNC is not required and has no obligation to negotiate the terms of Franchisee’s lease. BNC may require the inclusion of certain provisions in the lease, including, but not limited to:

(a) The requirement that Franchisee and Franchisee's landlord execute and deliver to BNC a collateral assignment of Franchisee's rights under the lease in the form attached to this Agreement as Exhibit D, pursuant to which Franchisee must, at BNC's option, assign all of Franchisee's rights under the lease to BNC or its designee upon termination or expiration of this Agreement.

(b) A provision which restricts the use of the premises solely to the operation of a BENIHANA Restaurant.

(c) A provision which prohibits Franchisee from subleasing or assigning all or any part of Franchisee's occupancy rights, or extending the term of or renewing the lease, without BNC's prior written consent.

(d) A provision giving BNC the right to enter the premises to make modifications necessary to protect the Marks or the BENIHANA System, or to cure any default under this Agreement.

(e) A provision requiring the landlord to provide BNC with written notice of any defaults by Franchisee under the lease simultaneously with the issuance of any such notices to Franchisee.

2.3 BNC shall make available BNC personnel to consult with Franchisee in the planning, design, construction, and build-out of the Restaurant. Unless otherwise agreed, all consultations will be at BNC's offices in Miami, Florida (or other offices designated by BNC). If Franchisee requests that any consultation under this Section 2.3 be held at a location other than BNC's offices, and BNC agrees to any other requested consultation, Franchisee shall pay all travel, lodging, and living and other expenses incurred by BNC personnel as part of any consultation away from BNC's offices. Nothing contained in this Section 2.3 shall be interpreted to require or suggest that BNC or any of its employees are authorized to or will, as construction managers or in any other capacity, actually supervise the design, construction, or build-out of the Restaurant.

2.4 Franchisee acknowledges that the Restaurant is a distinct format that generally has not been used previously by BNC or any franchisee, and that there are no current prototypical plans for the Restaurant. Franchisee shall, at Franchisee's sole expense, employ architects, designers, engineers, and others as may be necessary to complete, adapt, modify, or substitute the sample plans and specifications

and shall submit them to BNC for review and approval. BNC will review the plans and specifications promptly and will approve or provide comments to Franchisee on the plans and specifications. Franchisee shall not commence construction of the Restaurant until BNC approves, in writing, the final plans and specifications to be used. Once final plans are approved, Franchisee shall cause the Restaurant to be completed in full accordance with such plans.

2.5 If BNC determines that the Restaurant is not being built, or was not built, in full accordance with the final plans, BNC shall have the right to require Franchisee to cause to be made all alterations or modifications that BNC deems necessary.

2.6 Both parties understand and acknowledge that the Restaurant will operate with a limited amount of equipment as compared to a standard-format full-service BENIHANA Restaurant. BNC will consult with Franchisee, to the extent BNC deems necessary, on the construction and equipping of the Restaurant, but it shall be and remain Franchisee's sole responsibility to diligently design, construct, equip, and otherwise ready and open the Restaurant. Franchisee will be responsible for obtaining all zoning classifications, permits, clearances, certificates of occupancy and center clearances, which may be required by governmental authorities.

2.7 Franchisee shall use licensed general contractors, designers, and architects in performing construction work at the Restaurant, and will comply with all requirements under a lease for the Restaurant.

2.8 BNC expressly disclaims any warranty of the quality or merchantability of any goods or services provided by architects, contractors or any other persons or entities to which it may refer Franchisee. BNC is not responsible for delays in the construction, equipping or decoration of the Restaurant or for any loss resulting from the Restaurant design or construction, because BNC has no control over the landlord or the numerous design, construction, or relate problems that could occur and delay the opening of the Restaurant.

2.9 BNC shall have access to the Restaurant while work is in progress and may require such reasonable alterations or modifications of the construction that BNC deems necessary.

2.10 Franchisee may not open the Restaurant for business without having first obtained BNC's

written authorization and acknowledgement that the requirements set forth in this Article 2 have been satisfied.

2.11 Franchisee shall commence operation of the Restaurant within twelve (12) months from the date of this Agreement. Franchisee will be deemed to have commenced operation of the Restaurant on the date Franchisee opens to the public the Restaurant constructed, furnished, and equipped in accordance with this Agreement.

ARTICLE 3. COMPLIANCE WITH BENIHANA SYSTEM; BENIHANA STANDARDS

3.1 BNC will make the BENIHANA Standards available to Franchisee in the Operations Manual and in other forms of communications, all of which BNC may modify in its sole discretion at any time during the Franchise Term.

3.2 Franchisee acknowledges that Franchisee's adherence to the BENIHANA System, the BENIHANA Standards, and the provisions of the Operations Manual are reasonably necessary, and essential to BNC, to Franchisee and to other franchisees of BENIHANA Restaurants, in order to promote the goodwill associated with the BENIHANA System and the Marks. Notwithstanding that the parties acknowledge that many of the BENIHANA Standards will be inapplicable to the design, format, operation, and products sold at the Restaurant, Franchisee shall comply with all applicable BENIHANA Standards and operate the Restaurant in accordance with the BENIHANA System as applicable to the Restaurant. SCHEDULES 1-A, 1-B, and 1-C to this Agreement will set forth modifications to the BENIHANA System as to menu, equipment, and training that the parties agree will apply to the operation of the Restaurant.

3.2.1 Franchisee further acknowledges that complete uniformity may not always be possible or practical throughout all BENIHANA Restaurants, and BNC may, from time to time, permit certain deviations from the BENIHANA System or the BENIHANA Standards as BNC deems appropriate in its sole discretion. The parties agree and acknowledge that the service format of the Restaurant will necessarily require certain deviations from the BENIHANA System or the BENIHANA Standards as approved by BNC in its sole discretion.

3.3 Franchisee shall use the Location solely for the operation of the Restaurant in strict

accordance with the applicable BENIHANA Standards. The Restaurant shall be open and in operation for such minimum hours and days specified or approved by BNC in writing, which hours may be changed from time to time by BNC.

3.4 Franchisee must designate and retain in its employment at all times a person to serve as the “General Manager” of the Restaurant. Franchisee shall at all times otherwise staff the Restaurant with a sufficient number of employees trained in the BENIHANA System as required by BNC. The General Manager must satisfy BNC’s educational and business criteria and must be individually acceptable to BNC. In addition, the General Manager must be responsible for the supervision and management of the Restaurant, and must devote full time and best efforts to this activity. The General Manager also must satisfy BNC’s applicable training requirements. If the General Manager ceases to be employed by Franchisee and available to manage the Restaurant, Franchisee must promptly, and in no event more than 120 days later, designate another person as General Manager, and that person must meet all criteria for a General Manager and be acceptable and approved by BNC.

3.5 During the entire Franchise Term, Franchisee shall not carry on or conduct, or permit others to carry on or conduct, any other business activity or operation at the Restaurant or the Location other than the operation of the Restaurant permitted under this Agreement.

3.6 Franchisee shall not operate, permit or grant any concession or license to operate at the Restaurant or the Location any vending machines, video or entertainment machines, games of skill, games of chance, or other similar device, without the prior written consent of BNC in each instance.

3.7 Franchisee shall, at its expense, continuously throughout the Franchise Term, maintain the Restaurant in good condition and repair in accordance with the BENIHANA Standards. Such maintenance shall include, without limitation, the repainting of walls, floors, flooring, or ceilings, as needed, or the repair, refurbishment, or replacement of any damaged or worn fixtures, furniture, equipment, or decorative items or components of BNC’s trade dress.

3.8 Franchisee shall use in the Restaurant only those brands, types and models of signs displaying the Marks, equipment, or fixtures that are approved by BNC and meet all specifications

established by BNC. Franchisee must purchase approved brands, types, and models of equipment, fixtures, and signs which meet BNC's specifications only from approved suppliers, unless otherwise agreed in writing by BNC.

3.9 Franchisee agrees to purchase, install, and maintain, at its expense, a point of sale data processing system and software as designated or approved from time to time by BNC (the "POS System"). The POS System shall contain a device to record accumulated sales that cannot be turned back or reset, and a back-up power system for memory storage in the event of power loss. The POS System will provide a record of products sold, a menu mix report, and other reports required by BNC. BNC shall have the right to retrieve such data and information directly from Franchisee's POS System as BNC shall deem necessary. Franchisee shall be responsible for the telephonic or transmission costs of such retrieval. Franchisee will install any new or upgraded software programs and equipment whenever BNC adopts such new programs for all franchisees to ensure full operational efficiency and communications capability. Franchisee shall update and upgrade the POS System as designated by BNC. BNC may require Franchisee to enter into a separate maintenance agreement for the POS System at any time.

3.10 Franchisee will only use advertising and promotional materials or items that are authorized and approved in writing by BNC in advance of their use by Franchisee.

3.11 Franchisee shall use or offer for sale at the Restaurant only those food and paper products, services, supplies, and packaging designated or approved by BNC in writing. The parties agree that the products offered at the Restaurant will be those products listed on SCHEDULE 1-A to this Agreement. The parties agree to consult regarding changes to the products to be offered at the Restaurant, and Franchisee agrees that BNC retains the sole and unfettered discretion to determine what products may be offered at the Restaurant. All products and services, including the sale, distribution and delivery of such products, must meet the BENIHANA Standards. Franchisee further agrees to discontinue offering for sale any product (even if listed on SCHEDULE 1), or using any supplies, paper products or packaging that BNC may, at any later time, in its sole discretion, no longer approve for sale or use at the Restaurant. Franchisee shall maintain at all times a sufficient supply of approved products to meet customer demand at the Restaurant.

3.11.1 The parties expressly acknowledge and agree that, in addition to the BENIHANA products to be served at the Restaurant, Franchisee will offer for sale products to be agreed upon by the parties under the RA® SUSHI name and trademarks (and listed on SCHEDULE 1-A to this Agreement). This provision will require Franchisee to execute a license agreement (“RA® Sushi License Agreement”) with RA Sushi Holding Corp., or its successor or assign, in a form to be agreed to by the parties. Franchisee agrees to do so, and Franchisor will use all its best reasonable efforts to cause RA Sushi Holding Corp. to execute the RA® Sushi License Agreement with Franchisee.

3.12 Unless specifically agreed otherwise in writing by BNC, Franchisee shall purchase all products, supplies, equipment, and materials used in operating the Restaurant from suppliers designated or approved by BNC in writing. Franchisee acknowledges that BNC may designate itself as a supplier of any item.

3.13 If Franchisee wishes to purchase any items from any supplier not previously approved by BNC, Franchisee shall submit to BNC a written request for approval of the proposed supplier. The notice shall (a) identify the name and address of such supplier, (b) contain such information as may be requested by BNC (which may include reasonable financial, operational and economic information regarding its business), and (c) identify the authorized products desired to be purchased from such supplier. BNC may require that samples from the supplier be delivered to BNC or to a designated independent testing laboratory for testing prior to approval and use. Franchisee shall pay BNC a fee to cover all costs of the test.

3.14 BNC’s standards, specifications, and other criteria for supplier approval, which are subject to change at any time, are part of the BENIHANA Confidential Information and BNC does not under its standard operating procedure disclose such standards, specifications, or other criteria to franchisees, proposed suppliers, or approved suppliers except as is necessary under the circumstances.

3.15 Nothing in this Agreement shall require BNC to approve any specific supplier. BNC may revoke its approval of any supplier or product at any time, effective upon written notice to Franchisee. Upon receipt of such written notice of disapproval of a supplier or product, Franchisee shall immediately discontinue ordering products manufactured by the disapproved supplier and shall immediately cease

offering for sale any disapproved product.

3.16 Franchisee acknowledges and agrees that BNC reserves the right to derive revenue and other material benefits in consideration of purchases by Franchisee or other franchisees of BNC, including from designated or approved suppliers.

3.17 BNC shall have the right, in its discretion, to designate any geographical area for purposes of establishing a purchasing program (“Purchasing Program”). If a Purchasing Program is established in the area encompassing the Restaurant when Franchisee opens for business, or is established during the Franchise Term, Franchisee shall immediately participate in the Purchasing Program.

3.18 Any new modification, concept, process, improvement, or slogan (“Work Improvement”) Franchisee develops as to the operation or promotion of the Restaurant or to the BENIHANA System shall be deemed a work made for hire, and Franchisee shall promptly notify BNC of, and provide BNC with all necessary information, regarding such Work Improvement. Franchisee acknowledges that any Work Improvement shall, without compensation to Franchisee, become BNC’s sole and exclusive property. BNC may use or allow other franchisees to use any Work Improvement in connection with the BENIHANA System or the operation of BENIHANA Restaurants.

3.19 Franchisee must operate the Restaurant in compliance with all applicable local, state, and federal laws, and compliance with those laws is a requirement of compliance with the BENIHANA Standards and the BENIHANA System. Franchisee must provide to BNC, with five (5) business days of receipt by Franchisee, all reports of any governmental agency related to the Restaurant, specifically including, but not limited to, reports of inspections by any health department or any agency with regulatory or supervisory jurisdiction over the Restaurant.

3.20 Franchisee must comply with Payment Card Industry Data Security Standards Requirements (“PCI DSS”), and any other data-related requirements or specifications designated by BNC, at all times during the Franchise Term.

ARTICLE 4. SERVICES AVAILABLE TO FRANCHISEE

4.1 BNC will provide Franchisee access to the “Operations Manual” during the Franchise

Term. For purposes of this Agreement, “Operations Manual” means the BENIHANA University website, all written manuals for use by BENIHANA System franchisees, and all product, service, and facility specifications and standards issued by BNC. All parts of the Operations Manual may be supplemented or modified by BNC in its sole discretion at any time. BNC and Franchisee will also confer regarding which parts of the Operations Manual may be inapplicable to the operation of the Restaurant, provided that the decision as to what provisions apply is within BNC’s sole discretion.

4.2 BNC will provide Franchisee with all or part of BNC’s then-current initial training program applicable to operating the Restaurant before Franchisee opens the Restaurant (“Initial Training”). The Initial Training provided by BNC shall be subject to the terms set forth in Article 5 of this Agreement.

4.3 BNC shall also provide pre-opening and opening assistance and training of additional employees of Franchisee (other than those trained at the Initial Training) at the Restaurant (“In-Restaurant Training”) as deemed appropriate to the operation of the Restaurant by BNC in its discretion. The In-Restaurant Training provided by BNC shall be subject to the terms set forth in Article 5 of this Agreement.

4.4 BNC in its discretion will provide additional on-going training after the opening of the Restaurant, as applicable, for chefs, general managers, and other restaurant personnel, subject to BNC’s availability and openings for such training.

ARTICLE 5. TRAINING

5.1 The pre-opening Initial Training and In-Restaurant Training will be agreed to by the parties and set forth on SCHEDULE 1-C to this Agreement.

5.2 Franchisee shall pay all expenses incurred in connection with the Initial Training and In-Restaurant Training, including, without limitation, the costs of wages, travel, lodging, living, meals, and other expenses of Franchisee’s employees.

5.3 All training programs shall be at such times and places designated by BNC. Currently, the Initial Training is held at BNC’s principal place of business and the In-Restaurant Training is held at another BENIHANA Restaurant. If BNC determines to conduct any training programs at any other Location, Franchisee shall reimburse BNC for the reasonable out-of-pocket expenses incurred by BNC's training

instructors, including but not limited to wages, travel expenses, food and lodging, and auto rental.

5.4 Franchisee and such other employees of Franchisee designated by BNC shall also be required to attend continuing courses, seminars, and other training programs (“Ongoing Training”) as BNC may require from time to time. BNC may require Franchisee or its employees to attend additional training programs at either BNC’s principal place of business, at the Restaurant, or at a designated BENIHANA Restaurant, as BNC determines in its sole discretion. Franchisee shall be responsible for any and all expenses incurred in connection with Ongoing Training, including, without limitation, salaries or wages, transportation, lodging and meals. If BNC determines to conduct any Ongoing Training at the Location, Franchisee shall reimburse BNC for the reasonable out-of-pocket expenses incurred by BNC's training instructors in providing such Ongoing Training, including but not limited to travel expenses, food and lodging, and auto rental.

5.5 Franchisee shall provide to its employees, at Franchisee’s expense, all training-related materials that BNC may require in any other form, including web-based training, video-conferencing or any other training that may be provided without face-to-face instruction.

ARTICLE 6. THE MARKS AND CONFIDENTIAL INFORMATION

6.1 BNC is the exclusive licensee of the Marks with rights of enforcement, development and publicizing of the Mark and the goodwill associated with and symbolized by them. Franchisee acknowledges that the Marks are valid and subsisting and that Franchisee has had no part in the creation or development of the Marks, and Franchisee disclaims any and all right, title or interest in the Marks or the goodwill associated with them. Any and all goodwill arising from Franchisee’s use of the Marks shall inure solely and exclusively to the owner of the Marks and upon expiration or termination of this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee’s use of the Marks or the BENIHANA System.

6.1.1 The RA® SUSHI Marks will be subject to a separate license agreement between Franchisee and RA Sushi Holding Corp. as provided in Section 3.11.1.

6.2 Franchisee will use only the Marks BNC designates and only in the manner and to the extent specifically permitted in this Agreement or otherwise by BNC in writing. Franchisee may use and display such Marks only in connection with the operation of the Restaurant and in compliance with the BENIHANA Standards. Any unauthorized use of the Marks shall constitute an infringement of BNC's rights.

6.3 Any and all advertising, publicity, signs, decorations, furnishings, equipment, or other matter employing in any way whatsoever any of the Marks shall be submitted to BNC for its approval prior to publication or use. Franchisee shall also ensure that any use or depiction of the Marks in any advertising or other material prepared by the Landlord, if any, is approved in advance by BNC in order to confirm the proper use of the Marks.

6.4 Franchisee may not use the Marks or anything confusingly similar as part of Franchisee's corporate or other legal name, or as part of any e-mail address, domain name, or other identification of Franchisee or Franchisee's business, in any medium. Franchisee must include a written statement that the Restaurant and Franchisee's business is "independently owned and operated" in all approved uses of the Marks on business forms such as letterhead, invoices, order forms, receipts and contracts, and as BNC may otherwise designate.

6.5 Franchisee may not use the Marks to advertise or sell products or services through the mail or by any electronic or other medium, including the Internet, without BNC's prior written approval. Franchisee shall not develop, create, generate, own, license, lease or use, in any manner, any computer medium or electronic medium (including, without limitation, any Internet page, domain names, website, web-page, bulletin board, newsgroup or other Internet-related medium) which in any way uses or displays the Marks, or any of them, or any words, symbols or terms confusingly similar thereto, without BNC's prior written consent, and then, only in such manner and in accordance with such procedures, policies, standards and specifications as BNC may establish from time to time. If consent is granted, BNC reserves the right to revoke such consent effective upon written notice to Franchisee. BNC has the sole right to establish an Internet "home page" using any of the Marks, and to regulate the establishment and use of linked home

pages by Franchisee and all other BENIHANA franchisees. BNC has the right, at any time, to establish procedures, limitations, and regulations regarding the operation of any websites. If established, Franchisee shall immediately comply with all such procedures, limitations, and regulations.

6.6 Franchisee shall not in any way do anything, directly or indirectly, to infringe upon, harm or contest the rights of BNC in the Marks or in any other symbols, logos, trademarks, or names that incorporate the Marks. Franchisee shall not take any action to apply for the registration of the Marks. Franchisee shall execute any documents BNC deems necessary to obtain protection for the Marks or to maintain their continued validity and enforceability.

6.7 If Franchisee learns of any claim or infringement of any of the Marks or any claim of unfair competition or other challenge to Franchisee's right to use any Marks, Franchisee shall immediately notify BNC. BNC shall have the sole and exclusive right, in its sole discretion, at its own cost and expense and for its own use and benefit, to institute suit or take such other action as it may deem proper to restrain any such infringement and defend any other such claim, and Franchisee agrees to cooperate with BNC in the prosecution of any such claim.

6.8 BNC has the right to require, in its sole discretion, that Franchisee discontinue, modify, or substitute any of the Marks in connection with any pending or threatened litigation involving Franchisee's use of the Marks.

6.9 BNC reserves the right to modify the Marks and to substitute different Marks for use in identifying the BENIHANA System and BENIHANA Restaurants. Franchisee shall comply with all such modifications and/or substitutions.

ARTICLE 7. ROYALTIES AND ADVERTISING CONTRIBUTIONS TO BNC

7.1 Franchisee shall pay to BNC in full upon the acceptance and execution of this Agreement by BNC an initial non-refundable franchise fee ("Franchise Fee") in the amount of Forty Thousand Dollars (\$40,000).

7.2 For the first five years of the Franchise Term, Franchisee will pay to BNC for the use of the Marks a recurring, non-refundable royalty of five percent (5%) of Gross Sales (as defined below) of the

Restaurant (“Royalties”). After the first five years of the Franchise Term, Franchisee Royalties will be six percent (6%) of Gross Sales. Royalties are due and payable by Franchisee on the fifteenth (15th) day of each calendar month based upon Gross Sales at the Restaurant for the preceding month. If the 15th day of any month is a Saturday, Sunday, or national holiday, Royalties will be due and payable on the first business day following the 15th day of the month.

7.3. During the Franchise Term, Franchisee will pay to BNC for the use of the Marks a recurring, non-refundable advertising fee (“Advertising Contributions”) of two percent (2%) of Gross Sales. Advertising Contributions are due and payable on the fifteenth (15th) day of each calendar month based upon Gross Sales at the Restaurant for the preceding month. If the 15th day of any month is a Saturday, Sunday, or national holiday, Advertising Contributions will be due and payable on the first business day following the 15th day of the month.

7.4 Franchisee agrees to participate in BNC’s specified program or procedure for sales reporting and payment of Royalties, Advertising Contributions, and other fees, whether it is electronic fund transfer or some successor program. Franchisee agrees to assume the costs associated with maintaining Franchisee’s capability to report sales and transfer funds to BNC. Franchisee agrees to sign and deliver to BNC all documents necessary to unconditionally and irrevocably authorize BNC to debit by bank draft or other recognized method Franchisee’s business operating account for payment on the due dates for Royalties, Advertising Contributions and any other amounts due under this Agreement, and Franchisee agrees that adequate funds will be available for withdrawal by electronic transfer on each due date from the business operating account to be debited.

7.5 As used in this Agreement, “Gross Sales” shall mean all revenue from the sale of all products and services and all other income of every kind and nature related to the Restaurant, whether for cash, trade or barter, by redemption of gift certificates or cards, credit transactions or otherwise, regardless of collection, including, without limitation, all revenues derived from catering services, guest parking charges, receipts from mail or telephone orders received at or filled from the Restaurant, deposits not refunded to purchasers, orders taken at the Restaurant that are filled elsewhere, and payments to Franchisee

by any concessionaire, franchisee, or person otherwise in the Restaurant with BNC's approval. "Gross Sales" does not include sales taxes or other taxes Franchisee collects from customers that are paid to the appropriate taxing authority.

7.6 If Franchisee fails to send to BNC a "Gross Sales Statement" (as defined below) in any month, BNC will be entitled to debit Franchisee's business operating account for one hundred twenty percent (120%) of the previous month's Royalties and Advertising Contributions paid under this Agreement. If the Royalties and Advertising Contributions debited are less than the Royalties and Advertising Contributions actually owed to BNC (once Franchisee's actual Gross Sales have been determined), BNC is authorized to debit Franchisee's account for the balance due. If the Royalties and Advertising Contributions debited are more than the Royalties and Advertising Contributions actually owed to BNC (once Franchisee's actual Gross Sales have been determined), BNC will credit the excess amount against the amount BNC otherwise would debit from Franchisee's account during the following month.

7.7 Any payments due hereunder not received by BNC on the due date will bear interest at the rate of interest (calculated on a daily basis based upon a 360-day year) equal to the lesser of 18% per annum or the maximum interest rate allowed by law beginning on the first business day after the due date until the date of payment.

ARTICLE 8. BOOKS, RECORDS & REPORTS

8.1 On the fifteenth (15th) day of each month Franchisee must deliver to BNC a written statement of Gross Sales for the preceding calendar month ("Gross Sales Statement"). The Gross Sales Statement must be certified as accurate by Franchisee, a financial officer of Franchisee, or by Franchisee's principal accountant responsible for overseeing the books and records of the Restaurant.

8.2 Franchisee shall, at its expense, submit to BNC in the form prescribed by BNC, and maintain readily available for BNC's inspection, review and/or auditing, the following additional reports, financial statements and other data:

(a) a profit and loss statement and POS sales reports for each month during the Franchise Term, due within thirty (30) days after the end of each month;

(b) within ninety (90) days following the end of each fiscal year during the Franchise Term, an unaudited financial statement for the preceding fiscal year with such detail and in a format as specified by BNC, together with a certificate executed by Franchisee certifying that such financial statement is true and accurate;

(c) copies of Franchisee's operating reports submitted to Franchisee's landlord if required under Franchisee's lease, simultaneously with Franchisee's submission of such reports to Franchisee's landlord;

(d) copies of Franchisee's state and federal income tax returns and state sales tax returns; and

(e) such other forms, reports, records, information and data as BNC may reasonably designate.

8.3 Along with each report required under this Article 8, Franchisee shall submit a certificate executed by Franchisee certifying that the financial statement is true and accurate and such other information in such form as BNC may reasonably require.

8.4 Franchisee shall keep full, complete, and accurate books of account and records of Gross Sales and operation of the Restaurant and must retain such books and records for at least five (5) years from the dates they are prepared; or, if an audit, review or inspection is in progress or a controversy should arise between the parties hereto regarding Royalties or Advertising Contributions, until such audit, review, inspection or controversy is terminated. All books and records relating to operation of the Restaurant shall be maintained at the Restaurant or, with BNC's prior written consent, at Franchisee's main offices.

8.5 BNC or its authorized representative at all reasonable times shall have the right to inspect, audit, photocopy and/or examine all of Franchisee's books, records and tax returns, including without limitation, Franchisee's general ledger, its balance sheets, its profit and loss statements and its stockholder's registry book. BNC shall also have the right, at any time, to have an independent audit made of Franchisee's books and records. If any inspection, review or audit reveals that Franchisee understated any payments in any report submitted to BNC, then BNC shall have the right to immediately debit from Franchisee's bank

account or require Franchisee to immediately pay the amount understated to BNC, as well as interest from the date such amount was due until debited or paid, at the rate of 18% per annum, or the maximum rate permitted by law, whichever is less. If an inspection, review or audit discloses an understatement in any report of 3% or more, BNC may, in addition to repayment of monies owed with interest, debit from Franchisee's bank account or require Franchisee to reimburse BNC for any and all costs and expenses incurred by BNC in connection with the inspection, review or audit, including, without limitation, travel, lodging, wages and reasonable accounting and legal costs. The foregoing remedies shall be in addition to any other remedies BNC may have under this Agreement.

ARTICLE 9 ADVERTISING, MARKETING & PROMOTION

9.1 Franchisee recognizes the value of advertising of the Marks and the importance of advertising, marketing, and promotion to the development and maintenance of goodwill and the public awareness and positive image of the Marks, the Restaurant, BENIHANA Restaurants, and the BENIHANA System.

9.2 Franchisee acknowledges and agrees that the Advertising Contributions paid by Franchisee under this Agreement may be co-mingled with BNC's general funds and nothing in this Agreement shall be interpreted to mean that receipt by BNC of any Advertising Contributions constitutes a trust fund or any other fund dedicated exclusively for advertising or promotion. Without creating any specific obligations on BNC to apply Advertising Contributions in any specific manner other than in BNC's sole and absolute discretion, BNC intends as a general matter to use Advertising Contributions for expenses related to brand advertising, in-store, local, national or regional advertising placed by BNC, or public relations. BNC undertakes no obligation to make expenditures for Franchisee that are equivalent or proportionate to Advertising Contributions Franchisee pays under this Agreement or to insure that Franchisee benefits directly or on a pro rata basis from BNC's use of Advertising Contributions.

9.3 In addition to the Advertising Contributions to be paid to BNC under Section 7.3 of this Agreement, Frin each of Franchisee's fiscal years an amount ("Local Spend") that is not less than four percent (4%) of Gross Sales in that fiscal year for local print, radio, digital, and television and/or billboard

display advertising and local marketing and promotion (“Local Advertising”).

9.4 Local Advertising may consist of: television, radio, digital, magazine, or newspaper advertising; direct mail; billboard advertising; promotional brochures and literature; point-of-sale advertising materials; and other appropriate location-based marketing. All Local Advertising must be approved in advance by BNC and must be conducted in a dignified manner and shall conform to standards and requirements as BNC may specify. Franchisee shall not use any advertising, marketing, or promotional plans or materials unless and until Franchisee has received written approval from BNC. If Franchisee does not receive written disapproval from BNC within fifteen (15) days after BNC receives any samples or materials, BNC will be deemed to have approved the Local Advertising material. BNC may revoke its approval of any such plans or materials at any time effective upon written notice to Franchisee.

9.5 [INTENTIONALLY OMITTED]

9.6 Franchisee shall submit to BNC from time to time, but in no event less frequently than quarterly after the first year of the Franchise Term, evidence reasonably satisfactory to BNC establishing Franchisee’s compliance with its obligations with respect to Local Spend and Local Advertising.

9.7 Franchisee is not permitted to offer customers discounts or to advertise promotions or pricing that purports to apply to any other BENIHANA Restaurant, except to the extent that Franchisee has received BNC’s prior written authorization.

ARTICLE 10. INSPECTIONS

10.1 BNC, or its authorized representatives, shall have the right to enter and inspect the Restaurant and examine and test food products and supplies for the purpose of ascertaining that Franchisee is operating in accordance with the terms of this Agreement. Inspections will be conducted during normal business hours. BNC will notify Franchisee of any deficiencies detected during inspection, and Franchisee must promptly and diligently correct any such deficiencies. Should Franchisee, for any reason, fail to correct any deficiencies within a reasonable time as determined by BNC, BNC shall have the right and authority (without, however, any obligation to do so) to correct such deficiencies and to charge Franchisee a reasonable fee for BNC’s expenses in so acting, payable by Franchisee upon demand. The foregoing

right to correct deficiencies will be in addition to any other remedies that BNC may have.

ARTICLE 11. TRANSFER OF INTEREST

11.1 BNC has the right to and may assign its rights under this Agreement to any person, firm, association or corporation (“BNC Transferee”) provided that the BNC Transferee agrees in writing to assume all of BNC’s obligations under this Agreement. Upon any assignment by BNC and assumption by the BNC Transferee of BNC’s obligations under this Agreement, BNC shall have no further obligations or liabilities under this Agreement.

11.2 Franchisee understands and acknowledges that its rights and duties under this Agreement are personal to Franchisee and that BNC has entered into this Agreement in reliance on Franchisee’s business skill, financial capacity, and personal character. Accordingly, neither Franchisee nor any individual, partnership, corporation, limited liability company or other legal entity that directly or indirectly owns any interest in the franchise granted in this Agreement, or in Franchisee if Franchisee is a corporation, limited liability company or partnership, shall sell, assign, transfer, convey, or give away any direct or indirect interest in the franchise granted under this Agreement or in any legal entity that owns such franchise rights (a “Disposition”) without BNC’s prior written consent. Any purported assignment or transfer, by operation of law or otherwise, not having the written consent of BNC required by this Section 11.2 shall be null and void.

11.2.1 Notwithstanding the foregoing, BNC’s prior written consent is not required for a transfer of less than a 5% interest in a corporation registered under the Securities Exchange Act of 1934 (“publicly-held corporation”).

11.3 A Disposition requiring BNC’s prior written consent will also be deemed to occur upon any assignment, sale, pledge, or transfer of any fractional portion of: (a) any partnership ownership interest if Franchisee is a partnership; (b) any membership interest, if Franchisee is a limited liability company; or (c) Franchisee’s voting stock, or any increase in the number of outstanding shares of Franchisee’s voting stock that results in a change of ownership, if Franchisee is a corporation (“Ownership Interest”). Any new partner, shareholder, member or manager (if Franchisee is a limited liability company), as applicable, will

be required to personally guarantee Franchisee's obligations under this Agreement by signing a Personal Guaranty substantially in the form of Exhibit B hereto.

11.4 BNC agrees not to unreasonably withhold its consent to any Disposition provided: (a) BNC has not exercised its right of first refusal granted in Section 11.5; (b) all of Franchisee's monetary obligations to BNC have been satisfied in full; (c) Franchisee releases any and all claims it may have against BNC, agrees to remain obligated under the non-competition and non-disclosure of confidential information covenants contained herein, and expressly agrees to remain primarily liable under this Agreement after the transfer for a period of three (3) years (or for the period in which Franchisee receives payment from the Transferee, if longer than three years); (d) BNC is paid an assignment fee of \$10,000; (e) the Transferee (i) meets BNC's then-current criteria for new Franchisees, (ii) executes a written agreement assuming all of the Franchisee's obligations under this Agreement and a duplicate original thereof is delivered to BNC, (iii) is of good moral character and reputation, (iv) has a General Manager (who need not be a principal of the Transferee) who has completed the training course then in effect for prospective Franchisees, and (v) has provided BNC with copies of all relevant corporate or partnership documents which shall, among other things, evidence the restrictions on transfer imposed by this Agreement. If any of the foregoing conditions are not met to BNC's satisfaction, BNC shall have the unfettered right in its sole discretion to refuse to consent to the Disposition.

11.5 If Franchisee desires to accept a bona fide offer from a third-party purchaser ("Proposed Transferee") to purchase the franchise rights granted under this Agreement, the Restaurant or any portion thereof or interest therein, or any Ownership Interest of Franchisee, (collectively, a "Third Party Disposition"), Franchisee will, before consummating the Third Party Disposition, notify BNC in writing of each such offer and shall provide to BNC such information and documentation relating to the offer as BNC may require. BNC shall have the right and option to acquire the interest offered to be sold in the Third Party Disposition on the same terms and conditions offered by the Proposed Transferee.

11.5.1 Any offer from a Proposed Transferee presented to BNC under this Section shall be in writing and shall include a signed copy of the agreement between Franchisee and the Proposed

Transferee, a description of and information concerning the Proposed Transferee and its principals, including financial statements and relevant restaurant operating experience, if any.

11.5.2 BNC shall have thirty (30) days after BNC receives from Franchisee a copy of the written offer in which to accept the offer or waive its right of first refusal (“ROFR Decision”). BNC will communicate its ROFR Decision to Franchisee in writing. If BNC does not communicate its ROFR Decision before the expiration of such thirty (30) day period, BNC shall be deemed to have waived its right of first refusal.

(b) If BNC exercises its right of first refusal and accepts the offer, closing on such purchase shall occur on a date specified by BNC in the notice of acceptance, which date shall be the date of closing specified in the agreement between Franchisee and the Proposed Transferee, or forty-five (45) days from BNC’s acceptance, whichever is later.

(c) If BNC waives its right of first refusal and rejects the offer, BNC shall, within fifteen (15) days after the expiration of the thirty-day period set forth in subsection 11.5 (a) above, advise Franchisee whether BNC consents to the Third Party Disposition. If BNC consents to the Third Party Disposition, then Franchisee may conclude the sale to the Proposed Transferee on and subject to the terms and conditions of the agreement submitted to BNC. Any change of any material term of the agreement, including but not limited to price, payment terms, interest being transferred by Franchisee, or the identity of the Proposed Transferee or any holder of any Ownership Interest in the Proposed Transferee, shall be deemed to be a new offer, subject to the right of first refusal contained herein.

11.6 Upon the death or mental incapacity of any person with an interest in the franchise or in Franchisee (if Franchisee is a corporation, limited liability company or partnership), the executor, administrator, or personal representative of such person shall transfer his or her interest to a third party approved by BNC within six (6) months after such death or mental incapacity (the “Transfer Period”). Such transfers, including, without limitation, transfers by devise or inheritance, shall be subject to the same conditions as an *inter vivos* transfer.

(a) In the case of transfer by devise or inheritance, if the heirs or beneficiaries of any

such person are unable to meet the conditions in this Section 11.6, the personal representative of the deceased person shall have an additional period of up to six (6) months from the date such individual is disapproved by BNC (the "Extension Period") to dispose of the deceased's interest in the franchise.

(b) Notwithstanding the foregoing, the following conditions shall be met during the Transfer Period and any Extension Period: (i) the executor, administrator, or personal representative, as applicable, has provided BNC with documentation reasonably satisfactory to BNC evidencing such person's authority to receive an assignment or to dispose of the deceased's interest in the franchise; (ii) the Restaurant remains open and operating in accordance with all terms and conditions of this Agreements at all times; and (iii) a General Manager who has been approved by BNC and who has completed BNC's Initial Training Program, or In-Restaurant Training, as required by BNC, to BNC's satisfaction is designated to operate the Restaurant during the Transfer Period and/or Extension Period, as applicable.

(c) BNC shall in no way assume any liability in connection with the legal authority of the deceased's executor, administrator, heir, beneficiary or personal representative to receive an assignment or to dispose of the deceased's interest in the franchise.

(d) In the event a General Manager acceptable to BNC has not been designated to operate the Restaurant during the Transfer Period and, if applicable, Extension Period, BNC shall have the right, at its option, to step in and either itself, or through a third party designated by BNC, operate the Restaurant during such period. BNC or its designee shall be entitled to a reasonable fee for such services, in addition to compensation for all costs and expenses incurred in providing such services.

(e) If the foregoing conditions are not satisfied, or if the deceased's interest in the franchise is not transferred or disposed of before the expiration of the Transfer Period or Extension Period, if applicable, BNC shall have the right to immediately terminate this Agreement.

11.7 BNC's consent to a transfer of any interest in the franchise granted herein shall not constitute a waiver of any claims BNC may have against the transferring party, nor shall it be deemed a waiver of BNC's right to demand exact compliance with any of the terms of this Agreement by the transferee.

11.8 Notwithstanding any other provision of this Article 11, BNC will consent to an assignment of this Agreement by an individual franchisee to an entity that is wholly-owned by the same individual (or by more than one individual franchisee to an entity owned in the same proportions as the individual ownership) provided that both the individual assignor(s) and the entity assignee sign an Assignment and Assumption Agreement in the form attached as Exhibit E hereto.

ARTICLE 12. INSURANCE; INDEMNIFICATION

12.1 Franchisee shall obtain and maintain throughout the Franchise Term insurance coverage (including without limitation, broad form comprehensive general liability coverage, products liability coverage, broad form contractual liability coverage, business interruption coverage, workers' compensation or employers' liability insurance) as required under this Agreement or applicable law.

12.2 Each insurance policy carried by Franchisee shall name BNC and any affiliates designated by BNC as additional insureds. BNC shall have the right to reasonably consent to the types and amounts of insurance coverage and the issuing companies. Insurance maintained by Franchisee shall include, at a minimum, the following:

(a) comprehensive general liability insurance (with products, completed operations and contractual liability and independent contractors and escalators coverage) and comprehensive motor vehicle insurance (for owned and non-owned vehicles) against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Restaurant (or otherwise in conjunction with Franchisee's conduct of business pursuant to this Agreement) under one (1) or more policies of insurance, each on an occurrence basis, with single-limit coverage for personal and bodily injury, death and property damage of at least five million dollars (\$5,000,000) (or such other amount as BNC reasonably requires);

(b) All-risk building and contents insurance including fire, flood and earthquake, vandalism and theft insurance for the replacement value of the Restaurant and its contents;

(c) business interruption insurance for a period adequate to reestablish normal business operations;

(d) builders' risk insurance on a completed value non-reporting basis during the period of any remodeling of the Restaurant; and

(e) workers' compensation insurance in such amount as may be required by applicable statute or rule.

12.3 Every insurance policy issued to Franchisee shall be endorsed so as to require the insurance company to give at least thirty (30) days written notice by registered or certified mail to BNC before changing or canceling the policy, and a certificate of such insurance issued by the insurance companies shall be furnished to BNC. If Franchisee fails to obtain or maintain in force any insurance required under this Agreement, BNC shall have the right, but not the obligation, to purchase such insurance and, if BNC does so, Franchisee shall promptly pay to BNC upon demand 105% of the cost of the insurance purchased by BNC to reimburse BNC for the insurance cost and its administrative expense related to Franchisee's failure to comply with this Section 12.3.

12.4 Franchisee agrees, during and after the Franchise Term, to indemnify, defend and hold harmless BNC and its affiliates and their respective stockholders, members, agents, officers and directors, from and against any and all losses, costs, damages, expenses, claims, demands, proceedings, suits, and liabilities, including attorneys' fees and costs, arising directly or indirectly from, as a result of, or in connection with the construction, operation, condition, use or occupancy of the Restaurant. If the indemnity provided herein arises in connection with a claim made by a third-party ("Third-Party Claim"), BNC shall have the right independently to take any action it may deem necessary, in its sole discretion, to protect or defend itself and the persons and entities indemnified against any the Third-Party Claim, without regard to the expense, forum or other parties that may be involved. BNC shall have sole and exclusive control over the defense of any Third-Party Claim, and over the settlement, compromise or other disposition thereof, as well as the right to be represented by counsel of its own choosing. Franchisee's obligations hereunder shall include the cost of BNC's defense of any Third-Party Claim, the amount of any final judgment (including interest through the date of payment) which may be rendered against BNC, and any settlement reasonably agreed to by BNC. At the request of BNC, Franchisee shall enter into a separate indemnification agreement based on the foregoing terms directly with any of the persons or entities indemnified hereunder.

ARTICLE 13. DEFAULT; TERMINATION

13.1 If Franchisee commits any act of default under this Agreement, and Franchisee fails to cure the default after any required notice and within the applicable cure period, then this Agreement shall terminate automatically without any requirement of further notice by BNC or to Franchisee. The cure period applicable to any act of default is set forth below; if a cure period for an act of default is not specifically set forth, it shall be thirty (30) days. No cure period is allowed for certain acts of default described below. If any applicable law requires a longer notice period or a longer cure period than is provided in this Agreement, then the period required by law shall be substituted for time period provided below.

13.2 The following acts are each a material act of default under this Agreement and shall be good cause for termination:

(a) If the Restaurant does not open for business to the public by the date that is twelve (12) months from the date of this Agreement, or such later date as approved by BNC in writing.

(b) Franchisee's failure to commence the design, construction, equipping and process of opening Restaurant with due diligence, or otherwise in accordance with time established by BNC at the time of execution of this Agreement.

(c) Franchisee files a petition or application seeking any type of relief under United States Bankruptcy Code or any state insolvency or similar law, or a third-party files a petition or application under United States bankruptcy laws or any state insolvency or similar laws seeking to have Franchisee adjudicated a bankrupt, and the petition is not dismissed within ninety (90) days after it is filed. Subject to applicable law, this Agreement shall terminate without notice or cure period upon the occurrence of this act of default as if that date were the expiration date and Franchisee expressly and knowingly waives any rights that Franchisee may have under the provisions of the United States Bankruptcy Code and consents to the termination of this Agreement or any other relief which may be sought in a Complaint filed by BNC to lift the provisions of the automatic stay of the United States Bankruptcy Code. Additionally, Franchisee agrees not to seek an injunctive order from any court in any jurisdiction relating to insolvency, reorganization or arrangement proceedings which would have the effect of staying or enjoining this provision.

(d) Franchisee becomes insolvent, a receiver or custodian (permanent or temporary) of Franchisee's property or any part thereof is appointed by a court of competent authority, or Franchisee makes a general assignment for the benefit of creditors. There shall be no cure period for an act of default under this provision.

(e) A final judgment against Franchisee remains unsatisfied of record for thirty (30) days or longer (unless a supersedeas or other appeal bond is filed), execution is levied against Franchisee's business or property at the Location, or a suit to foreclose any lien or mortgage against the Restaurant premises or any furniture, fixtures or equipment at the Restaurant is filed against Franchisee and not dismissed within thirty (30) days. The cure period for an act of default under this provision is five (5) days after notice by BNC following expiration of any other period set forth in the provision.

(f) Franchisee defaults in the performance of any term, condition, or obligation of payment of any indebtedness to Franchisee's suppliers or others arising out of the purchase or lease of equipment in connection with the Restaurant.

(g) Franchisee fails to pay when due any Royalties, Advertising Contributions, or other amounts due and payable to BNC under this Agreement. The cure period for an act of default under this provision is ten (10) days after notice by BNC.

(h) Franchisee fails to submit any Gross Sales Statement or other financial report required under this Agreement, or unintentionally files an inaccurate Gross Sales Statement or other financial report required under this Agreement. The cure period for an act of default under this provision is thirty (30) days after notice by BNC as provided herein.

(i) Franchisee knowingly submits any false Gross Sales Statement or other financial report required under this Agreement. There shall be no cure period for an act of default under this provision.

(j) Franchisee fails to operate the Restaurant in accordance with the BENIHANA Standards as to cleanliness, safety, health, and sanitation. The cure period for an act of default under this provision is five (5) days after notice by BNC.

(k) Franchisee fails to immediately rectify all hazardous situations, and immediately remove and destroy any and all hazardous products. For purposes of the foregoing sentence, “hazardous situations” are those which have the potential to cause injury, illness or death, and “hazardous products” are products which are unfit for human consumption or which have the potential to cause injury, illness or death. There shall be no cure period for an act of default under this provision.

(l) Franchisee sells products at the Restaurant that are not approved by BNC for sale at the Restaurant or sells products that do not conform to the product specifications established by BNC. The cure period for an act of default under this provision is five (5) days after notice by BNC.

(m) Franchisee fails to sell or offer for sale at the Restaurant any product that is required by BNC to be sold or offered for sale at the Restaurant. The cure period for an act of default under this provision is five (5) days after notice by BNC.

(n) Franchisee fails to use at the Restaurant any furniture, fixtures, equipment, or signage required by BNC to be used at the Restaurant.

(o) Franchisee uses at the Restaurant any furniture, fixtures, equipment, or signage not approved by BNC for use at the Restaurant.

(p) Franchisee fails to repair and maintain the Restaurant, or the furniture, fixtures, equipment or signage at the Restaurant to the standards required by BNC.

(q) Franchisee fails to operate the Restaurant in accordance with any BENIHANA Standards (other than those as to cleanliness, safety, health and sanitation) as to operating procedures or system and methods of operation (including, without limitation, standards related to quality and quantity of food products served).

(r) Franchisee fails to obtain and maintain all insurance required under Article 12 of this Agreement, with all required terms and policy provisions as required by this Agreement. The cure period for an act of default under this provision is ten (10) days after notice by BNC.

(s) Franchisee violates any law, ordinance, rule or regulation of a governmental body or authority in connection with the operation of the Restaurant, and Franchisee fails to correct the violation

within twenty (20) days after notification by the governmental body or authority. The cure period for an act of default under this provision is five (5) days from notice by BNC after expiration of the twenty (20) days from notification by the governmental body or authority; provided, however, that the five (5) day cure period shall be stayed if there is a bona fide dispute as to the violation or the legality of the law, ordinance, rule or regulation at issue, and Franchisee takes action in an appropriate court or other forum to contest such violation or legality.

(t) Franchisee vacates, abandons, ceases to occupy, or loses its right to possession of the Restaurant or the Location. The cure period for an act of default under this provision is five (5) days after notice by BNC.

(u) Franchisee abandons the franchise and franchise relationship with BNC. It shall be an abandonment of the franchise and franchise relationship with BNC if Franchisee ceases to do business at the Restaurant. The cure period for an act of default under this provision is five (5) days after notice by BNC.

(v) Franchisee fails to comply with the restrictions on BENIHANA Confidential Information, or any covenants set forth in Article 18 or Article 6 of this Agreement, or if Franchisee misuses or make any unauthorized use of the Marks or any other identifying characteristics of the BENIHANA System, or otherwise materially impairs the goodwill associated therewith or BNC's rights therein. There shall be no cure period for an act of default under this provision.

(w) Franchisee sells, assigns, transfers, encumbers, or licenses any interest in this Agreement or in the franchise or Restaurant without the prior written consent of BNC and otherwise as permitted under this Agreement. There shall be no cure period for an act of default under this provision.

(x) Franchisee violates any other obligation, provision, or condition of this Agreement, not specifically identified in this Article 13.

(y) Franchisee commits three (3) or more acts of default under this Agreement within any consecutive twelve (12) month period, even if any of the three acts of default are cured by Franchisee. There shall be no cure period under this provision, so that if two prior defaults occur within a twelve (12)

month period, this Agreement shall immediately terminate upon the occurrence of an a third act of default, and a notice of default delivered by BNC.

(z) Franchisee, or any individual with an Ownership Interest in Franchisee, is convicted in a court of competent jurisdiction of (i) an offense punishable by a term of imprisonment in excess of one (1) year, or (ii) any offense for which a material element is fraud, dishonesty or moral turpitude. There shall be no cure period for an act of default under this provision.

ARTICLE 14. OBLIGATIONS UPON TERMINATION OR EXPIRATION

14.1 Upon termination or expiration of this Agreement for any reason, all rights granted under this Agreement to Franchisee shall immediately terminate, and Franchisee shall strictly comply with the following obligations:

(a) Franchisee shall immediately cease to operate the Restaurant.

(b) Franchisee shall immediately and permanently cease to use in any manner the Marks, including, without limitation, the service marks "BENIHANA", "Benihana of Tokyo" and the "flower" symbol, or any confusingly similar trademark, service mark, trade name or insignia.

(c) Franchisee shall not thereafter directly or indirectly identify itself in any manner as a franchisee of the BENIHANA System or former BNC licensee or franchisee.

(d) Franchisee shall immediately and permanently cease to use in any manner whatsoever, any Confidential Information, the BENIHANA System, and any of BNC's methods, procedures and techniques associated with the BENIHANA System; the BENIHANA trade dress and distinctive forms, slogans, signs, symbols and devices associated with the BENIHANA System. Without limiting the generality of the foregoing, Franchisee shall cease to use all fixtures, displays, decorations, stationery, forms, advertising materials and other articles used in connection with Franchisee's operation of the Restaurant.

(e) Franchisee shall immediately make or cause to be made such modifications and alterations to the Location and the Restaurant to distinguish the appearance of the Location and Restaurant from other BENIHANA Restaurants and shall make such specific additional changes thereto as BNC may

request for that purpose. If Franchisee fails or refuses to comply with the requirements of this Section 14.1 (e), in addition to any other rights BNC has under this Agreement, BNC shall have the right to enter upon the premises where the Restaurant was operated, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at Franchisee's expense, which expense Franchisee agrees to pay upon demand.

(f) Franchisee shall take all actions necessary to cancel any assumed names or equivalent registrations containing any of the Marks.

(g) Franchisee shall: (i) at BNC's option, assign to BNC, or its designee, any interest Franchisee has in any lease for the Location and the Restaurant; and (ii) assign to BNC or its designee the telephone numbers used in connection with the operation of the Restaurant by signing a Conditional Assignment of Telephone Numbers substantially in the form attached as Exhibit C hereto. Franchisee shall complete all forms and approvals and perform all acts reasonably necessary to effectuate such assignments.

(h) Franchisee agrees, if Franchisee continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy or colorable imitation of the Marks or the BENIHANA trade dress, either in connection with such other business or the promotion thereof, and Franchisee further agrees not to use any designation of origin or description or representation which falsely suggests or represents an association or connection with BNC constituting unfair competition.

(i) Franchisee shall promptly pay all sums owing to BNC and its subsidiaries and affiliates.

(j) If this Agreement is terminated as a result of any default under this Agreement, Franchisee shall promptly pay to BNC the Termination Fee (as defined in this Section) in addition to all damages, costs and expenses, including reasonable attorneys' fees, incurred by BNC as a result of the default, which obligation shall give rise to and remain, until paid in full, a lien in favor of BNC against any and all of the personal property, furnishings, equipment, signs, fixtures and inventory related to the operation of the Restaurant. The "Termination Fee" shall be equal to the aggregate Royalties paid during Franchisee's three (3) fiscal years immediately before the termination date. If Franchisee has not operated

the Restaurant for three (3) fiscal years immediately before the termination date, the Termination Fee shall be equal to the Royalties paid for all full fiscal years completed prior to the termination date divided by the number of such full fiscal years and the result thereof multiplied by three (3).

(k) Franchisee shall pay to BNC all damages, costs, and expenses, including reasonable attorneys' fees, incurred by BNC after termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Agreement.

(l) Franchisee shall immediately deliver to BNC all manuals, including the Manual, and all other records, correspondence, and instructions containing Confidential Information, or information relating to the operation of the Restaurant, all of which are acknowledged to be the property of BNC, and shall retain no copy or record of any of the foregoing, with the exception of Franchisee's copy of this Agreement, any correspondence between the parties, and any other documents which Franchisee reasonably needs for compliance with any provision of law.

(m) BNC shall have the option, to be exercised within thirty (30) days after termination, to purchase from Franchisee any or all of Franchisee's furnishings, equipment, signs, fixtures, supplies, or inventory related to the operation of the Restaurant, at a price equal to Franchisee's cost or fair market value, whichever is less. If the parties cannot agree on a fair market value within a reasonable time, BNC will designate an independent appraiser, whose determination shall be binding. If BNC elects to exercise any option to purchase herein provided, it shall have the right to set off all amounts due from Franchisee, and the cost of the appraisal, if any, against any payment therefor.

(n) Franchisee shall comply with all obligations which by their nature survive the termination or expiration of this Agreement, including, without limitation, the covenants contained in Section 18 of this Agreement.

(o) Franchisee shall furnish BNC with evidence satisfactory to BNC of Franchisee's compliance with this obligation within five (5) days after termination or expiration of this Agreement.

(p) In the event of termination or expiration of this Agreement for any reason, the extent of all damage which BNC has suffered shall be and remain a lien in favor of BNC against any and

all of the personal property, machinery, fixtures and equipment used in connection with the operation of the Restaurant.

ARTICLE 15. DISPUTE RESOLUTION

15.1 Except as provided in Section 15.5 and 15.6 of this Agreement, all controversies, disputes or claims between BNC and Franchisee, or any the subsidiaries, affiliates, shareholders, officers, directors, agents, or employees of BNC or Franchisee, arising out of or related to this Agreement or any other agreement between Franchisee and BNC shall be settled by arbitration administered by the American Arbitration Association ("AAA") office in Miami, Florida, in accordance with the Commercial Arbitration Rules of the AAA. Judgment upon an award rendered by the arbitrators acting under this provision may be entered in any court having jurisdiction over a proceeding to confirm the arbitration award. The arbitration panel shall consist of three (3) members, one (1) appointed by BNC, one (1) appointed by Franchisee, and one (1) chosen by the two arbitrators appointed by the parties (the "Panel").

15.2 BNC and Franchisee agree that this Agreement evidences a transaction involving interstate commerce and that the enforcement of this arbitration provision and the confirmation of any award issued to either party by reason of an arbitration conducted pursuant to this arbitration provision is governed by the Federal Arbitration Act, codified at 9 U.S.C. § 1, et seq. (the "FAA")

15.3 The Panel is not authorized to award punitive or exemplary damages and any such award shall not be enforceable or enforced by any court. Except as otherwise provided, each party shall bear its own attorneys' fees, expert witness fees, and other court or arbitration costs incurred in connection with any legal action or arbitration between BNC and Franchisee.

15.4 Franchisee and BNC agree that any arbitration will be conducted only on an individual, and not a class-wide, basis. An arbitration proceeding between Franchisee and BNC will not be consolidated with any other arbitration proceeding involving BNC and any other person or entity.

15.5 Any other provision of this Agreement notwithstanding, the following claims and matters expressly are excluded from the coverage of the arbitration provision in Section 15.1 of this Agreement: (i) disputes or controversies arising from the Sherman Act, the Clayton Act or any other federal or state

antitrust law; (ii) disputes or controversies based upon or arising under the Lanham Act, as now or hereafter amended; (iii) disputes or controversies relating to actions to obtain possession of the Restaurant or Location under a lease or sublease; (iv) claims for monetary amounts due under this Agreement; and (iv) any claims arising under Article 6 or Article 18 of this Agreement.

15.6 Franchisee and BNC acknowledge and agree that the United States District Court for the Southern District of Florida (“Southern District of Florida”) shall be the venue and exclusive proper forum in which to adjudicate any case or controversy arising, either directly or indirectly, under or in connection with this Agreement, except to the extent otherwise provided in this Agreement. Franchisee and BNC agree that they are subject to personal jurisdiction in the Southern District of Florida, and Franchisee and BNC further agree that, in the event of litigation arising out of or in connection with this Agreement, they will not contest or challenge the in personam jurisdiction or venue of the Southern District of Florida. If and only if the Southern District of Florida lacks subject matter jurisdiction over any matter litigated under this Agreement, then the Circuit Court for the 11th Judicial Circuit (or its successor) in and for Miami-Dade County, Florida (“11th Judicial Circuit”) shall be the venue and exclusive proper forum for such litigation. Franchisee and BNC agree that they are subject to personal jurisdiction in the 11th Judicial Circuit, and, in any litigation brought in that court under this Section, Franchisee and BNC agree that they will not contest or challenge the in personam jurisdiction or venue of the 11th Judicial Circuit.

15.7 Nothing herein contained shall bar BNC’s right to obtain injunctive relief, without posting bond or security, against conduct or threatened conduct that will cause it loss or harm, under the usual equity rules, including the applicable rules for obtaining restraining orders, preliminary and permanent injunctions, and orders of specific performance enforcing the provisions of this Agreement. Additionally, and without limited the generality of the foregoing, BNC shall have the right to seek injunctive relief to prohibit any act or omission by Franchisee or Franchisee’s employees that constitutes a violation of any applicable law, is dishonest or misleading to the public, or which may impair the goodwill associated with the Marks or the BENIHANA System.

ARTICLE 16. INDEPENDENT CONTRACTOR

16.1 Franchisee acknowledges and agrees that it is an independent contractor and is not an agent, partner, joint venturer, joint employer, or employee of BNC or any affiliate of BNC, and no fiduciary relationship exists between the parties. Franchisee shall be the sole and exclusive employer of its employees with the sole right to hire, discipline, discharge and establish wages, hours benefits, employment policies, and other terms and conditions of employment for its employees without consultation or approval from BNC. BNC shall have no control over the terms and conditions of employment of Franchisee's employees. Franchisee shall have no right to bind or obligate BNC, Benihana, Inc., or Benihana of Tokyo in any way nor shall it represent that it has any right to do so.

16.2 In all public records and in Franchisee's relationships with other persons, on stationery, business forms and checks, Franchisee shall indicate independent ownership of the Restaurant and that it operates under a franchise granted by BNC.

16.3 Franchisee shall exhibit at the Restaurant, in such places as may be designated by BNC, a notification that the Restaurant is operated as an independent contractor and not by BNC, Benihana, Inc. or Benihana of Tokyo.

ARTICLE 17. EXPIRATION OF FRANCHISE TERM

17.1 This Agreement shall not automatically renew upon the expiration of the Franchise Term.

17.2 Franchisee shall have an option to acquire a new franchise agreement ("Successor Franchise Agreement") with respect to the Location for an additional period equal to the standard period of time offered to BNC franchisees at the time of the expiration of the Franchise Term. Franchisee's right to enter a Successor Franchise Agreement shall exist if, and only if, each of the following terms and conditions has been met to the reasonable satisfaction of BNC:

(a) Franchisee, at the expiration of the Franchise Term and within the twenty-four (24) months prior thereto, shall not be or have been in default in the performance of any obligation under this Agreement whether or not any notice of default was provided to Franchisee;

(b) Franchisee shall have re-modeled or contracted to re-model the Restaurant, including building, signs, equipment, furnishings and décor, to an extent approved by BNC to reflect the

then-current image of BENIHANA Restaurants;

(c) Franchisee shall have submitted a written application to BNC for a Successor Franchise Agreement at least three hundred and sixty-five (365) days prior to the expiration of the Franchise Term and shall have executed and returned to BNC for final approval and execution a Successor Franchise Agreement at least thirty (30) days prior to the expiration of the Franchise Term. Any Successor Franchise Agreement issued to Franchisee shall be the then-current form of Franchise Agreement being offered to franchisees as of the date of the expiration of the Franchise Term. The Successor Franchise Agreement may contain provisions, terms and conditions substantially different from those contained herein, including without limitation, different or increased Royalties, Advertising Contributions, operating standards, training or equipment requirements, duration or renewal terms;

(d) Franchisee meets all of BNC's then-existing legal, financial and operational standards applicable to new franchisees contained in the then-current form of franchise agreement and the then-current operating standards in effect for the BENIHANA System;

(e) Franchisee shall have submitted to BNC all information and documentation as reasonably requested by BNC as a prerequisite for the issuance of a franchise agreement as of the date of the expiration of the Franchise Term;

(f) Franchisee shall have tendered to BNC, in lieu of the Franchisee Fee specified in the Successor Franchise Agreement, an administrative fee equal to twenty percent (20%) of the Franchise Fee in existence on the date of the expiration of the Franchise Term;

(g) Franchisee shall execute a general release, in the form BNC requires, of any and all claims in existence against BNC and its affiliates, successors and assigns, and their respective officers, directors, agents and employees; and

(h) Franchisee shall have satisfied all monetary obligations owed by Franchisee to BNC and its affiliates.

ARTICLE 18. TRADE SECRETS; RESTRICTIVE COVENANTS

18.1 Franchisee acknowledges and agrees that it will receive valuable, specialized training,

including operations training, in the BENIHANA System, that is beyond the present skills, experience and knowledge of Franchisee and any of Franchisee's principals or employees. Franchisee further acknowledges that Franchisee will receive access to BNC's Confidential Information (as defined in this Agreement), which will provide a competitive advantage to Franchisee. As a condition of training Franchisee, sharing the Confidential Information with Franchisee and granting Franchisee a license to operate the Restaurant under the BENIHANA System and use BNC's intellectual property, BNC requires the covenants set forth in this Article 18 in order to protect BNC's legitimate business interests and the interests of other franchisees in the BENIHANA System.

18.2 Franchisee covenants that during the Franchise Term, except as BNC otherwise approves in writing, Franchisee shall devote full time, energy, and best efforts to the management and operation of the Restaurant.

18.3 Franchisee shall not, during the Franchise Term or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, association, limited liability company or corporation any confidential information, proprietary information, knowledge, or know-how concerning the Restaurant and the BENIHANA System, including, without limitation, recipes, products, proprietary formulations, technology, operational details, advertising techniques and any and all information, knowledge, know-how and techniques BNC designates as confidential, including the Operations Manual, the BENIHANA Standards and the BENIHANA System, which may be communicated to Franchisee or of which Franchisee may be apprised by virtue of Franchisee's training and/or operation of the Restaurant ("Confidential Information").

(a) Confidential Information shall not include information which Franchisee can demonstrate came to Franchisee's attention before BNC's disclosure; or which, at or after the time of disclosure by BNC to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others. Franchisee shall divulge the Confidential Information only to such of Franchisee's employees as must have access to it in order to operate the Restaurant.

(b) As a condition of employment, Franchisee shall require Franchisee's General

Manager and any personnel having access to any Confidential Information to execute covenants that they will maintain the confidentiality of information they receive in connection with their employment at the Restaurant. Such covenants shall be in the form attached to this Agreement as Exhibit F, which form includes specific identification of BNC as a third party beneficiary of such covenants with the independent right to enforce them. Franchisee shall provide BNC with a copy of all executed covenants within five days after hiring any such General Manager and/or employees.

18.4 Franchisee covenants that, during the Franchise Term and for a period of two (2) years after the expiration or termination hereof, Franchisee shall not, directly or indirectly:

(a) divert or attempt to divert any business or customer of the Restaurant to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the BENIHANA System;

(b) employ or seek to employ any person (or induce such person to leave his or her employment) who is, or has within the one (1) year prior to any such expiration or termination been, employed by BNC, any of its affiliates, including, without limitation the "Haru," or "RA" Restaurants ("Affiliated Company"), or any other franchisee operating under the BENIHANA System;

(c) own, maintain, operate or have any direct or indirect interest in any restaurant or food service business that is or holds itself out to the public as a Japanese teppanyaki style or sushi restaurant or food service (a "Competing Business") in the same county in which the Restaurant is or was located; or

(d) own, maintain, operate or have any direct or indirect interest in any Competing Business which business is, or is intended to be, located within a five (5) mile radius of any BENIHANA Restaurant, or any other restaurant which is owned, operated, or franchised by BNC, Benihana of Tokyo, Benihana, Inc. or any Affiliated Company.

18.5 Franchisee understands and acknowledges that BNC shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in Section 18.4, or any portion thereof, without Franchisee's consent, effective immediately upon Franchisee's receipt of written notice thereof; and Franchisee agree that Franchisee shall comply forthwith with any covenant as so modified.

18.6 Franchisee acknowledges and agrees that any failure to comply with the covenants and agreements in this Article 18, or with the covenants and agreements in Article 6 hereof with respect to the Marks, shall result in irreparable injury to BNC for which no adequate remedy at law may be available, and, therefore, BNC shall be entitled, in addition to any other remedies which it may have hereunder, at law or in equity, to obtain specific performance of, or an injunction against the violation of, the requirements of this Article 18 and such requirements of Article 6, without the necessity of showing actual or threatened damage and without the necessity of posting bond. Franchisee agrees to pay all court costs and reasonable attorney's fees incurred by BNC in obtaining specific performance of, or an injunction against violation of, the requirements of this Article 18 or Article 6.

18.7 Franchisee expressly agrees that the existence of any claim which it may have against BNC, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by BNC of the covenants in this Article 18.

18.8 Franchisee shall require and obtain execution of a restrictive covenant agreement in the form attached to this Agreement as Exhibit F which includes covenants similar to those set forth in this Article 18 (including covenants applicable upon the termination of a person's relationship with Franchisee) from Franchisee's General Manager and any other personnel employed by Franchisee who has received or will receive training from BNC. Every covenant required by this Section 18.8 shall include a specific identification of BNC as a third party beneficiary of such covenants with the independent right to enforce them.

18.9 Franchisee acknowledges and agrees that the length and term of the geographical restrictions contained in Section 18.4 are fair and reasonable and do not impose a greater restraint than is necessary to protect the goodwill associated with the Marks or other business interests of BNC. Franchisee agrees that Franchisee's full, uninhibited and faithful observance of each of the covenants contained in this Article 8 will not cause any undue hardship, financial or otherwise, and that the enforcement of each of the covenants in this Article 18 will not impair Franchisee's ability to obtain employment commensurate with Franchisee's abilities and on terms fully acceptable to Franchisee or otherwise to obtain income required

for the comfortable support of Franchisee, Franchisee's family and the satisfaction of Franchisee's creditors. Franchisee agrees that Franchisee's special knowledge of the business of a BENIHANA Restaurant (and anyone acquiring knowledge from Franchisee) would cause BNC and other BENIHANA System franchisees serious injury and loss if Franchisee (or anyone acquiring knowledge from Franchisee) were to use this knowledge to the benefit of a competitor or were to compete with BNC or any BENIHANA System franchisees.

18.10 If Franchisee violates the post-term covenant set forth in Section 18.4 above following expiration, termination or transfer of this Agreement, Franchisee acknowledges and agrees that the post-term covenant period of two (2) years shall be extended to commence on the date Franchisee first complies with such covenant so as to provide BNC with the full benefit of the post-term covenant period uninterrupted by Franchisee's interference.

ARTICLE 19: CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP

19.1 If Franchisee is a corporation or limited liability company, the following requirements shall also apply:

(a) Franchisee shall be newly organized and Franchisee's charter shall at all times provide that Franchisee's activities are confined exclusively to operating the business franchised herein.

(b) If Franchisee is a corporation, copies of Franchisee's Articles of Incorporation, Bylaws, and other governing documents, and any amendments thereto, including the resolution of the Board of Directors authorizing entry into this Agreement shall be promptly furnished to BNC. If Franchisee is a limited liability company, copies of Franchisee's Certificate of Organization, Operating Agreement and other governing documents, any amendments thereto, including any resolutions authorizing entry into this Agreement shall be promptly furnished to BNC.

(c) Franchisee shall maintain stop-transfer instructions against the transfer on Franchisee's records of any equity securities or membership interests; and each stock certificate or membership interest, as applicable, shall have conspicuously endorsed upon its face a statement in a form

satisfactory to BNC that it is held subject to, and that further assignment or transfer thereof is subject to, all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section 19.1 (c) shall not apply to a publicly-held corporation.

(d) Franchisee shall maintain a current list of: (i) all owners of record and all beneficial owners of any class of voting securities, if Franchisee is a corporation; or (ii) all members or beneficial owners of any interest, if Franchisee is a limited liability company, and Franchisee shall furnish the list to BNC upon request.

(e) All shareholders, if Franchisee is a corporation, or all members and managers, if Franchisee is a limited liability company, shall jointly and severally guarantee Franchisee's performance under this Agreement and shall bind themselves to the terms of this Agreement by signing a Personal Guaranty in the form attached hereto as Exhibit B hereto; provided, however, that the requirements of this Section 19.1(e) shall not apply to a publicly-held corporation.

19.2 If Franchisee is a partnership, Franchisee shall comply, except as otherwise approved in writing by BNC, with the following requirements throughout the term of this Agreement:

(a) Franchisee shall furnish BNC with Franchisee's partnership agreement as well as such other documents as BNC may reasonably request, and any amendments thereto.

(b) Franchisee shall prepare and furnish to BNC, upon request, a list of all general and limited partners.

ARTICLE 20. MISCELLANEOUS

20.1 This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim the representations BNC made in the franchise disclosure document BNC furnished to Franchisee.

20.2 No delay or failure by BNC to exercise any right or power under this Agreement, or delay or failure by BNC to insist upon strict compliance by Franchisee with any obligation hereunder, or custom

or practice of the parties at variance with the provisions of this Agreement, shall constitute a waiver of BNC's right to exercise any such rights or powers or to demand strict and exact performance by Franchisee of all provisions of this Agreement.

20.3 This Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

20.4 Neither BNC nor Franchisee shall be liable to perform any of its obligations under this Agreement if such failure to perform is due to strikes, lockouts, stoppages, accidents, transportation delays, war, government regulations, acts of God or other causes beyond the reasonable control of BNC or Franchisee and the happening of any such cause of delays shall extend the time of performance by the time occasioned by any such cause of delay, provided, that no such delay shall operate to extend the term of this Agreement beyond its otherwise scheduled expiration date.

20.5 If any provision of this Agreement is invalid, or incapable of being enforced, by reason of any rule of law or public policy, all other provisions of this Agreement shall nevertheless remain in full force and effect, and no provision of this Agreement shall be deemed dependent upon any provision unless expressly stated in this Agreement.

20.6 This Agreement may be changed, modified, amended, discharged or terminated only by an instrument in writing signed by BNC and Franchisee.

20.7 All notices required or permitted to be given hereunder shall be in writing, sent by certified or registered mail, return receipt requested, or by Express Mail, Federal Express or equivalent overnight delivery service, as follows:

- (a) if to BNC, addressed to it at the address set forth at the head of this Agreement, to the attention of BNC's General Counsel; and
- (b) if to Franchisee, addressed to it at the address set forth in the Contract Data Schedule attached to this Agreement.

Either party may change its address for receipt of notices, from time to time, by written notice to the other as set forth herein. Notices shall be deemed given when delivered or when first refused (as evidenced by

the receipt or delivery records of the delivery agent).

20.8 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to the conflict of law principles thereof.

20.9 This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

20.10 All terms and words used in this Agreement, regardless of the number or 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 this Agreement or any paragraph or clause herein may require, as if such words had been fully and properly written in the appropriate number and gender.

20.11 The various titles of the Articles herein are used solely for convenience and shall not be used for interpreting or constructing any word, clause, paragraph or section of this Agreement.

ARTICLE 21. ACKNOWLEDGMENTS

21.1 Franchisee acknowledges that Franchisee has conducted an independent investigation of the franchised business licensed hereunder, recognizes that the business venture contemplated by this Agreement involves business risks, and acknowledges that Franchisee's success will be largely dependent upon Franchisee's ability as an independent businessperson. BNC expressly disclaims the making of, and Franchisee acknowledges that Franchisee has not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.

21.2 Franchisee acknowledges that Franchisee received BNC's Franchise Disclosure Document at least 14 calendar days prior to the date on which this Agreement was executed.

21.3 Franchisee acknowledges that Franchisee has read and understood this Agreement, the attachments hereto and all agreements relating thereto, if any, and that BNC has accorded Franchisee ample time and opportunity to consult with advisors of Franchisee's own choosing about the potential benefits and risks of entering into this Agreement.

21.4 Franchisee acknowledges that Franchisee is relying solely on BNC and not on any affiliated entity or parent company related to BNC regarding BNC's financial and other obligations under this Agreement, and no employee or other person speaking on behalf of, or otherwise representing BNC has made any statement or promise to the effect that any affiliated entities or parent companies guarantee BNC's performance or financially back BNC.

21.5 Anti-Terrorist Activities and Representations. Franchisee certifies and warrants that neither Franchisee, nor any of Franchisee's owners, principals, employees or associates (including all shareholders, members or partners (as applicable)), are: (i) a person or entity designated by the U.S. Government on the list of the Specially Designated Nationals and Blocked Persons (the "SDN List"), maintained at <http://www.ustreas.gov/offices/enforcement/ofac/sdn> by the U.S. Treasury Department Office of Foreign Assets Control ("OFAC"), with which a U.S. person or entity cannot deal or otherwise engage in business transactions; (ii) a person or entity who is otherwise the target of U.S. economic sanctions and trade embargoes enforced and administered by OFAC, such that a U.S. person or entity cannot deal or otherwise engage in business transactions with Franchisee or Franchisee's shareholders, members or partners; (iii) either wholly or partly owned or partly controlled by any person or entity on the SDN List, including, without limitation by virtue of such person being a director or owning voting shares or interests in an entity on the SDN List; (iv) a person or entity acting, directly or indirectly, for or on behalf of any person or entity on the SDN List; or (v) a person or entity acting, directly or indirectly, for or on behalf of a foreign government that is the target of the OFAC sanctions regulations such that the entry into this Agreement would be prohibited under U.S. law.

21.6 Franchisee shall comply with and assist BNC to the fullest extent possible in BNC's efforts to comply with the Anti-Terrorism Laws (as defined below). Franchisee shall not hire nor have any dealings with any person listed on the SDN List, as it may be modified from time to time. Franchisee is solely responsible specifically acknowledges and agrees that Franchisee's indemnification obligations under this Agreement pertain to Franchisee's obligations under this Section 21.6. Any misrepresentation by Franchisee under this Section 21.6, or any violation of any Anti-Terrorism Laws by Franchisee,

Franchisee’s owners, principals or employees, shall constitute grounds for immediate termination of this Agreement and any other agreement Franchisee has entered into with BNC or its affiliates. As used herein, “Anti-Terrorism Laws” means Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT ACT, and all other present and future federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any Governmental Authority (including, without limitation, The United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts and acts of war.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above-written.

ATTEST:

BENIHANA NATIONAL CORP.

By: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____

ATTEST:

[FRANCHISEE]

By: _____

By: _____

Print Name: _____


Print Name: _____


Date: _____

Date: _____

SCHEDULE 1-A TO BENIHANA FRANCHISE AGREEMENT (CONCESSION MODEL)

[LIMITED MENU ITEMS – TO BE DETERMINED BASED ON LOCATION SPECIFICS; SIMILAR TO THE MENU BELOW]





"RA"CKIN FRIED RICE (660 Cal.) 9.75
Our original classic. Grilled chicken, rice, egg and chopped vegetables with garlic flavored butter

HIBACHI BOWLS

SERVED ON A BED OF HIBACHI VEGETABLE RICE

HIBACHI STEAK (795 Cal.) 18.00
Grilled New York strip steak* and mushrooms

HIBACHI SHRIMP (775 Cal.) 16.00
Hibachi shrimp grilled to perfection

HIBACHI CHICKEN (815 Cal.) 16.00
Chicken breast and mushrooms grilled with butter and sesame seeds

CHOICE OF HOMEMADE SAUCE
GINGER (10 Cal.) OR MUSTARD (110 Cal.)

YAKISOBA BOWLS

JAPANESE SAUTÉED NOODLES AND MIXED VEGETABLES IN OUR SPECIAL SAUCE AND SPRINKLED WITH SESAME SEEDS

STEAK (640 Cal.) 17.49 | SHRIMP (835 Cal.) 17.49 | CHICKEN (660 Cal.) 17.49

BEVERAGES


RED FLOWER SPECIAL EDITION SAKE (170 Cal.) 10.00
TYKU sake crafted to complement grilled seafood and meat

CANNED BEER (180-300 Cal.) 8.25

CRAFT BEER (130-410 Cal.) 9.75

BOTTLED SOFT DRINKS (240 Cal.) 4.50


BOTTLED WATER (0 Cal.) 4.25



SHAREABLE

EDAMAME (265 Cal.) 9.75
Sprinkled with sea salt.

POPCORN (270 Cal.) 7.00




MAKI ROLLS

CALIFORNIA ROLL (410 Cal.) 11.00
Crab* mix, cucumber and avocado rolled in seaweed and rice

AVOCADO ROLL (370 Cal.) 11.00
Slices of creamy avocado rolled in seaweed and rice

SPICY TUNA ROLL* (310 Cal.) 11.00
Fresh tuna mixed with spicy mayo and Sriracha, combined with cucumber and rolled in seaweed and rice



POKE BOWLS

Served on a bed of rice

SPICY TUNA* (680 Cal.) 16.00
Ahi tuna, cucumber and avocado in poke sauce, topped with sesame seeds

SPICY SALMON* (760 Cal.) 16.00
Salmon, cucumber and avocado in poke sauce, topped with sesame seeds

*We are required by the Health Department to inform you that the items indicated contain raw fish and consuming raw or undercooked meats, poultry, sea food, shellfish or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions. *Kani kama crab & kani kama crab mix contain imitation crab.

2,000 calories a day is used for general nutrition advice, but calorie needs vary. Additional nutritional information available upon request.

SCHEDULE 1-B TO BENIHANA FRANCHISE AGREEMENT (CONCESSION MODEL)

[EQUIPMENT AND SMALLWARES LISTS – TO BE DETERMINED BASED ON LOCATION SPECIFICS; SIMILAR TO THE ITEMS BELOW]

Bayside Recommended Equipment List	Quantity
48" Hoodless Teppan tables or 48" Flat Top Grills under exhaust hoods	2 each
Two Door reach-in refrigerators	2 each
Two Door reach-in freezer	1 each
Neta Case 3 feet length	1 each
Under counter reach-in refrigerators	2 each
Gas rice cookers	2 each
Electric rice warmers	4 each
Sushi rice holders	2 each
Three compartment sink	1 each
Electric Steam Well	1 each
Electric Pass Through Warmer	1 each
Miscellaneous Smallwares	

SCHEDULE 1-C TO BENIHANA FRANCHISE AGREEMENT (CONCESSION MODEL)

[BOH TRAINING LAYOUT TO BE DETERMINED, BUT SEE THE TRAINING PROGRAM FOR CONCESSION MODEL TABLE IN ITEM 11 OF THE FRANCHISE DISCLOSURE DOCUMENT]

EXHIBIT C
TO BENIHANA NATIONAL CORP. FRANCHISE DISCLOSURE DOCUMENT

List of Current Franchisees

Arkansas

FF Hotels, Inc.
(Tom Roy)
5922 Warden Road
Sherwood, Arkansas 72120
501-374-8081

California

Mitsufumi and Rumi Okabe
136 Olivier Street
Monterey, CA 93940
831-644-9007

Florida

Horay Restaurant Group, LLC
(Darren M. Horan & William J. Lay)
3593 South Roosevelt Boulevard
Key West, FL 33040
305-294-4585

Passo Investment Group, LLC
(Erick Passo)
168 SE 1st Street, Store 1A
Miami, Florida 33149
305-989-3026

Michigan

[Franchise Agreement signed but BENIHANA restaurants not open as of date of Disclosure Document]

Genji Saginaw, Inc.
38770 Bay Road
Saginaw, MI 48603
(Fu Hai Pi)

Genji Midland, Inc.
2929 S. Saginaw Rd.
Midland, MI 48640
(Fu Hai Pi)
248-305-8882

Nevada

Westgate Las Vegas Resort & Casino
3000 Paradise Road
Las Vegas, NV 89109
702-732-5334

New Jersey

Akaibana Restaurant Inc.
(Hassan Halani)
18 Mark Circle
Metuchen, NJ 08840
732-744-0660

Wisconsin

V&V Partners, LLC
(Vic Kairelis)
22158 Concorde Court
Kildeer, IL 60047
414-270-0890

EXHIBIT D
TO BENIHANA NATIONAL CORP. FRANCHISE DISCLOSURE DOCUMENT

List of Former Franchisees

The franchisees listed below had a franchise terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or have not communicated with us within 10 weeks of the issuance date of this Disclosure Document.

NONE

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

EXHIBIT E
TO BENIHANA NATIONAL CORP. FRANCHISE DISCLOSURE DOCUMENT

[See attachments]

Benihana Inc. and Subsidiaries

Consolidated Financial Statements
as of and for the Fiscal Years Ended
March 26, 2023, and March 27, 2022, and
Independent Auditor's Report

BENIHANA INC. AND SUBSIDIARIES

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Independent Auditor's Report

To the Board of Directors of
Benihana Inc.

Opinion

We have audited the consolidated financial statements of Benihana Inc. and its subsidiaries (a Delaware corporation), which comprise the consolidated balance sheets as of March 26, 2023 and March 27, 2022, and the related consolidated statements of comprehensive income, stockholders' deficiency, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of Benihana Inc. and its subsidiaries as of March 26, 2023 and March 27, 2022, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

Change in Accounting Principle

As discussed in Note 1 to the consolidated financial statements, in 2023, the Company adopted Accounting Standards Update ("ASU") No. 2016-02 Leases ("ASC 842"). Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

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

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

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal

control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with GAAS, we:

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

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

CohnReznick LLP

Melville, New York

July 5, 2023

BENIHANA INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS AS OF MARCH 26, 2023, AND MARCH 27, 2022 (In thousands)

	March 26, 2023	March 27, 2022
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 33,303	\$ 29,910
Cash and cash equivalents—restricted	499	499
Receivables—net	3,865	3,267
Inventories	5,540	5,286
Income tax receivable	-	343
Prepaid expenses and other current assets	3,223	3,254
Investment securities, available for sale—restricted	<u>28</u>	<u>50</u>
Total current assets	46,458	42,609
PROPERTY AND EQUIPMENT—Net	97,354	92,617
RIGHT-OF-USE ASSET—Net	198,263	-
GOODWILL	50,804	50,804
INTANGIBLE ASSETS—Net	79,551	80,620
OTHER ASSETS—Net	<u>1,338</u>	<u>2,338</u>
TOTAL	<u>\$ 473,768</u>	<u>\$ 268,988</u>
LIABILITIES AND STOCKHOLDERS' DEFICIENCY		
CURRENT LIABILITIES:		
Accounts payable	\$ 9,025	\$ 11,106
Accrued expenses	41,560	37,932
Current portion of operating lease liabilities	<u>20,830</u>	<u>-</u>
Total current liabilities	71,415	49,038
LONG-TERM DEBT—Net of deferred financing costs	212,521	210,667
OPERATING LEASE LIABILITIES	197,522	-
DEFERRED OBLIGATIONS UNDER OPERATING LEASES	-	20,553
DEFERRED INCOME TAX LIABILITIES—Net	12,886	10,526
FINANCE LEASE OBLIGATION	799	749
OTHER LONG-TERM LIABILITIES	<u>4,709</u>	<u>9,504</u>
Total liabilities	<u>499,852</u>	<u>301,037</u>
COMMITMENTS AND CONTINGENCIES (Notes 10 and 13)		
STOCKHOLDERS' DEFICIENCY		
Common stock—\$0.01 par value; authorized—1,000 shares; issued and outstanding—1,000 shares at March 26, 2023, and March 27, 2022	-	-
Additional paid-in capital	140,264	140,209
Accumulated deficit	<u>(166,348)</u>	<u>(172,258)</u>
Total stockholders' deficiency	<u>(26,084)</u>	<u>(32,049)</u>
TOTAL	<u>\$ 473,768</u>	<u>\$ 268,988</u>

See accompanying notes to the consolidated financial statements.

BENIHANA INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME FOR THE FISCAL YEARS ENDED MARCH 26, 2023, AND MARCH 27, 2022 (In thousands)

	March 26, 2023	March 27, 2022
REVENUE:		
Restaurant sales	\$ 513,715	\$ 466,275
Franchise fees and royalties	2,400	1,995
Other revenue	<u>1,002</u>	<u>754</u>
Total revenue	<u>517,117</u>	<u>469,024</u>
COST AND EXPENSES:		
Cost of food and beverage sales	111,194	100,002
Restaurant operating expenses	332,375	307,690
General and administrative expenses	36,923	33,980
Restaurant opening expenses	<u>1,179</u>	<u>129</u>
Total cost and expenses	<u>481,671</u>	<u>441,801</u>
INCOME FROM OPERATIONS	35,446	27,223
INTEREST EXPENSE—Net	<u>29,497</u>	<u>26,151</u>
INCOME BEFORE INCOME TAXES	5,949	1,072
INCOME TAX PROVISION (BENEFIT)	<u>3,627</u>	<u>(12)</u>
NET INCOME	<u>2,322</u>	<u>1,084</u>
COMPREHENSIVE INCOME	<u>\$ 2,322</u>	<u>\$ 1,084</u>

See accompanying notes to the consolidated financial statements.

BENIHANA INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIENCY FOR THE FISCAL YEARS ENDED MARCH 26, 2023, AND MARCH 27, 2022 (In thousands)

	Common Stock	Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Gain (Loss) - Net of Tax	Total Stockholders' Deficiency
BALANCE—March 28, 2021	\$ -	\$ 140,042	\$ (173,342)	\$ -	\$ (33,300)
Net income	-	-	1,084	-	1,084
Stock-based compensation	<u>-</u>	<u>167</u>	<u>-</u>	<u>-</u>	<u>167</u>
BALANCE—March 27, 2022	-	140,209	(172,258)	-	(32,049)
Cumulative effect of adoption of ASC 842	<u>-</u>	<u>-</u>	<u>3,588</u>	<u>-</u>	<u>3,588</u>
BALANCE—March 27, 2022, as adjusted	-	140,209	(168,670)	-	(28,461)
Net income	-	-	2,322	-	2,322
Stock-based compensation	<u>-</u>	<u>55</u>	<u>-</u>	<u>-</u>	<u>55</u>
BALANCE—March 26, 2023	<u>\$ -</u>	<u>\$ 140,264</u>	<u>\$ (166,348)</u>	<u>\$ -</u>	<u>\$ (26,084)</u>

See accompanying notes to the consolidated financial statements.

BENIHANA INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS FOR THE FISCAL YEARS ENDED MARCH 26, 2023, AND MARCH 27, 2022 (In thousands)

	March 26, 2023	March 27, 2022
OPERATING ACTIVITIES:		
Net income	\$ 2,322	\$ 1,084
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	16,561	15,835
Amortization of deferred debt issuance costs	1,854	1,852
Paid-in-kind interest		1,342
Accretion of finance lease obligation	129	121
Gift card breakage income	(1,002)	(754)
Loss on disposal of property and equipment	1,066	408
Loss on available for sale securities	22	-
Deferred income taxes	2,360	-
Stock-based compensation	55	167
Noncash operating lease costs	(1,102)	-
Deferred rent	-	(1,018)
Noncash gain on sale-leaseback	-	(307)
Change in operating assets and liabilities that provided (used) cash:		
Receivables	862	33
Inventories	(254)	(802)
Prepaid expenses and other current assets	(575)	(167)
Income tax receivable	468	(419)
Other assets	147	407
Accounts payable	(1,592)	3,915
Accrued expenses and other liabilities	3,479	(1,222)
Net cash provided by operating activities	<u>24,800</u>	<u>20,475</u>
INVESTING ACTIVITIES:		
Expenditures for property and equipment	(21,112)	(19,820)
Expenditures for new software	(34)	77
Expenditures for new lease acquisition	-	(109)
Purchase of liquor licenses	(183)	(41)
Net cash used in investing activities	<u>(21,329)</u>	<u>(19,893)</u>

(Continued)

BENIHANA INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS FOR THE FISCAL YEARS ENDED MARCH 26, 2023, AND MARCH 27, 2022 (In thousands)

	March 26, 2023	March 27, 2022
FINANCING ACTIVITIES:		
Borrowings on line of credit	14,690	-
Repayments on line of credit	(14,690)	-
Debt issuance costs	-	(36)
Payments of finance lease obligation	<u>(78)</u>	<u>(77)</u>
Net cash used in financing activities	<u>(78)</u>	<u>(113)</u>
NET INCREASE IN CASH, CASH EQUIVALENTS, CASH-RESTRICTED, AND CASH EQUIVALENTS RESTRICTED		
	3,393	469
CASH, CASH EQUIVALENTS, CASH-RESTRICTED, AND CASH EQUIVALENTS RESTRICTED—Beginning of year		
	<u>30,409</u>	<u>29,940</u>
CASH, CASH EQUIVALENTS, CASH-RESTRICTED, AND CASH EQUIVALENTS RESTRICTED—End of year (Note 1)		
	<u>\$ 33,802</u>	<u>\$ 30,409</u>
SUPPLEMENTAL CASH FLOW INFORMATION—Cash paid during the fiscal year for:		
Interest	<u>\$ 26,250</u>	<u>\$ 22,723</u>
Income taxes	<u>\$ 798</u>	<u>\$ 407</u>
NONCASH OPERATING ACTIVITIES:		
Tenant allowance receivable	<u>\$ 1,590</u>	<u>\$ 1,163</u>
NONCASH FINANCING AND INVESTING ACTIVITIES:		
Acquired property and equipment for which cash payments had not yet been made	<u>\$ 3,261</u>	<u>\$ 2,302</u>
See accompanying notes to the consolidated financial statements.		(Concluded)

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
AS OF AND FOR THE YEARS ENDED MARCH 26, 2023, AND MARCH 27, 2022**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Operations—As of March 26, 2023, Benihana Inc., including its wholly-owned subsidiaries (“Benihana,” the “Company,” “we,” “our” or “us”), owned and operated 67 Benihana teppanyaki restaurants and 19 RA Sushi restaurants. We also had 11 franchised Benihana teppanyaki restaurants as of March 26, 2023. In fiscal year 2019, we launched the sale of certain consumer packaged goods. Benihana National Corp., our subsidiary, owns the right to operate, license and develop restaurants and products using the Benihana name and trademarks in the United States, Central and South America and the Caribbean islands. We also own the United States trademarks and worldwide development rights to the names “Haru” and “RA” and related trademarks.

Basis of Presentation—The consolidated financial statements include the assets, liabilities and results of operations of the Company. All intercompany accounts and transactions have been eliminated in consolidation.

Fiscal Year—We have a 53-/52-week fiscal year. Our fiscal year ends on the Sunday within the dates of March 26 through April 1. Fiscal years 2023 and 2022 consisted of 52 weeks.

Use of Estimates—The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires that we make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual amounts could differ from those estimates.

Cash and Cash Equivalents—We consider all highly liquid investment instruments purchased with an initial maturity of three months or less to be cash equivalents. Amounts receivable from third-party credit card processors of \$8.3 million and \$8.1 million as of March 26, 2023, and March 27, 2022, respectively, are also considered cash equivalents because they are both short-term and highly liquid in nature and are typically converted to cash within three days of the sales transaction. The Company maintains its cash with high-credit quality financial institutions. At times, such amounts may exceed federally insured limits. At March 26, 2023, funds not insured approximated \$13.4 million.

Cash and Cash Equivalents, Restricted—Certain cash amounts included in our consolidated cash and cash equivalents are in accounts that are restricted to funding payment of health benefits as required by the San Francisco Healthcare Ordinance and vacation and health benefits. The liabilities associated with such benefits are also included in our accompanying consolidated balance sheets within accrued expenses.

The following table provides a reconciliation of the components of cash and cash equivalents and cash and cash equivalents—restricted reported in our accompanying consolidated balance sheets to the total of the amount presented in our accompanying consolidated statements of cash flows:

	March 26, 2023	March 27, 2022
Cash and cash equivalents	\$ 33,303	\$ 29,910
Cash and cash equivalents—restricted	<u>499</u>	<u>499</u>
Total cash and cash equivalents and cash and cash equivalents - restricted presented in our accompanying consolidated statements of cash flows	<u>\$ 33,802</u>	<u>\$ 30,409</u>

Inventories—Inventories, which consist principally of restaurant operating supplies and food and beverage, are stated at the lower of cost (first-in, first-out method) or net realizable value.

Investment Securities, Available for Sale—We maintain investments in certain publicly traded mutual funds that invest in equity securities. We invest in these mutual funds to mirror and track the performance of the elections made by employees that participate in our deferred compensation plan. These investments are held in trust in accordance with the deferred compensation plan and are restricted for payment of plan expenses and benefits to the participants. These mutual fund investments are classified as available for sale and are carried at fair value with unrealized gains and losses reflected in interest expense, net, on the consolidated statements of comprehensive income for 2023 and 2022. These investments have no stated maturities.

Fair Value Hierarchy—Fair value is determined for assets and liabilities, which are grouped according to hierarchy, based on significant levels of observable or unobservable inputs. These two types of inputs have created the following fair value hierarchy:

Level 1—Quoted prices for identical instruments in active markets.

Level 2—Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets.

Level 3—Valuations derived from valuation techniques in which one or more significant inputs or value drivers are unobservable.

Derivative Financial Instruments—We utilized an interest rate cap agreement to manage risk associated with fluctuations in interest rates. The interest rate cap was measured at fair value and recognized in the consolidated balance sheets as an asset or liability, as appropriate. Changes in fair value of the interest rate cap were reported in the consolidated statements of comprehensive income as interest expense, net. The interest rate cap matured in April 2021 (see Note 8, Long-Term Debt).

Accounting for Long-Lived Assets—Property and equipment are stated at cost. We capitalize all direct costs incurred to construct restaurants. Upon opening, these costs are depreciated and charged to expense based upon their useful life classification. Rent expense incurred during the construction period is not capitalized but is charged to restaurant opening costs. We capitalized \$510,000 of interest expense during fiscal year 2023. We did not capitalize any interest expense during fiscal year 2022.

We periodically assess the potential impairment of long-lived assets whenever events or changes in circumstances indicate that the carrying value may not be recoverable. We consider a history of consistent and significant negative comparable restaurant sales and declining operating profit or

operating losses to be primary indicators of potential asset impairment. Assets are grouped and evaluated for impairment at the lowest level for which there is identifiable cash flow, primarily at the individual restaurant level. When indicators of potential impairment are present, the carrying values of the assets are evaluated in relation to the operating performance and estimated future undiscounted cash flows of the underlying restaurant. If a forecast of undiscounted future operating cash flows directly related to the restaurant is less than the carrying amount of the restaurant's long-lived assets, the carrying amount is compared to fair value. An impairment loss is measured as the amount by which the carrying amount of the restaurant's long-lived assets exceeds their fair value, and the charge is taken against results of operations. Fair value is an estimate based on a net present value model, which discounts projected free cash flows at a computed weighted-average cost of capital as the discount rate (Level 3 in the three-tier fair value hierarchy). The projected free cash flows used in calculating estimated fair value involve a significant amount of judgment and include our best estimates of expected future comparable sales and operating performance for each restaurant.

We did not record any impairment charges during either of fiscal years 2023 or 2022.

Accounting for Goodwill and Intangibles—Goodwill consists of the cost of an acquired business in excess of the fair value of net assets acquired, using the purchase method of accounting. Goodwill and other intangible assets deemed to have indefinite lives are not amortized and are subject to annual impairment tests. Intangible assets deemed to have finite lives are amortized over their estimated useful lives.

We review goodwill and other indefinite-lived intangible assets annually for impairment or more frequently if indicators of impairment exist. The evaluation consists of a comparison of each reporting unit's fair value to its carrying value. If the carrying value of the reporting unit is greater than its fair value, an impairment charge is recorded in the amount of the difference, not to exceed the carrying value of the reporting unit's goodwill.

Our indefinite-lived intangible assets consist of trademarks and premiums on liquor licenses. The costs of purchasing transferable liquor licenses through open markets in jurisdictions with a limited number of authorized liquor licenses are capitalized as indefinite-lived intangible assets and included in intangible assets in the accompanying consolidated balance sheets. We review both trademarks and premiums on liquor licenses for impairment annually or more frequently if impairment indicators exist. For fiscal years 2023 and 2022, we performed our assessment for possible impairment during the third quarter and concluded there was no impairment.

Our finite-lived intangible assets include guest programs and franchise agreements and are included in intangible assets-net in the accompanying consolidated balance sheets. Amortization is computed using the straight-line method over the estimated lives of the assets: guest programs—eight years and franchise agreements—13 years. Prior to the adoption of ASC 842, fiscal year 2022 finite-lived intangible assets also included favorable lease agreements, which were amortized using the straight-line method over the remaining expected life of the lease. Amortization of intangibles totaled \$314,000 during fiscal year 2023 and \$439,000, including unfavorable leases, during fiscal year 2022.

Deferred Financing Costs—Deferred financing costs are included as an offset to debt in long-term debt, net, in the accompanying consolidated balance sheets and are amortized over the remaining term of the underlying debt to interest expense on a straight-line basis, which does not materially differ from the effective interest rate method.

Self-Insurance—We are self-insured for certain losses, principally related to health, workers’ compensation and general liability exposure, and we maintain stop-loss coverage with third-party insurers to limit our total exposure. The self-insurance liability represents an estimate of the ultimate cost of claims incurred and unpaid, both reported and unreported, as of the consolidated balance sheet date. We utilize estimates of expected losses, based on statistical and actuarial analyses, to determine our self-insurance liability.

Stockholders’ Deficiency—As a result of a merger transaction in August 2012 (the “Merger”), the Company is a wholly-owned subsidiary of Safflower Holdings Corp. (the “Parent”), a Delaware corporation, which is primarily owned by funds advised by the Private Equity Group of Angelo, Gordon & Co. (“Angelo Gordon”). During fiscal year 2021, Angelo Gordon and other co-investors contributed an additional \$30 million of equity. Our amended Certificate of Incorporation authorized 1,000 shares of common stock with a par value of \$0.01 per share. All 1,000 shares were issued to the Parent.

Revenue Recognition— We do not rely on any major guests as a source of revenue. We recognize revenue when we satisfy a performance obligation by transferring control over a product or service to our guests. Restaurant sales, as presented in the consolidated statements of comprehensive income, represents food, beverage and other products sold. Restaurant sales are presented net of discounts, coupons, employee meals, and complimentary meals. We recognize revenue from restaurant sales when payment is tendered at the point of sale, as our performance obligation to provide food, beverage and other products is satisfied. Sales taxes collected from guests and remitted to governmental authorities are presented on a net basis within restaurant sales in the accompanying consolidated statements of comprehensive income.

As a franchisor we collect initial franchise fees, which are deferred and recognized over the term of the franchise agreement. Revenue related to franchise fees is not material for fiscal years 2023 or 2022. Continuing royalties, which are based upon a percentage of each franchised restaurant’s gross revenues or distribution of our consumer packaged goods to retailers, are recognized as income when earned. Royalty revenues attributed to foreign countries totaled approximately \$223,000 and \$167,000 for fiscal years 2023 and 2022, respectively.

We sell gift cards to guests in our restaurants and through our websites and third-party retail outlets. Proceeds from the sale of gift cards are deferred until the revenue recognition criteria have been met, generally upon redemption. We recognize breakage revenue for unredeemed gift cards in proportion to actual gift card redemptions based on historical breakage rates. Breakage revenue of \$1.0 million and \$754,000 was recognized in fiscal years 2023 and 2022, respectively, and is included in other revenue in the consolidated statements of comprehensive income. Unredeemed gift cards for fiscal years 2023, 2022, and 2021 were \$3.5 million, \$4.0 million and \$3.9 million, respectively.

Catering revenue is generated through contracts with guests whereby the guests agree to pay a contract rate for a future service. Our contract performance obligations are fulfilled at the time the catering services are provided to the guests. Amounts received in advance of catering services are deferred and recorded as unearned income. We recognized catering service revenue of \$1.2 million and \$186,000 in fiscal years 2023 and 2022, respectively. Unearned income related to catering services was immaterial for both fiscal years 2023 and 2022.

Accounting for Leases— We generally operate our restaurants in leased premises. We are obligated under various lease agreements for certain restaurant facilities and our corporate office, which are classified as operating leases. The typical restaurant premises lease is for a term of between 10 and 25 years with renewal options ranging from five to 20 years. The leases generally provide for the

obligation to pay property taxes, utilities and various other use and occupancy costs. We are also obligated under two leases for office space.

We evaluate our leases at the commencement of the lease to determine the classification as an operating or finance lease. Upon adoption of Accounting Standards Update 2016-02 (as amended), Leases (“ASC 842”), we recognized operating and finance lease liabilities based on the present value of minimum lease payments over the remaining expected lease term and corresponding right-of-use (“ROU”) assets. We recognize lease expense related to operating leases on a straight-line basis. Amortization expense and interest expense related to finance leases are included in depreciation and amortization and interest expense, net, respectively, in our consolidated statements of comprehensive income.

We cannot determine the interest rate implicit in our leases. Therefore, the discount rate represents our incremental borrowing rate and is determined based on risk-free rates. We use rates on US government securities for periods comparable with lease terms as risk-free rates.

Under the provisions of certain of our leases, there are rent holidays and/or escalations in payments over the base lease term, percentage rent, as well as options for renewal for additional periods. The effects of the rent holidays and escalations have been reflected in rent expense on a straight-line basis over the expected lease term, which includes option periods we are reasonably assured to exercise due to the fact that we would incur an economic penalty for not doing so. Generally, the lease term commences on the date when we become legally obligated for the rent payments or as specified in the lease agreement. Recognition of rent expense begins when we have the right to control the use of the leased property, which is typically before rent payments are due under the terms of most of our leases. Percentage rent expense is generally based upon sales levels and is accrued at the point in time we determine that it is probable that the sales levels will be achieved. Leasehold improvements are amortized on the straight-line method over the shorter of the estimated life of the asset or the same expected lease term used for lease accounting purposes. Prior to the adoption of ASC 842, leasehold improvements paid for by the lessor were recorded as leasehold improvements and deferred rent.

Sale-leaseback agreements are reviewed to determine the appropriate accounting treatment. If the requirements for sale-leaseback accounting are met, any gain or loss resulting from the sale was deferred and recognized over the term of the leaseback, and rent payments were expensed under the lease accounting policy as discussed above. The net deferred gain balance as of March 27, 2022 was \$3.6 million and resulted in a reduction to accumulated deficit as part of the adoption of ASC 842.

In some cases, a location we lease may require construction to ready the space for its intended use where we have involvement with the construction of leased assets. The construction period begins when we take possession of the building or land from the property owner and continues until the space is substantially complete and ready for its intended use. Consideration of the nature and extent of involvement during the construction period, and in some cases, the involvement requires that we be considered the accounting owner of the construction project. In these build-to-suit leases, we capitalize the construction costs, including the value of costs incurred up to the date we executed the lease and costs incurred during the remainder of the construction period, as such costs are incurred. Additionally, we recognized a financing obligation for construction costs incurred. Once construction is complete, we are required to perform a sale-leaseback analysis to determine if we can remove the assets and associated financing obligations from the consolidated balance sheets. In one location, we maintain various forms of "continuing involvement" in the property; therefore, we continue to recognize the asset and associated financing obligations following construction completion. We will continue to account for the asset as if we are the legal owner, and the financing lease obligation, similar to other debt, until the lease expires or is modified. Refer to Note 10, Leases, for further information.

Depreciation and Amortization—Depreciation and amortization are computed using the straight-line method over the estimated useful life (buildings—30 years; restaurant furniture, fixtures and equipment—eight years; office equipment—eight years; personal computers, software and related equipment—three years; and leasehold improvements—lesser of the expected lease term used for lease accounting purposes or their useful lives). Depreciation expense associated with property and equipment totaled \$16.2 million and \$15.4 million during fiscal years 2023 and 2022, respectively.

Restaurant Opening Costs—Restaurant opening costs include costs to recruit and train hourly restaurant employees, wages, travel and lodging costs for our opening training team and other support employees, costs for practice service activities and straight-line minimum base rent during the restaurant preopening period. We expense restaurant opening costs as incurred. We incurred \$1.2 million and \$129,000 of restaurant opening costs during fiscal year 2023 and 2022, respectively.

Advertising—Advertising costs are expensed as incurred. Production costs for television commercials are deferred and expensed at the time of first airing of the commercial. Advertising costs were \$6.5 million in each of fiscal years 2023 and 2022 and are included in restaurant operating expenses in the accompanying consolidated statements of comprehensive income.

Stock-Based Compensation—Non-cash compensation costs related to equity-based payments to employees, including grants of employee and director profits interest units (“Units”), are recognized in general and administrative expenses in the accompanying consolidated statements of comprehensive income based on their grant date fair values. Compensation cost is recognized over the period that an employee provides service for that award, resulting in charges to earnings.

Our equity-based compensation structure includes service vesting and performance vesting Units. We use the Black-Scholes option pricing model in measuring fair value, which requires the input of subjective assumptions. We recognize compensation expense relating to the service vesting Units ratably over the requisite service period for the entire award. The performance vesting Units vest by achieving certain performance conditions. We record compensation expense for performance vesting Units when we deem the achievement of the performance goals to be probable. Our equity-based compensation structure is described more fully in Note 11, Stock-Based Compensation.

Income Taxes—We provide for federal and state income taxes currently payable as well as for those deferred because of temporary differences between reporting income and expenses for financial statement purposes versus tax purposes. We use the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply in the years in which those temporary differences are expected to be recovered or settled. Recognition of deferred tax assets is limited to amounts considered by us to be more likely than not of realization in future periods.

A tax benefit claimed or expected to be claimed on a tax return is recorded from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities based on the technical merits of the position. The tax benefits recognized in the consolidated financial statements from such a position are measured based on the largest amount of benefit that is greater than 50% likely of being realized upon ultimate settlement with the taxing authority.

Other Comprehensive Income—Other comprehensive income is composed of any change in fair value of the interest rate cap. As of March 27, 2022, we were no longer a counterparty to an interest rate cap that was carried at fair value.

Recently Adopted Accounting Standards— We adopted ASC 842 on March 28, 2022. ASC 842 requires lessees to recognize a right-of-use asset and a corresponding lease liability for most leases. We elected and applied the following transition practical expedients when initially adopting ASC 842:

- To apply the provisions of ASC 842 at the adoption date, instead of applying them to the earliest comparative period presented in the consolidated financial statements.
- The package of practical expedients permitting the Company to not reassess (i) the lease classification of existing leases; (ii) whether existing and expired contracts are or contain leases; and (iii) initial direct costs for existing leases.

We recognized the following as of the adoption date in connection with transitioning to ASC 842:

	March 28, 2022
Operating lease right of use assets	\$ 200,822
Operating lease lease liabilities	\$ 220,648

The adoption of ASC 842 also resulted in a decrease of \$20.4 million in deferred rent, lease acquisition costs of \$625,000, above and below market leases of \$1.4 million and \$985,000, respectively, and prepaid and accrued rent balances of \$467,000, which amounts were reclassified to operating lease right of use assets at adoption. Further, we recognized a \$3.6 million decrease to opening accumulated deficit resulting from the write-off of the remaining balance of deferred gain on sale-leaseback upon adoption of the new accounting standard. The adoption of ASC 842 did not have a material impact on our net income for the year ended March 26, 2023.

We present our right of use assets and lease liabilities for operating leases separately on its consolidated balance sheet. Further, we include the right of use assets for finance leases within property and equipment, net and the corresponding finance lease liabilities separately in its consolidated balance sheet.

2. INVENTORIES

Inventories as of March 26, 2023, and March 27, 2022, consist of the following (in thousands):

	March 26, 2023	March 27, 2022
Food and beverage	\$ 3,963	\$ 3,808
Supplies	<u>1,577</u>	<u>1,478</u>
Inventories	<u>\$ 5,540</u>	<u>\$ 5,286</u>

3. FAIR VALUE OF FINANCIAL INSTRUMENTS

As of March 26, 2023, and March 27, 2022, we had certain publicly traded mutual funds that invest in equity securities, included in investment securities, available for sale, restricted in our accompanying consolidated balance sheets, which are required to be measured at fair value on a recurring basis. We invest in these mutual funds to mirror and track the performance of the elections made by employees that participate in our deferred compensation plan. These mutual fund investments are classified as available for sale and are carried at fair value with unrealized gains and losses reflected in interest expense, net, on the consolidated statements of comprehensive income in 2023 and 2022. We determined the fair value of our investment securities available for sale using quoted market prices (Level 1 in the three-tier fair value hierarchy).

The following tables disclose (in thousands), as of March 26, 2023, and March 27, 2022, our available for sale investment securities at both the cost basis and fair value by investment type. There were no significant available for sale investment securities at a net unrealized loss position as of March 26, 2023, and March 27, 2022.

	<u>March 26, 2023</u>		<u>March 27, 2022</u>	
	<u>Cost</u>	<u>Fair Value</u>	<u>Cost</u>	<u>Fair Value</u>
Equity securities, available for sale, restricted	<u>\$ 28</u>	<u>\$ 28</u>	<u>\$ 50</u>	<u>\$ 50</u>

Fair value measurements of nonfinancial assets and nonfinancial liabilities are primarily used in the valuation of our reporting units for the purpose of assessing goodwill and other indefinite-lived intangible asset impairment and the valuation of property and equipment when assessing long-lived asset impairment. None of our nonfinancial assets or nonfinancial liabilities were measured at fair value or impaired as of March 26, 2023 or March 27, 2022.

4. PROPERTY AND EQUIPMENT

Property and equipment, net, as of March 26, 2023, and March 27, 2022, consist of the following (in thousands):

	<u>March 27, 2022</u>	<u>March 27, 2022</u>
Leasehold improvements	\$ 183,325	\$ 168,600
Building	159	159
Restaurant furniture, fixtures and equipment	<u>50,248</u>	<u>45,829</u>
	233,732	214,588
Less accumulated depreciation and amortization	<u>143,420</u>	<u>130,683</u>
	90,312	83,905
Construction in progress	<u>7,042</u>	<u>8,712</u>
Property and equipment, net	<u>\$ 97,354</u>	<u>\$ 92,617</u>

We disposed of \$4.6 million and \$2.0 million of assets (and related accumulated depreciation of \$3.5 million and \$1.5 million) during fiscal years 2023 and 2022, respectively, primarily in connection with restaurant renovations and closures. We did not have any impairments in either of fiscal years 2023 or 2022.

5. INTANGIBLE ASSETS

Intangible assets, net, as of March 26, 2023, and March 27, 2022, consist of the following (in thousands):

	March 26, 2023	March 27, 2022
Trademarks	\$ 77,460	\$ 77,460
Favorable lease agreements, net of accumulated amortization of \$8,820 in 2022	-	985
Franchise agreements, net of accumulated amortization of \$1,960 and \$1,775 in 2023 and 2022, respectively	440	625
Premium on liquor licenses	<u>1,651</u>	<u>1,550</u>
Intangible assets, net	<u>\$ 79,551</u>	<u>\$ 80,620</u>

The balance related to favorable leases as of March 28, 2022 was adjusted to ROU assets as part of the adoption of ASC 842. Estimated amortization expense over the estimated remaining life of finite-lived intangible assets as of March 26, 2023, is as follows (in thousands):

Fiscal years:		
2024	\$	235
2025		200
2026		73
2027		-
2028		-
Thereafter		<u>-</u>
Total	<u>\$</u>	<u>508</u>

The weighted-average remaining estimated useful life is 2.3 years.

6. OTHER ASSETS

Other assets, net, as of March 26, 2023, and March 27, 2022, consist of the following (in thousands):

	March 26, 2023	March 27, 2022
Security deposits	\$ 698	\$ 738
Lease acquisition costs, net of accumulated amortization of \$454 in 2022	-	635
Other, net of accumulated amortization of \$4,255 and \$4,174 in 2023 and 2022, respectively	<u>640</u>	<u>965</u>
Other assets, net	<u>\$ 1,338</u>	<u>\$ 2,338</u>

Lease acquisition costs were adjusted to ROU assets upon adoption of ASC 842 at March 28, 2022

7. ACCRUED EXPENSES

Accrued expenses as of March 26, 2023, and March 27, 2022, consist of the following (in thousands):

	March 26, 2023	March 27, 2022
Accrued payroll, incentive compensation and related taxes	\$ 11,714	\$ 10,427
Accrued interest	7,367	5,584
Unredeemed gift cards	3,470	4,035
Accrued capital expenditures	2,846	1,399
Sales taxes payable	2,798	2,663
Accrued percentage rent	2,287	1,859
Accrued workers' compensation claims	1,608	1,558
Accrued general liability claims	1,018	1,091
Accrued rent	406	755
Income taxes payable	97	-
Other accrued liabilities	<u>7,949</u>	<u>8,561</u>
Accrued expenses	<u>\$ 41,560</u>	<u>\$ 37,932</u>

8. LONG-TERM DEBT

Senior Secured Credit Facility—In June 2018, we entered into a \$200 million senior secured credit facility (the “Senior Facility”) with certain lenders (the “Lenders”). The Senior Facility is secured by a first priority perfected security interest in substantially all present and future assets of the Company and a guarantee by the Parent and all domestic subsidiaries of the Company. The proceeds from the Senior Facility were utilized to pay down the terminated senior secured credit facility.

The Senior Facility consists of credit in an aggregate principal amount equal to \$180 million and a \$20 million revolving loan facility. The term loan and the revolving loan facility bear interest at a floating rate tied to the London InterBank Offered Rate (“LIBOR”) or an index rate, based upon our election, with interest payments due on the earlier of the term requested upon the initial draw request or 90 days. The term loan had an interest rate margin of 9.91% with an option, which we elected, to pay in kind (“PIK”) interest up to 3.60% of the per annum interest due and payable on the term loans. The PIK interest is capitalized and added to the principal balance of the obligations on such date. There are no required amortization payments, and the Senior Facility matures on June 28, 2026, as amended. As the entire outstanding term loan balance is long-term, the balance is shown as long-term debt in the accompanying consolidated balance sheets.

On May 31, 2019, we entered into Amendment No. 1 to the Senior Facility (the “Amended Senior Facility”) to change the PIK option from 3.6% to 2.6% and increase the maximum allowable maintenance capital expenditure.

On April 2, 2020, we entered into Amendment No. 2 to the Amended Senior Facility, which permitted us to PIK the entire April 1, 2020 interest payment. It also waived certain financial covenants for the same period.

On June 9, 2020, we entered into Amendment No. 3 to the Amended Senior Facility, which permitted us to PIK the entire interest payment each quarter through January 1, 2021. It also waived certain financial covenants through September 2022. In exchange, our interest rate margin was increased.

On May 18, 2021, we entered into Amendment No. 4 to the Amended Senior Facility to revise the limits on our maximum allowable maintenance capital expenditure.

On February 9, 2023, we entered into Amendment No. 5 to the Amended Senior Facility to revise the limits on our maximum allowable maintenance capital expenditure. It also changed the benchmark rate from LIBOR to SOFR.

On June 21, 2023, we entered into Amendment No. 6 to the Amended Senior Facility to extend the maturity of the Senior Facility to June 28, 2026.

We have incurred \$11.0 million in deferred financing costs related to the issuance of these facilities. Deferred financing costs, net of accumulated amortization, of \$2.3 million and \$4.2 million are included as a reduction to long-term debt in the accompanying consolidated balance sheets as of March 26, 2023, and March 27, 2022, respectively. Amortization of \$1.9 million for each of fiscal years 2023 and 2022 is included in interest expense in the accompanying consolidated statements of comprehensive income.

At March 26, 2023, we did not have an outstanding balance under the revolving loan facility. We had \$215 million outstanding under the term loan, with \$33.5 million of the balance attributed to our PIK interest election. Our PIK interest rate at March 26, 2023 was 2.60%. Our borrowing capacity under the revolving loan facility is reduced on a dollar-for-dollar basis by the cumulative amount of any outstanding letters of credit, which totaled \$5.3 million at March 26, 2023, resulting in \$14.7 million available borrowing capacity. As of March 26, 2023, and March 27, 2022, we were in compliance with the financial and nonfinancial covenants of the Amended Senior Facility.

Cash Flow Hedge—In October 2018, we entered into an interest rate cap hedge, to hedge the variability of cash flows in the interest payments associated with the term loan. The interest rate cap had a notional amount of \$180 million and matured in April 2021. Under the cap agreement, we received interest at variable rates based on changes in LIBOR, exceeding the cap of 3.5%. The amount we paid to enter into the interest rate cap agreement of \$447,000 has been fully amortized as of fiscal 2022.

Interest Expense—Interest expense for fiscal years 2023 and 2022 consisted of the following (in thousands):

	March 26, 2023	March 27, 2022
Senior Facility term loan	\$ 27,172	\$ 23,803
Amortization of deferred financing costs	1,854	1,852
Senior Facility revolving loan	140	111
Letter of credit fees and other	408	402
Interest income	<u>(77)</u>	<u>(17)</u>
Interest expense, net	<u>\$ 29,497</u>	<u>\$ 26,151</u>

9. RESTAURANT OPERATING EXPENSES

Restaurant operating expenses are those costs that are directly attributed to the operation of individual restaurant locations and, for fiscal years 2023 and 2022, consist of the following (in thousands):

	March 26, 2023	March 27, 2022
Labor and related costs	\$ 181,455	\$ 169,160
Occupancy costs	34,366	29,827
Depreciation and amortization	16,859	15,350
Advertising and promotional costs ⁽¹⁾	13,920	12,598
Utilities and telephone	12,598	11,009
Restaurant supplies	11,957	11,782
Third-party delivery fees	9,152	10,223
Credit card discounts	10,050	8,074
Other restaurant operating expenses	<u>42,018</u>	<u>39,667</u>
Total restaurant operating expenses	<u>\$ 332,375</u>	<u>\$ 307,690</u>

⁽¹⁾ Advertising and promotional costs consist of advertising costs (see Note 1, Summary of Significant Accounting Policies) and various promotional costs, the most significant of which are the allocations from cost of sales of the estimated food and beverage cost related to the redemption of the gift certificates issued to “The Chef’s Table”, “The Hook-Up”, and “Access” program participants.

10. LEASES

The components of lease expense for fiscal year 2023 are as follows:

	March 26, 2023
Operating lease expense	\$ 25,410
Variable lease expense	<u>6,847</u>
Total	<u>\$ 32,257</u>

The components of lease assets and liabilities as of March 26, 2023 are as follows:

	Balance Sheet Classification	March 26, 2023
Operating lease right-of-use assets	Right-of-use assets	\$ 198,263
Total lease assets, net		<u>\$ 198,263</u>
Operating lease liabilities - current		\$ 20,830
Operating lease liabilities - non-current	Operating lease liabilities	197,522
Total lease liabilities, net		<u>\$ 218,352</u>

Supplemental cash flow information related to leases for the fiscal year ended March 26, 2023:

	March 26, 2023
Cash paid for amounts included in the measurement of lease liabilities	
Operating cash flows from operating leases	\$ 25,074
Right-of-use assets obtained in exchange for new operating lease liabilities	13,338

The weighted-average remaining lease terms and discount rates as of March 26, 2023 are as follows:

	Weighted-Average Remaining Lease Term (Years)	Weighted-Average Discount Rate
Operating leases	12.2	2.6%

The annual maturities of our operating lease liabilities as of March 26, 2023 are as follows:

	Operating Leases	Finance Lease
Fiscal years:		
2024	\$ 26,117	\$ 85
2025	26,138	85
2026	23,962	85
2027	22,295	85
2028	21,878	86
Thereafter	<u>134,367</u>	<u>964</u>
Total future lease commitments	254,757	1,390
Less imputed interest	<u>(36,405)</u>	<u>(592)</u>
Present value of lease liabilities	<u>\$ 218,352</u>	<u>\$ 798</u>
Less: current portion of lease liabilities	<u>\$ 20,830</u>	<u>\$ -</u>
Noncurrent portion of lease liabilities	<u>\$ 197,522</u>	<u>\$ 798</u>

Rent expense for fiscal year 2022 consists of the following (in thousands):

	March 27, 2022
Minimum rentals	\$ 22,533
Contingent rentals	<u>8,250</u>
Total	<u>\$ 30,783</u>

Finance lease obligation—In connection with the build-to-suit lease, we capitalized \$5.5 million of construction costs. As of March 26, 2023, accumulated depreciation was \$643,000, and the financing obligation was \$799,000. As of March 27, 2022, accumulated depreciation was \$512,000, and the financing obligation was \$749,000.

11. STOCK-BASED COMPENSATION

Our 2012 Unit Award Plan (the “Units Plan”) was implemented to promote the long-term growth and profitability of the Company by providing those involved in the Company’s growth with an opportunity to acquire an ownership interest in the Company, thereby encouraging them to contribute to and participate in the success of the Company. The number of Units authorized for issuance in the Parent was increased during fiscal year 2021 by 30,000,000 Units to 31,167,480 Units. The Units contain both service and performance vesting conditions. Through fiscal year 2023, we granted 30,368,103 Units and forfeited 1,305,888, leaving 2,105,265 Units available under the Units Plan.

The service vesting Units vest in equal annual installments from the grant date. We recognize stock-based compensation expense related to these awards ratably over the vesting periods. The performance vesting Units vest upon any equity proceeds received by our shareholders that meet various dollar thresholds. We recognize stock-based compensation expense related to the performance vesting Units when we deem the achievement of the performance conditions probable. The grant date fair value of the Units is estimated using a Black-Scholes option pricing model. The estimated forfeiture rate used to record compensation expense is based on historical forfeitures and is adjusted periodically based on actual results. There was no compensation expense recorded during either fiscal year 2023 or 2022 for the performance vesting Units. Transactions under the Units Plan were as follows:

	Performance Vesting Units	Service Vesting Units	Service Vesting Units Weighted- Average Grant Date Fair Value (per Share)
Outstanding - March 28, 2021	28,288,154	536,763	
Granted	-	-	-
Outstanding - March 27, 2022	<u>28,288,154</u>	<u>536,763</u>	
Forfeited	<u>(3,429)</u>	<u>(2,286)</u>	14.20
Outstanding - March 26, 2023	<u>28,284,725</u>	<u>534,477</u>	

As of March 26, 2023, the weighted-average contractual term is 0.6 years, and the remaining unrecognized compensation cost of the service vesting Units was \$36,000.

12. INCOME TAXES

Deferred tax assets and liabilities reflect the tax effect of temporary differences between amounts of assets and liabilities for financial reporting purposes and the amounts of these assets and liabilities as measured by income tax law. The income tax effects of temporary differences that give rise to deferred tax assets and liabilities as of March 26, 2023, and March 27, 2022, are as follows (in thousands):

	March 26, 2023	March 27, 2022
Deferred tax assets:		
ASC 842 lease liability	\$ 56,853	\$ -
FICA tip credit carryover	26,336	24,831
Disallowed interest carryforward	18,097	13,139
State net operating loss carryforwards	4,770	5,209
Accrued liabilities and other	2,527	2,011
Property and equipment	2,426	3,605
Federal net operating loss carryforwards	1,922	5,517
Gift card liability	903	1,040
Workers' compensation	863	786
Goodwill and intangibles	468	486
Straight-line rent expense	258	5,440
Amortization of gain	132	150
Employee benefit accruals	7	13
Deferred gain	-	925
Market lease adjustments	-	119
Other carryforwards	<u>514</u>	<u>1,204</u>
	<u>116,076</u>	<u>64,475</u>
Valuation allowance	<u>(56,386)</u>	<u>(54,095)</u>
Deferred tax liabilities:		
Operating right-of-use assets	51,705	-
Trademarks	20,156	20,138
Goodwill	360	369
Inventories	240	238
Franchise agreements	<u>115</u>	<u>161</u>
	<u>72,576</u>	<u>20,906</u>
Net deferred tax liabilities	<u>\$ (12,886)</u>	<u>\$ (10,526)</u>

We have FICA tip credit carryovers of \$26.3 million that expire between 2031 and 2043.

In addition, we have certain state and federal net operating loss carryforwards of \$100.5 million, with an estimated tax effect of \$6.7 million. Approximately \$4.3 million of the ending tax effect of these net operating loss carryforwards will carryforward indefinitely without expiration. The remaining amount of our net operating loss carryforwards expire at various dates through 2043. In assessing whether the

deferred tax assets may be realized, we considered whether it is more likely than not that some or all of the deferred tax assets will not be realized based upon an assessment of both positive and negative evidence as prescribed by applicable accounting guidance. We computed a three-year cumulative loss analysis on a jurisdiction-by-jurisdiction basis and concluded that sufficient negative evidence exists to require a valuation allowance for the aforementioned net operating losses. Accordingly, we believe that it is more likely than not that the benefit from certain net operating loss carryforwards will not be realized, and as of March 26, 2023, we have provided a valuation allowance of \$2.4 million for these net operating loss carryforwards. We intend to maintain a state valuation allowance until sufficient positive evidence exists to support its reversal.

As of March 26, 2023, we recorded a valuation allowance of \$54.0 million against the remaining federal and state deferred tax assets (excluding deferred tax assets associated with the adoption of ASC 842, deferred assets associated with net operating losses incurred after fiscal year 2018, portions of the deferred tax assets associated with the interest limitation carryforward, and deferred tax liabilities associated with indefinite-lived intangible assets) where we are in a cumulative loss and do not generate taxable income. Both positive and negative evidence, as well as the objectivity and verifiability of that evidence, was considered in determining the appropriateness of recording a valuation allowance on deferred tax assets. An accumulation of recent pretax losses is considered strong negative evidence in that evaluation. We may be able to reverse the valuation allowances in future periods if positive evidence outweighs the negative evidence from the relevant look-back period. However, the actual timing and amount of any potential reversal of the valuation allowances currently cannot be reliably estimated.

Net deferred tax liabilities as of March 26, 2023, and March 27, 2022, consist of long-term liabilities totaling \$12.9 million and \$10.5 million, respectively.

The income tax (benefit) provision for fiscal years 2023 and 2022 consists of the following (in thousands):

	March 26, 2023	March 27, 2022
Current tax provision:		
Federal	\$ 154	\$ 2
State	1,113	390
Deferred tax benefit—federal and state	<u>2,360</u>	<u>(404)</u>
Income tax (benefit) provision	<u>\$ 3,627</u>	<u>\$ (12)</u>

The income tax (benefit) provision differed from the amount computed at the statutory rate primarily due to changes to the valuation allowance recorded and net operating losses, offset by tax credits in fiscal year 2023 and 2022. We file income tax returns that are periodically audited by various federal and state jurisdictions. We are generally no longer subject to federal and state income tax examinations for years prior to fiscal year 2019, except for our New York state income tax returns for fiscal years 2008 through 2011 that are currently under examination.

As of March 26, 2023, and March 27, 2022, we had \$619,000 and \$591,000 of unrecognized tax liability related to uncertain tax positions, respectively.

The unrecognized tax liability and related interest and penalties are generally classified as other long-term liabilities in the accompanying consolidated balance sheets. A reconciliation of beginning and

ending unrecognized tax benefits, exclusive of related interest and penalties, as of March 26, 2023, and March 27, 2022, is as follows (in thousands):

Unrecognized tax benefits—March 28, 2021	\$ 562
Gross decreases—prior-period tax positions	-
Gross increases—prior-period tax positions	<u>29</u>
Unrecognized tax benefits—March 27, 2022	<u>591</u>
Gross decreases—prior-period tax positions	-
Gross increases—prior-period tax positions	<u>28</u>
Unrecognized tax benefits—March 26, 2023	<u><u>\$ 619</u></u>

We recognize interest and penalties related to unrecognized tax benefits within income tax expense in the accompanying consolidated statements of comprehensive income. As of March 26, 2023, the amount accrued for the payment of interest was \$376,000, and we did not incur any penalties related to unrecognized tax benefits.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was passed into law. The CARES Act is intended to address the economic fallout of the COVID-19 pandemic. Included in the CARES Act were a number of changes to tax law that includes measures such as net operating loss carrybacks and changes to the limitation on interest deductions for tax purposes. Given the Company’s history of recent losses and existing valuation allowance, the impact of the CARES Act is not expected to be material as of the balance sheet date.

13. COMMITMENTS AND CONTINGENCIES

Wage and Hour Proceedings—The Company has been named in various class action litigations involving wage and hour laws in both California and New York. The courts have approved the settlements in all of the matters. With the exception of any claimants that opt out of the class, these settlements release us from all California and New York wage and hour laws through December 2020. In fiscal year 2022, we entered into an indemnification agreement with a third party vendor whereby we received \$2.0 million as settlement proceeds with regards to the California wage and hour class action. We have recorded a liability for \$1.0 million, which represents our best estimate of the probable exposure and is reflected as of March 26, 2023 in the accompanying consolidated balance sheets.

Unclaimed Property Proceeding—Various states have initiated unclaimed property audits. We have recorded a liability for \$28,000, which represents our best estimate of the probable exposure and is reflected as of March 26, 2023 in the accompanying consolidated balance sheets.

We are not subject to any other significant pending legal proceedings other than ordinary routine claims incidental to our business or those otherwise covered by our insurance policies.

We do not believe that the ultimate resolution of these matters will have a material adverse effect on our results of operations, financial condition or cash flows. However, the results of these matters cannot be predicted with certainty, and an unfavorable resolution of one or more of these matters could have a material effect on our financial condition, results of operations, or cash flows.

Supply Agreements—We have entered into national supply agreements for the purchase of certain commodities, such as beef and seafood items, as well as produce, oils, and other items used in the normal course of business, at fixed prices for up to 12-month terms. These supply agreements will eliminate volatility in the cost of the commodities over the terms of the agreements. These supply agreements are not considered derivative contracts.

14. INCENTIVE, DEFERRED COMPENSATION AND 401(K) PLANS

Incentive Plan—We have an incentive compensation plan whereby cash bonus awards are made if we attain certain financial targets or at the discretion of the compensation committee of the board of directors (the “Compensation Committee”). Our annual incentive compensation plan ties key employees’ bonus earning potential to individually designed performance objectives. Under the plan, each plan participant is provided a range of potential annual cash incentive awards based on his or her individually designed performance objectives. Actual awards paid under the plan are based on exceeding goals tied to certain budgeted results. A portion of awards is also determined by achieving other performance and management goals. Target rates are approved annually by the Compensation Committee.

We recorded \$1.3 million of corporate incentive compensation expense during each of fiscal years 2023 and 2022.

Deferred Compensation Plan—We have an executive retirement plan whereby certain key employees were able to elect to defer up to 20% of their salary and 100% of their bonus until retirement or age 55, whichever is later, or due to disability or death. Employees selected from various investment options for which to invest their available account balances. The plan was frozen in July 2012. We elected to invest the deferrals in mutual funds that track the election made by the participants and to monitor the selected investment’s performance. Investment earnings are credited to their accounts, and we increase or decrease our obligations under the deferred compensation plan based upon such investment results.

401(K) Plans—We maintain the Benihana 401(k) Plan and the Benihana Restaurant Employees 401(k) Plan (“401(k) Plans”), which are defined contribution plans covering all eligible employees. Under the provisions of the 401(k) Plans, participants may direct us to defer a portion of their compensation to the respective 401(k) Plan, subject to Internal Revenue Code limitations. All contributions vest immediately. We do not provide for an employer matching contribution.

15. GLOBAL ECONOMIC IMPACTS

For much of fiscal year 2021 the COVID-19 outbreak forced us to shut down restaurant operations, per state mandates, and resulted in Company-wide lay-offs to reduce payroll expense as well as other cost saving initiatives. We were able to continue to operate our off premise business in most restaurants during the fiscal year. In fiscal year 2022, as restrictions began to lift, we re-opened restaurants per city and state guidelines and continued with off premise sales. During fiscal year 2022, increases in the numbers of cases of COVID-19 throughout the United States, including the Omicron variant, which significantly impacted our restaurants in the third and fourth quarters, subjected some of our restaurants to other COVID-19-related restrictions such as mask requirements or vaccine requirements for employees, guests or both. As of the date of this report, all 86 of our restaurants are operating with open dining rooms at full capacity, as well as with delivery and off-premise dining.

16. SUBSEQUENT EVENTS

We have completed an evaluation of subsequent events, and we believe that no other material subsequent events have occurred through July 5, 2023 the date these consolidated financial statements were available for issuance, that required recognition or disclosure in our current-period consolidated financial statements, other than those discussed herein.

* * * * *

EXHIBIT F
TO BENIHANA NATIONAL CORP. FRANCHISE DISCLOSURE DOCUMENT

***[TO BE COMPLETED BY ALL FRANCHISEES & GUARANTORS BEFORE SIGNING
FRANCHISE AGREEMENT OR ANY EXHIBITS TO THE FRANCHISE AGREEMENT]***

STATEMENT OF PROSPECTIVE FRANCHISEE

TO BE COMPLETED BY ALL FRANCHISEES & GUARANTORS BEFORE SIGNING FRANCHISE AGREEMENT OR ANY EXHIBITS TO THE FRANCHISE AGREEMENT

As you know, you and Benihana National Corp. (“BNC”) are preparing to enter into a Franchise Agreement for the establishment and operation of a BENIHANA® Restaurant. The purpose of this Questionnaire is to determine whether any statements or promises were made to you by any BNC employee or representative that BNC has not authorized and that may be untrue, inaccurate, or misleading. Please review each of the following questions carefully and provide honest and complete responses to each question. **The answers you provide in this Questionnaire are material to BNC, and BNC is relying on all such answers in agreeing to enter into a franchise relationship with you.**

1. Have you received and personally reviewed the BNC Franchise Disclosure Document (“FDD”), including all Exhibits attached to the FDD?
Yes ____ No ____
2. Did you sign a receipt for the FDD indicating the date you received it?
Yes ____ No ____
3. Have you received and personally reviewed the BNC Franchise Agreement?
Yes ____ No ____
4. Do you understand all of the information contained in the FDD and the BNC Franchise Agreement?
Yes ____ No ____
5. Has any employee or other person speaking on behalf of BNC made any statement or promise concerning the revenue, profits, or operating costs of BENIHANA Restaurant operated by BNC or its franchisees?
Yes ____ No ____

[Continued on following page]

6. Has any employee or other person purporting to speak on behalf of BNC made any oral, written, visual or other promises, agreements, commitments, representations, understandings, “side deals,” options, rights-of-first-refusal or other of type of commitment (collectively, the “representations”), including, but not limited to, any statements that expanded upon or were inconsistent with the FDD, the Franchise Agreement, or any other written documents, with respect to any matter including advertising, marketing, site location and development, operational, marketing, or administrative assistance, exclusive rights, exclusive or protected territory, or otherwise?

Yes ___ No ___

7. Has any employee or other person speaking on behalf of BNC made any statement or promise regarding the amount of money you may earn in operating a BENIHANA® Restaurant?

Yes ___ No ___

8. Has any employee or other person speaking on behalf of BNC made any statement or promise concerning the amount of revenue a BENIHANA® Restaurant will generate?

Yes ___ No ___

9. Has any employee or other person speaking on behalf of BNC made any statement or promise regarding the costs you may incur in operating a BENIHANA® Restaurant that is contrary to, or different from, the information contained in the FDD?

Yes ___ No ___

10. Has any employee or other person speaking on behalf of BNC made any statement or promise concerning the likelihood of success that you should or might expect to achieve from operating a BENIHANA® Restaurant?

Yes ___ No ___

11. Has any employee or other person speaking on behalf of BNC made any statement, promise, or agreement concerning the advertising, marketing, training, support service, or assistance that BNC will furnish to you that is contrary to or different from the information contained in the FDD?

Yes ___ No ___

[Continued on following page]

12. Has any employee or other person speaking on behalf of BNC made any statement, promise, or agreement, or given you any assurances concerning your ability to obtain the inventory that you may wish to purchase in connection with the operation of a BENIHANA® Restaurant?

Yes____ No____

13. Do you understand that the approval of BNC of a location for a BENIHANA® Restaurant does not constitute an assurance, representation, or warranty of any kind as to the successful operation or profitability of a BENIHANA® Restaurant at the location?

Yes____ No____

14. Do you understand that BNC's approval of a financing plan for operation of a BENIHANA® Restaurant does not constitute any assurance that such financing plan is favorable, or not unduly burdensome, or that a BENIHANA® Restaurant will be successful if the financing plan is implemented?

Yes____ No____

15. Do you understand that, in all dealings with you, the officers, directors, employees, and agents of BNC act only in a representative capacity and not in an individual capacity and such dealings are solely between you and BNC ?

Yes____ No____

16. Do you understand that the purchase of a franchise is a speculative investment, that investment beyond that outlined in the FDD may be required to succeed, that there exists no guaranty against possible loss or failure in this or any other business, and the most important factors in the success of any franchise are your personal business, marketing, sales, and management judgment and skills?

Yes____ No____

17. Do you understand that the success or failure of your BENIHANA® Restaurant will depend in large part upon your individual skill and abilities, competition from other businesses, interest rates, inflation, labor and supply costs, location, lease terms, your management capabilities, and other economic and business factors beyond the control of BNC?

Yes____ No____

[Continued on following page]

18. I confirm that, as advised, I have had the opportunity to speak with past and/or existing franchisees of BNC, and that I have made the decision as whether to speak with those franchisees and to which I chose to speak.

Initial: _____

If you have answered "Yes" to any of questions 5 through 12, please provide a full explanation by attaching an additional page. You understand that your answers are important to us and that we will rely on them.

If there are any matters inconsistent with the answers I provided in this document, or if anyone has suggested that I sign this document without all of its statements being true, correct and complete, I/we will (a) immediately inform the Franchisor's General Counsel and an officer of the Franchisor and (b) make a written statement regarding such next to my signature below so that the Franchisor may address and resolve any such issue(s) at this time and before either party goes forward.

By signing this Questionnaire, you are representing that you have responded truthfully to the above questions.

PROSPECTIVE FRANCHISEE: (Individual)

By: _____
Print Name: _____

By: _____
Print Name: _____

PROSPECTIVE FRANCHISEE: (Corp., LLC or Partnership)

Name of Legal Entity:

By: _____
Print Name: _____
Title: _____

EXHIBIT G
TO BENIHANA NATIONAL CORP. FRANCHISE DISCLOSURE DOCUMENT

FORM OF GENERAL RELEASE

THIS AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 20__ by and between Benihana National Corp., a Delaware corporation having its principal place of business located at 21500 Biscayne Boulevard, Suite 900, Aventura, FL 33180 (the “Franchisor”), and _____, an individual residing at _____ (hereinafter referred to as “Releasor”), wherein the parties hereto, in exchange for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, and in reliance upon the representations, warranties, and comments herein are set forth, do agree as follows:

1. Release by Releasor: Releasor does for itself, its successors and assigns, hereby release and forever discharge generally the Franchisor and any affiliate, wholly owned or controlled corporation, subsidiary, successor or assign thereof and any shareholder, officer, director, employee, or agent of any of them, from any and all claims, demands, damages, injuries, agreements and contracts, indebtedness, accounts of every kind or nature, whether presently known or unknown, suspected or unsuspected, disclosed or undisclosed, actual or potential, which Releasor may now have, or may hereafter claim to have or to have acquired against them of whatever source or origin, arising out of or related to any and all transactions of any kind or character at any time prior to and including the date hereof, including generally any and all claims at law or in equity, those arising under the common law or state or federal statutes, rules or regulations such as, by way of example only, franchising, securities and anti-trust statutes, rules or regulations, in any way arising out of or connected with the Agreement, and further promises never from this day forward, directly or indirectly, to institute, prosecute, commence, join in, or generally attempt to assert or maintain any action thereon against the Franchisor, any affiliate, successor, assign, parent corporation, subsidiary, director, officer, shareholder, employee, agent, executor, administrator, estate, trustee or heir, in any court or tribunal of the United States of America, any state thereof, or any other jurisdiction for any matter or claim arising before execution of this Agreement. In the event Releasor breaches any of the promises covenants, or undertakings made herein by any act or omission, Releasor shall pay, by way of indemnification, all costs and expenses of the Franchisor caused by the act or omission, including reasonable attorneys’ fees.

2. Releasor hereto represents and warrants that no portion of any claim, right, demand, obligation, debt, guarantee, or cause of action released hereby has been assigned or transferred by Releasor party to any other party, firm or entity in any manner including, but not limited to, assignment or transfer by subrogation or by operation of law. In the event that any claim, demand or suit shall be made or institute against any released party because of any such purported assignment, transfer or subrogation, the assigning or transferring party agrees to indemnify and hold such released party free and harmless from and against any such claim, demand or suit, including reasonable costs and attorneys’ fees incurred in connection therewith. It is further agreed that this indemnification and hold harmless agreement shall not require payment to such claimant as a condition precedent to recovery under this paragraph.

3. Each party acknowledges and warrants that his, her or its execution of this Agreement is free and voluntary.

4. Florida law shall govern the validity and interpretation of this Agreement, as well as the performance due thereunder. This Agreement is binding upon and inures to the benefit of the respective assigns, successors, heirs and legal representatives of the parties hereto.

5. In the event that any action is filed to interpret any provision of this Agreement, or to enforce any of the terms thereof, the prevailing party shall be entitled to its reasonable attorneys' fees and costs incurred therein, and said action must be filed in the State of Florida.

6. This Agreement may be signed in counterparts, each of which shall be binding against the party executing it and considered as the original.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this agreement effective as of the date first above.

Witness:

RELEASOR:

By: _____

Print Name: _____

FRANCHISOR:

BENIHANA NATIONAL CORP.

By: _____

Print Name: _____

Title: _____

EXHIBIT H

TO BENIHANA NATIONAL CORP., FRANCHISE DISCLOSURE DOCUMENT

GUARANTEE OF PERFORMANCE

For value received, **BENIHANA, INC.**, a Delaware corporation (“Guarantor”), located at 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180, absolutely and unconditionally guarantees to assume the duties and obligation of **BENIHANA NATIONAL CORP.**, a wholly-owned subsidiary of Guarantor, located at 21500 Biscayne Boulevard, Suite 900, Aventura, Florida 33180 (“Franchisor”), under Franchisor’s franchise registration in each state where the franchise is registered, and under the Franchise Agreement identified in Franchisor’s 2023 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This Guarantee of Performance continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. Guarantor is not discharged from liability if a claim by a franchisee against Franchisor remains outstanding. Notice of acceptance is waived. Guarantor does not waive receipt of notice of default on the part of Franchisor. This Guarantee of Performance is binding on Guarantor and its successor and assigns.

Guarantor signs this Guarantee of Performance at Miami-Dade County, Florida, on this 1st day of December, 2023.

Guarantor: **BENIHANA, INC.**

By: /s/ Cristina Mendoza

Name: Cristina Mendoza

Title: General Counsel

Receipt

This Disclosure Document summarizes provisions of the Franchise Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Benihana National Corp. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

[Maryland, New York and Rhode Island require that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]

[Michigan, Oregon and Washington require that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever comes first.]

If Benihana National Corp does not deliver this Disclosure Document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to The Federal Trade Commission, Washington D.C. 20580 and the state agency listed on Exhibit A.

The franchisor is Benihana National Corp. located at 21500 Biscayne Boulevard, Suite 900, Aventura, FL 33180.

Issuance date: December 1, 2023.

The name, principal business address and telephone number of each Franchise Seller offering this franchise is:

Name: Cristina Mendoza
Business Address: 21500 Biscayne Boulevard, Suite 900, Aventura, FL 33180
Telephone Number: (305) 702-2805

We authorize the respective state agencies identified on Exhibit A to receive service of process for us in the particular state.

I received a Disclosure Document dated **December 1, 2023**, that included the following Exhibits:

- | | |
|---|--|
| A. Agents for Service of Process and Regulatory Authorities | E. Financial Statements |
| B. Form of Franchise Agreement | F. Statement of Prospective Franchisee |
| C. List of Current Franchisees | G. General Release Form |
| D. List of Former Franchisees | H. Guarantee of Performance |

Date: _____
(Do not leave blank)

Print Name: _____
individually and as an officer or partner of _____
a (_____ corporation, limited liability company, or partnership)

Please sign and print your name, date and return one copy of this receipt to Benihana National Corp., and keep the other for your records.

Receipt

This Disclosure Document summarizes provisions of the Franchise Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Benihana National Corp. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

[Maryland, New York and Rhode Island require that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]

[Michigan, Oregon and Washington require that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever comes first.]

If Benihana National Corp does not deliver this Disclosure Document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to The Federal Trade Commission, Washington D.C. 20580 and the state agency listed on Exhibit D.

The franchisor is Benihana National Corp. located at 21500 Biscayne Boulevard, Suite 900, Aventura, FL 33180.

Issuance date: December 1, 2023.

The name, principal business address and telephone number of each Franchise Seller offering this franchise is:

Name: Cristina Mendoza
Business Address: 21500 Biscayne Boulevard, Suite 900, Aventura, FL 33180
Telephone Number: (305) 702-2805

We authorize the respective state agencies identified on Exhibit D to receive service of process for us in the particular state.

I received a Disclosure Document dated **December 1, 2023**, that included the following Exhibits:

- | | |
|---|--|
| A. Agents for Service of Process and Regulatory Authorities | E. Financial Statements |
| B. Form of Franchise Agreement | F. Statement of Prospective Franchisee |
| C. List of Current Franchisees | G. General Release Form |
| D. List of Former Franchisees | H. Guarantee of Performance |

Date: _____
(Do not leave blank)

Print Name: _____
individually and as an officer or partner of _____
a (_____ corporation, limited liability company, or partnership)

Please sign and print your name, date and return one copy of this receipt to Benihana National Corp., and keep the other for your records.