

## Appendix E

### Permitted Transfers

(a) The following transactions and arrangements shall not require any approval of the City or otherwise be subject to Article X of the Agreement (each a “Permitted Transfer”):

(i) the entering into of any credit, loan, reimbursement or other financing agreement, or the granting of any mortgage, lien, security interest, pledge or other encumbrance to any lender or provider of vendor financing which is (or is becoming) a secured creditor of the Franchisee or any of its Members or Affiliates with respect to any membership interests or other equity securities of the Franchisee or any of its Members or Affiliates, any rights (including contract rights) granted pursuant to this Agreement, or any rights of the Franchisee or any of its Members or Affiliates in the System, including the assets of the Franchisee and its Affiliates which comprise the System (or any transfer in connection with any foreclosure or exercise of remedies in respect of any such mortgage, lien, security interest, pledge or other encumbrance), provided a transferee is an Institutional Lender (as such term is defined below in this Appendix E) that has provided the financing to the Franchisee or its Members or Affiliates, and provided that any such mortgage, lien, security interest or pledge shall be subject to the interests of the City as franchisor under this Agreement, including without limitation the City's right of approval with respect to any subsequent transfer of the franchise rights hereunder;

(ii) any transfer of membership interests (or other equity securities) in the Franchisee by an initial Member to any Person that is not a Prohibited Person if, immediately after such transfer, each of the other three initial Members listed in Appendix D remain as Members in the Franchisee and each of such three other initial Members continues to hold not less than fifty percent (50%) of the membership interests of the Franchisee held by such initial Member on the Execution Date;

(iii) any transfer of membership interests (or other equity securities) in the Franchisee by any Member if, immediately after such transfer, three of the initial Members listed in Appendix D remain as Members in the Franchisee unless the proposed assignee or acquirer in respect of such Covered Transaction: (A) is a Prohibited Person (as defined below), (B) is not in a financial position to meet all applicable obligations to Franchisee such that Franchisee cannot fully perform its obligations under the Franchise Agreement, or (C) does not possess the requisite skills and qualifications, or will not have such skills and qualifications, or be able to utilize personnel under its control who have such skills and qualifications, necessary to successfully provide the

specific services then provided or anticipated to be provided by the applicable Member to the Franchisee as of the time of the proposed transfer and the transferring Member (or another qualified entity) will no longer be required or able to provide such services following such transfer, in each case, in substantially the same manner and at substantially equivalent services levels as prior to such transfer;

(iv) employee, personnel, consultant or manager changes;

(v) any transfer of membership interests (or other equity securities) in the Franchisee by a Member to the Franchisee if such redemption is being made in connection with the exercise of remedies under the limited liability company operating agreement of the Franchisee in connection with a default by the Member whose interests are being redeemed;

(vi) any transfer of membership interests (or other equity securities) in the Franchisee by a Member to another Member so long as (A) such transferee Member is one of the initial Members listed on Appendix E (or a Current Affiliate thereof that is not a Prohibited Person) and (B) such transaction does not result in the beneficial ownership (within the meaning of Section 13(d)(3) of the Exchange Act) of more than forty percent (40%) of the outstanding voting or non-voting membership interests of the Franchisee being held by any single Person or group of Affiliated Persons, (C) and after such transaction each of three initial Members will continue to hold not less than fifty percent (50%) of the membership interests of the Franchisee held by such initial Member on the Execution Date, and (D) such transaction is not executed before the third anniversary of the Commencement Date;

(vii) any transfer of membership interests (or other equity securities) in the Franchisee by a Member of the Franchisee to an Affiliate of such Member who is not a Prohibited Person and who becomes a Member of the Franchisee, but only so long as either (A) the transferee is a Current Affiliate of the Transferor or (B) the transferring Affiliate is not relieved of its obligations and liabilities in respect of such interest in the Franchisee);

(viii) any issuances or direct or indirect transfers (whether by merger, consolidation, sale of Member Equity Interests or otherwise) of Member Equity Interests (as defined below), or any acquisition of Control over or of a Controlling Interest in any Member (or direct or indirect parent entity thereof), in each case, so long as such transaction does not result in the beneficial ownership (within the meaning of Section 13(d)(3) of the Exchange Act) of more than forty percent (40%) of the outstanding voting or non-voting membership interests of the Franchisee being held by any single Person or group of Affiliated Persons;

(ix) a Person's granting of veto or consent rights (i.e., "negative control") over specific actions of such Person to its lenders or other investors; or

(x) any transfers of membership interests (or other equity securities) in the Franchisee made at any time that the Franchisee is not in material breach of or default under the Agreement that, in the good faith discretion of the City, would not reasonably be expected to result in (A) the Franchisee no longer being in a financial position to meet all of its applicable obligations under the Franchise Agreement or (B) the applicable Member no longer possessing the requisite skills and qualifications, or having skills and qualifications, or being able to utilize personnel under its control who have such skills and qualifications, necessary to successfully provide the specific services then provided or anticipated to be provided by the applicable Member to the Franchisee as of the time of the proposed transfer and the transferring Member (or another qualified entity) no longer being required or able to provide such services following such transfer, in each case, in substantially the same manner and at substantially equivalent services levels as prior to such transfer.

(b) For purposes of this Appendix E, the following terms shall have the following meanings:

**"Member Equity Interest"** means any capital stock, membership interest, partnership interest or other equity security issued by a Member (or any direct or indirect parent entity thereof) to a stockholder, member, partner or other investor in such Member (or any direct or indirect parent entity thereof).

**"Institutional Lender"** means: (1) any commercial bank, trust company or similar institution organized under the laws of the United States or any state or any nation that is a member of the Organization for Economic Co-operation and Development (A) that has total assets in excess of \$300,000,000, (B) that has capital/statutory surplus or shareholders equity of at least \$30,000,000 and (C) that is regularly engaged in the business of making commercial loans; (2) any insurance company licensed under the laws of a state of the United States or of any nation that is a member of the Organization for Economic Co-operation and Development that has surplus in excess of \$30,000,000 as determined under statutory accounting principles (or the equivalent), or any separate account or pooled investment account of any such insurance company, (3) any fund organized under the laws of a state of the United States that has capital commitments of at least \$75,000,000, or (4) any lending entity that is authorized by the U.S. Customs and Immigration Service to provide financing to the Company in respect of the Company's activities under this Franchise Agreement pursuant to the Immigrant Investor Program (known as the "EB-5 Program"), provided that such lending entity is lending to the Company jointly or in

partnership with a commercial bank, trust company or similar institution described in paragraph (1), above, and provided that the share of such loan made by such lending entity to the Company is no greater than 50 percent of the loan to the Company but further provided that Franchisee may present information to the Commissioner in support of any application to reduce such 50 percent loan requirement to not less than 10 percent which the Commissioner may accept or reject in his or her sole discretion.

**"Prohibited Person"** means, with respect to any Person, that:

(i) such Person or any of its Affiliates is in monetary default or otherwise in material breach of any non-monetary obligation under any written agreement with the City of New York after notice and beyond any applicable cure periods, unless, in each instance, such monetary default or breach either (A) has been waived in writing by the City of New York, (B) is being disputed in a court of law, administrative proceeding, arbitration or other similar forum, (C) is cured within thirty (30) days after a determination and notice to Franchisee from the City that such Person is a Prohibited Person as a result of such default or breach.

(ii) such Person or any of its Affiliates has been convicted in a criminal proceeding of a felony or any crime involving moral turpitude, is an organized crime figure or is known to have substantial business or other affiliations with an organized crime figure, or has had a contract terminated by any governmental agency for breach of contract or for any cause directly or indirectly related to an indictment or conviction. The determination as to whether any Person or such Affiliated Person is an organized crime figure or is known to have substantial business or other affiliations with an organized crime figure for purposes of this paragraph (c)(ii) shall be within the reasonable discretion of the City, which discretion shall be exercised in good faith; provided, however, that such Person shall not be deemed a Prohibited Person if the City, having actual knowledge that such Person or such Affiliated Person meets the criteria set forth in this paragraph (c)(ii), entered into a contract and is then doing business with such Person or such Affiliated Person;

(iii) such Person or any of its Affiliated Persons is a terrorist or terrorist organization or is known to have substantial business or other affiliations with a terrorist or terrorist organization, including those Persons included on any relevant lists maintained by the United Nations, the North Atlantic Treaty Organization, the Organization for Economic Cooperation and Development, the Financial Action Task Force, or the Office of Foreign Assets Control, Securities and Exchange Commission, Federal Bureau of Investigation, Central Intelligence Agency or Internal Revenue Service of the United States, all as may be amended from time to time. The determination as to whether any

Person or such Affiliated Person is a terrorist or terrorist organization or is known to have substantial business or other affiliations with a terrorist or terrorist organization for purposes of this paragraph (c)(iii) shall be within the reasonable discretion of the City, which discretion shall be exercised in good faith; provided, however, that such Person shall not be deemed a Prohibited Person if the City, having actual knowledge that such Person or such Affiliated Person meets the criteria set forth in this paragraph (c)(iii), entered into a contract and is then doing business with such Person or such Affiliated Person, provided however that with respect to this paragraph (c)(iii) and paragraphs (c)(i) and (ii) above an Affiliated Person who is alleged by the City to be a Prohibited Person shall upon fifteen (15) calendar days written notice by City to Franchisee have opportunity to withdraw from such affiliation and shall upon such withdrawal cease to be considered an Affiliated Person;

(iv) such Person is a government, or is directly or indirectly controlled (rather than only regulated) by a government, which is (A) finally determined, beyond right to appeal, by the Federal Government of the United States or any agency, branch or department thereof to be in violation of (including, but not limited to, any participant in an international boycott in violation of) the Export Administration Act of 1979, as amended, or any successor statute, or the regulations issued pursuant thereto, or (B) subject to the regulations or controls thereof. Such control shall not be deemed to exist in the absence of a determination to that effect by a Federal court or by the Federal Government of the United States or any agency, branch or department thereof;

(v) such Person is a government, or is directly or indirectly controlled (rather than only regulated) by a government, the effects of the activities of which are regulated or controlled pursuant to regulations of the United States Treasury Department or executive orders of the President of the United States of America issued pursuant to the Trading with the Enemy Act of 1917, as amended; or

(vi) such Person has received written notice of default in the payment to the City of any real property taxes, sewer rents or water charges, in an amount greater than Ten Thousand Dollars (\$10,000), unless such default is then being contested in good faith in accordance with applicable legal requirements with due diligence in proceedings in a court or other appropriate forum or unless such default is cured within thirty (30) days after a determination and notice to Franchisee from the City that such Person is a Prohibited Person as a result of such default.

In connection with any Permitted Transfer described in clause (a)(i) of this Appendix E, the provisions of Appendix F (Franchisee Lender Provisions) shall also apply. In connection with any such Permitted Transfer described in clause (a)(i) the City agrees to

enter into an agreement (a “Step-In Agreement”) substantially in the form of Appendix F entitled Franchisee Lender Provisions with the applicable permitted transferee(s) (collectively the “Secured Party”) and to include in such Step In Agreement such additional customary and reasonable terms as the City, the Franchisee, and the Secured Party determine are appropriate. This Appendix E and such Appendix F are incorporated by reference into and made a part of Article X of the Agreement to which they are attached.