

## NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement (“Agreement”) is entered into on the date written below by the Recipient.

1. Purpose. The individual signing below (“Recipient”) is attending training at the request of his/her employer as part of their employment with the Franchisee to learn about the Franchisor (or “Discloser”). During training, Franchisor will disclose Franchisor’s confidential and proprietary system that Franchisor has undertaken, at significant effort and expense, to create.
2. No Joint Employment. Recipient acknowledges that Recipient is attending this training at the request of the Franchisee only. The Franchisee is an independently owned and operated business and is not an agent of the Discloser. All training, guidance, or tools that Recipient receives from Discloser is for brand standards so that customers receive consistent service at each franchise. Discloser does not have direct or indirect control over the Recipient’s employment, including the hiring, firing, supervision, discipline, labor practices, wages, hours, safety, or day-to-day working conditions of the Recipient. Additionally, Recipient’s work is not performed on Discloser’s premises, nor is it integral to the Discloser’s business.
3. Proprietary Information. “Proprietary Information” means any information disclosed to Recipient, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, without limitation, documents, business, financial and marketing plans, procedures, techniques, pricing, operations, sales, marketing methods, manuals, technology and product roadmaps, present and future product integration plans, information on strategic partnerships and alliances and customer relationships, copyrighted training materials, and other technical and business information, including any information that would normally be considered confidential and/or give a competitor an advantage), whether or not marked as “Confidential,” “Proprietary” or in a similar manner. Proprietary Information shall not, however, include any information which Recipient can establish: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by Discloser; (ii) becomes lawfully publicly known and made generally available after disclosure by Discloser to Recipient through no action or inaction of Recipient or its Representatives; (iii) is already lawfully in the possession of Recipient without restriction on use or disclosure at the time of disclosure by Discloser as shown by Recipient’s files and records immediately prior to the time of disclosure; (iv) becomes available to Recipient without restriction on use or disclosure from a third party without a breach of such third party’s obligations of confidentiality or the law; or (v) is independently developed by Recipient without use of or reference to Discloser’s Proprietary Information, as shown by Recipient’s files and records immediately prior to the time of disclosure. (“Representatives” means that party’s affiliates, agents, officers, directors, consultants and employees).
4. Non-use and Non-disclosure. Recipient agrees: (i) to hold the Proprietary Information of Discloser in strict confidence and to take reasonable precautions to protect such Proprietary Information, including those required by law to protect trade secrets (which precautions must be no less than those employed by Recipient to preserve the secrecy of its own confidential materials), (ii) not to make any use whatsoever at any time of any such Proprietary Information, except in use to work for Franchisee, (iii) not to copy such Proprietary Information, or reverse engineer or disassemble any products, technology or tangible objects that utilize such Proprietary Information, and (iv) not to disclose any such Proprietary Information or any information derived therefrom to any third party, except to those of Franchisee’s employees, officers and directors who have a legitimate “need to know” and are bound in writing to the restrictions herein. Recipient agrees not to disclose, communicate or divulge any Proprietary Information for the benefit of Recipient or a third party. Recipient will not divert or attempt to divert any Franchisor business or customer to any competitor or perform an act injurious to the trademarks or the Franchisor’s system. Recipient must promptly notify Discloser upon discovery of any unauthorized use or disclosure of Proprietary Information, or any other breach of this Agreement, and will cooperate with Discloser in every reasonable way to help regain possession of such Proprietary Information and prevent its future unauthorized use.
5. Court Ordered Disclosure. Recipient may disclose such parts of Proprietary Information as may be required by law or court order; provided, that Recipient: (i) provides Discloser prompt written notice of such requirement, (ii) uses diligent efforts to limit disclosure and obtain confidential treatment or a protective order, and (iii) provides Discloser with such other cooperation that is reasonably requested. Pursuant to Section 7 of the Defend Trade Secrets Act of 2016, you are hereby advised that: An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit

for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual—(A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

- 6. Return of Information. All documents and tangible things containing or representing Proprietary Information of the Discloser must be and remain the property of the Discloser. Immediately upon ceasing working for Franchisee, Recipient will turn over to Discloser all manifestations of its Proprietary Information, and all documents or media containing such Proprietary Information, and all copies or extracts thereof with an affidavit attesting to the full return of all disclosed information.
- 7. No Warranty. ALL PROPRIETARY INFORMATION IS PROVIDED "AS IS." DISCLOSER DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, REGARDING THE ACCURACY OR COMPLETENESS OF ITS PROPRIETARY INFORMATION.
- 8. No License. Nothing in this Agreement is intended to grant any rights to Recipient under any patent, copyright or other intellectual property of the other party, nor does this Agreement grant Recipient any rights in or to the Proprietary Information of the other party, except for the use of Proprietary Information that is expressly permitted herein.
- 9. Term. The obligations of the Recipient continue for a period of five years from the date that Recipient is no longer employed with Franchisee or connected with Franchisor. The remainder of the terms of this Agreement shall survive in perpetuity.

- 9. General. In the event that any of the provisions of this Agreement are held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions are limited or eliminated to the minimum extent necessary so that this Agreement must otherwise remain in full force and effect. This Agreement is governed by the law of the State of Texas, without regard to the conflicts of law provisions thereof. The parties consent to the exclusive jurisdiction and venue of the state and federal courts of McLennan County, Texas. Notices hereunder will be effective only if in writing addressed to the relevant party as specified below and upon receipt if delivered personally or by overnight mail carrier, or three days after deposit in the U.S. mail, first-class postage prepaid. No waiver or modification of this Agreement will be binding upon either party unless made in writing and signed by a duly authorized representative of such party and no failure or delay in enforcing any right will be deemed a waiver. This Agreement supersedes all prior discussions and writings and constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement binds and inures to the benefit of the parties hereto and their respective parents, subsidiaries, affiliates, successors and assigns.
- 10. Remedies. Recipient acknowledges that the Proprietary Information provides a competitive advantage by remaining secret. Recipient agrees that any violation or threatened violation of this Agreement may cause irreparable and immediate injury to the Discloser (the amount of which may be difficult to ascertain), entitling the Discloser to seek injunctive relief (without being required to post any bond or other security) in addition to all legal remedies. In the event of a breach by Recipient, Recipient agrees to reimburse Discloser for enforcing or attempting to enforce the obligations under this Agreement.

IN WITNESS WHEREOF, the Recipient has executed this Agreement as of the date first set forth below.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
(Recipient)

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

\_\_\_\_\_

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

Franchisee Name: \*\*\* \_\_\_\_\_  
(Individual or Entity Name)

Franchisor Name: The Dwyer Group / Neighborly

Phone # \_\_\_\_\_

Email \_\_\_\_\_

\*\*\* example : John Smith DBA Rainbow International of Waco