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7 STATE OF WASHINGTON  
8 KING COUNTY SUPERIOR COURT

9 IN RE: FRANCHISE NO POACHING  
10 PROVISIONS

NO.

11 DOMINO'S PIZZA LLC  
12 ASSURANCE OF  
DISCONTINUANCE

13 The State of Washington, by and through its attorneys, Robert W. Ferguson, Attorney  
14 General, and Eric S. Newman, Assistant Attorney General, files this Assurance of Discontinuance  
15 ("AOD") pursuant to RCW 19.86.100.

16 **I. PARTIES**

17 1.1 In January 2018, the Attorney General initiated an investigation into Domino's  
18 Pizza LLC ("Domino's") and other quick service restaurant franchisors relating to certain  
19 provisions in their franchise agreements.

20 1.2 Domino's is a Michigan limited liability company with its principal offices or  
21 place of business in Ann Arbor, Michigan. Domino's affiliate, Domino's Pizza Franchising  
22 LLC, is a franchisor, and its corporate and franchisee operated locations are in the business of  
23 offering pizza, among other products, for sale to consumers.

24 1.3 For purposes of this AOD, Domino's shall include its directors, officers,  
25 managers, agents acting within the scope of their authority, and employees as well as its  
26

1 successors and assigns, subsidiaries, parent entities, affiliates and predecessor franchisor  
2 entities.

## 3 II. INVESTIGATION

4 2.1 There are approximately 140 Domino's restaurants located in the State of  
5 Washington as of the date hereof. All of these restaurants are independently owned and  
6 operated by franchisees.

7 2.2 The franchise agreements Domino's previously entered into with its franchisees  
8 provided that franchisees subject to such agreements could not directly or indirectly solicit for  
9 employment any person who is, at that time, employed by Domino's or by any other Domino's  
10 franchisee, or otherwise, induce such person to leave his or her employment therewith (the  
11 "No-Solicitation Provision"). Specifically, Domino's has included, within Section 20.4 of its  
12 franchise agreements, the following language

13  
14 You agree that during the term of this Agreement you or your owners  
15 will not, directly or indirectly, solicit or employ any person who is  
16 employed by us, by any entity controlled by or affiliated with us or by  
17 any other of our franchisees, nor will you induce or attempt to induce  
18 any of these people to leave their employment without the prior written  
consent of their employers. We agree that we will not induce or attempt  
to induce any of your employees to leave their employment with you  
and become employed with us or our affiliates without your consent.

19 2.3 The Attorney General asserts that the foregoing conduct of Domino's and its  
20 franchisees constitutes a contract, combination, or conspiracy in restraint of trade in violation  
21 of the Consumer Protection Act, RCW 19.86.030.

22 2.4 Domino's expressly denies that the conduct described above constituted a  
23 contract, combination, or conspiracy in restraint of trade in violation of the Consumer  
24 Protection Act, RCW 19.86.030, or any other law, rule, or regulation, and expressly denies it  
25 engaged in conduct that constitutes a contract, combination, or conspiracy in restraint of trade,  
26 or violates any other law, rule, or regulation. Domino's further asserts that it previously

1 advised franchisees that it was permanently eliminating the No-Solicitation Provision from its  
2 U.S. franchise agreements, and released such franchisees from any obligation to comply with  
3 the No-Solicitation Provision. As such, Domino's contends that the No-Solicitation Provisions  
4 previously included in its U.S. franchise agreements are no longer in force and effect.  
5 Domino's enters into this AOD to avoid protracted and expensive litigation. Pursuant to RCW  
6 19.86.100, neither this AOD nor its terms shall be construed as an admission of law, fact,  
7 liability, misconduct, or wrongdoing on the part of Domino's or any of its current or former  
8 franchisees.

### 9 III. ASSURANCE OF DISCONTINUANCE

10 3.1 Subject to Paragraph 2.4 above, Domino's agrees:

11 3.1.1. It will not reinsert the No-Solicitation Provision in any of its franchise  
12 agreements in the United States signed after the date hereof;

13 3.1.2. It will not enforce the No-Solicitation Provision in any of its existing  
14 franchise agreements in the United States, and will not seek to intervene in any action brought  
15 by the Attorney General's Office against a current franchisee in Washington, provided such  
16 action is brought in accordance with, and consistent with, the provisions of this AOD;

17 3.1.3. It will notify all of its current franchisees in the United States of the  
18 entry of this AOD and make a copy available to them;

19 3.1.4. If, after the 21 day period set forth in Paragraph 3.2 below, Domino's  
20 becomes aware of a franchisee with a restaurant located in the State of Washington attempting  
21 to enforce the No-Solicitation Provision, and Domino's is unable to persuade such franchisee  
22 to desist from enforcing or attempting to enforce such provision, Domino's will notify the  
23 Attorney General.

24 3.2 Within 21 days of entry of this AOD, Domino's will send a letter to all of its  
25 current franchisees with restaurants located in the State of Washington, stating that the  
26 Attorney General has requested that those franchise agreements be amended to remove the No-

1 Solicitation Provision. The letter that Domino's will send to its current franchisees with  
2 restaurants located in the State of Washington will be substantially in the form of the letter  
3 attached hereto as Exhibit A. That letter will enclose the proposed amendment that Domino's  
4 is requesting that each of its franchisees with restaurants located in the State of Washington  
5 agree to, which amendment will remove such No-Solicitation Provision. The proposed  
6 amendment that will be included with each letter will be substantially in the form of the  
7 amendment attached hereto as Exhibit B.

8           3.3     In addition to sending the letter to its current franchisees with restaurants  
9 located in the State of Washington pursuant to Paragraph 3.2 above, Domino's will respond  
10 promptly to any inquiries from such franchisees regarding the request to amend the terms of  
11 the franchise agreement and will encourage its current franchisees with restaurants located in  
12 the State of Washington to sign the proposed amendment. However, for the avoidance of  
13 doubt, Domino's is under no obligation to offer its franchisees any consideration—monetary or  
14 otherwise—in order to induce them to sign the proposed amendment, or take any adverse  
15 action against such franchisees if they refuse to do so. Within 120 days of entry of this AOD,  
16 Domino's will provide copies of all executed amendments it has obtained with its current  
17 franchisees with restaurants located in the State of Washington to the Attorney General's  
18 Office. A decision by a franchisee not to amend its franchise agreement, or not to do so within  
19 120 days of this AOD, shall not constitute a breach by Domino's of its obligations under this  
20 AOD or a failure by Domino's to comply with this AOD.

21           3.4     If Domino's learns that a current franchisee with restaurants located in the State  
22 of Washington intends in good faith to sign the proposed amendment but is unable to do so  
23 within the time period specified in Paragraph 3.3, Domino's will notify the Attorney General's  
24 Office to seek a mutually agreeable extension. During any such extension, the Attorney  
25 General's Office will not take further investigative or enforcement action against a franchisee.  
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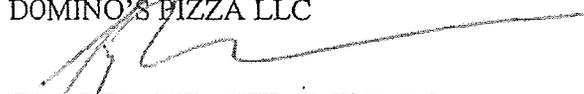
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Agreed to and approved for entry by:  
DOMINO'S PIZZA LLC



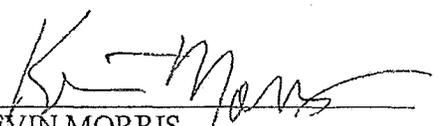
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KEVIN MORRIS  
EXECUTIVE VICE PRESIDENT AND  
GENERAL COUNSEL

DOMINO'S PIZZA LLC LEGAL  
DEPARTMENT

1 **EXHIBIT A**

2  
3 Form Letter to Domino's Franchisees in the State of Washington

4  
5 Dear [Franchisee Name]

6 In February 2018, Domino's received a Civil Investigative Demand from the Attorney  
7 General's Office of the State of Washington seeking information regarding whether there are  
8 any provisions in our franchise agreements that restrict the hiring or solicitation of employees  
9 (sometimes referred to as "no-solicitation" clauses). We understand that this is part of a broader  
investigation into the use of such clauses in the restaurant industry and perhaps other franchised  
industries. We have cooperated fully with the investigation.

10 Without admitting that Domino's or its franchisees violated any law or regulation, or  
11 acted improperly in any respect, we have reached an agreement with the Attorney General's  
12 Office. In accordance with our prior communications with you, this agreement provides that  
13 Domino's will, among other things, not include in any U.S. franchise agreement or renewal  
14 any provisions that restrict the hiring or solicitation of employees. The agreement also  
reiterates what we previously advised you – i.e., that Domino's cannot and will not enforce  
any such provisions in any of our existing franchise agreements for restaurants located in the  
U.S.

15 We believe the system's interests are best served by resolving the investigation  
16 quickly and cooperatively on these terms, and avoiding the uncertainty and cost of  
protracted litigation.

17 Our agreement with the Attorney General's Office also includes a requirement that we  
18 request from franchisees with restaurants located in the State of Washington, that they agree to  
19 amend their existing franchise agreements to remove the provisions, if any, that restrict the  
20 hiring or solicitation of employees. Enclosed for your signature is an amendment to your  
21 franchise agreement(s) with Domino's to satisfy that requirement. To the extent that you agree  
22 to this amendment to your franchise agreement, the Attorney General has committed to not  
23 pursue any suit, or take any investigative or enforcement action against you, for conduct  
relating to the relevant provisions of your franchise agreement, up to and including the date  
you sign the amendment. Please sign and return the amendment to me as soon as possible. If  
you decide not to sign the enclosed amendment, the Attorney General's Office has indicated  
that it will reserve the right to investigate you and/or pursue enforcement actions against you  
relating to the contractual provisions described above.

24 Should you have any questions regarding this matter, please contact  
25 me at [e-mail of appropriate person]

26 [Signature block for appropriate person]

1 **EXHIBIT B**

2  
3 **AMENDMENT**  
4 **DOMINO'S FRANCHISE AGREEMENT**

5 The Domino's Franchise Agreement between Domino's Pizza Franchising LLC ("We") and the  
6 undersigned franchisee ("You") listed in Exhibit A hereto (as amended, the "Franchise Agreement(s)")  
7 shall be amended in accordance with the following terms.

8 1. Background. We and you are parties to each Franchise Agreement and you operate one  
9 or more franchised outlets in the State of Washington under the Franchise Agreement(s). We have  
10 determined that it is in the best interests of the franchise system to not enforce the no-solicitation  
11 provisions of the Franchise Agreement(s). The purpose of this Amendment to your Franchise  
12 Agreement(s) is to document this change. All initial capitalized terms used but not defined in this  
13 Amendment shall have the meanings set forth in the Franchise Agreement(s).

14 2. Modification of Terms. While we contend that the non-solicitation provisions of the  
15 Franchise Agreement, comprised of the second sentence of Section 20.2 and Section 20.4 in its entirety  
16 (collectively, the "Non-Solicitation Provisions), are no longer in force and affect, to avoid any ambiguity  
17 and in accordance with our agreement with the Attorney General of the State of Washington, as of  
18 Effective Date (defined below) of this Amendment, You and We agree that the Non-Solicitation  
19 Provisions are hereby deleted from this Franchise Agreement and are of no further force or effect.

20 3. Miscellaneous. Except as specifically modified by this Amendment, the provisions of the  
21 Franchise Agreement(s) shall remain in full force and effect. This document is an amendment to, and  
22 forms a part of, each Franchise Agreement. If there is an inconsistency between this Amendment and any  
23 Franchise Agreement, the terms of this Amendment shall control. This Amendment constitutes the entire  
24 agreement between the parties hereto, and there are no other oral or written representations,  
25 understandings or agreements between them, relating to the subject matter of this Amendment. This  
26 Amendment inures to the benefit of the parties hereto and their respective successors and assigns and will  
be binding upon the parties hereto and each of their respective successors and assigns. This Amendment  
may be executed in multiple counterparts, but all such counterparts together shall be considered one and  
the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed and delivered this Agreement  
effective as of \_\_\_\_, 2018 (the "Effective Date").

**Domino's Pizza Franchising LLC**

**[FRANCHISEE'S NAME]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_