

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

Form 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): September 1, 2020 (August 28, 2020)

Potbelly Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-36104
(Commission
File Number)

36-4466837
(IRS Employer
Identification No.)

111 N. Canal Street, Suite 850
Chicago, Illinois
(Address of Principal Executive Offices)

60606
(Zip Code)

Registrant's Telephone Number, Including Area Code: (312) 951-0600

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value	BPB	The NASDAQ Stock Market LLC (Nasdaq Global Select Market)

Indicated by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Potbelly Corporation (the “Company”) appointed Adam Noyes, age 50, as Senior Vice President, Chief Operations Officer, effective as of August 28, 2020.

Mr. Noyes was previously the founder of Noyes Consulting, where he provided consulting services from December 2019 through August 2020. Prior to that, Mr. Noyes worked in various management positions at Checkers Drive In Restaurants, Inc. from April 1991 to December 2019, eventually assuming the role of Chief Administrative Officer & Executive Vice President. Mr. Noyes holds an undergraduate degree in business management from the University of Florida and is earning a Masters in Business Administration from the University of South Florida.

Pursuant to the terms of his employment agreement (the “Executive Employment Agreement”), made and entered into and effective as of August 28, 2020, Mr. Noyes will be paid an annual base salary of \$325,000, which rate shall increase to an annual base salary of \$400,000 on September 1, 2021. Mr. Noyes’s Executive Employment Agreement also provides, among other things, that: (i) he is eligible to receive a discretionary bonus at a target rate of 60% of his base salary based on the attainment of mutually agreed upon performance goals; (ii) beginning in calendar year 2021, he is eligible for annual equity grants as determined by the Compensation Committee of the Company’s Board of Directors; (iii) the Company shall reimburse all reasonable business expenses incurred by Mr. Noyes in performing services to the Company; and (iv) severance and change of control benefits contingent upon Mr. Noyes agreeing to a general release of claims in favor of the Company following termination of employment shall be available. Mr. Noyes will also be eligible to participate in all customary employee benefit plans or programs of the Company generally made available to the Company’s senior executive officers. Mr. Noyes has agreed to observe the Company’s standard confidentiality and non-compete agreement. Mr. Noyes’s employment is at-will and may be terminated at any time for any reason.

The foregoing description of the Executive Employment Agreement is not complete and is qualified in its entirety by reference to the Executive Employment Agreement which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated in this Item 5.02 in its entirety by reference.

In connection with the commencement of his Executive Employment Agreement, Mr. Noyes was granted a one-time cash sign on bonus of \$100,000. In accordance with Nasdaq Listing Rule 5635(c)(4), Mr. Noyes was also granted equity consisting of \$325,000 in restricted stock units, subject to one-third of the shares vesting on each of the first, second and third anniversaries of the grant date, subject to Mr. Noyes’s continued employment (with pro rata vesting in the event of certain terminations prior to the vesting date).

There are no family relationships between Mr. Noyes and any director or executive officer of the Company (or person nominated or chosen to become a director or executive officer of the Company), and Mr. Noyes has no direct or indirect material interest in any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K.

Item 7.01. Regulation FD Disclosure.

On September 1, 2020, the Company issued a press release announcing the appointment of Adam Noyes as Senior Vice President, Chief Operations Officer of the Company, as noted in Item 5.02 above. A copy of this press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference. The information in this Item 7.01 and Exhibit 99.1 attached hereto is intended to be furnished and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as expressly set forth by specific reference to such filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	Executive Employment Agreement dated August 28, 2020 between Potbelly Corporation and Adam Noyes
99.1	Potbelly Corporation Press Release dated September 1, 2020
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: September 1, 2020

Potbelly Corporation

By: /s/ Matthew Revord

Name: Matthew Revord

Title: Senior Vice President and Chief Legal Officer

EXECUTIVE EMPLOYMENT AGREEMENT

THIS EXECUTIVE EMPLOYMENT AGREEMENT (this “Agreement”) is made and entered into as of August 28, 2020 (the “Effective Date”) by and between Potbelly Corporation, a Delaware corporation (hereinafter referred to as “Company”), and Adam Noyes, an individual (hereinafter referred to as “Executive”).

WHEREAS, Company desires to employ Executive from and after the Effective Date in the position of its Chief Operations Officer, and Executive desires to perform services for, and to be employed by, Company in such capacity, all on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth in this Agreement, Company and Executive agree as follows:

1. **Definitions.** For purposes of this Agreement, capitalized terms used herein shall have the meaning specified below if not otherwise defined herein.

(a) **Accrued Obligations** is defined in paragraph 4(a).

(b) **Annual Bonus** is defined in subparagraph 3(b)(ii).

(c) **Base Salary** is defined in paragraph 3(a).

(d) **Board** means the Board of Directors of Company.

(e) **Cause** means (i) any willful and continued failure by Executive to substantially perform his duties for Company (other than any such failure resulting from Executive’s being Disabled), (ii) the willful engaging by Executive in conduct which is demonstrably and materially injurious to Company, monetarily or otherwise, (iii) the engaging by Executive in egregious misconduct involving serious moral turpitude to the extent that, in the reasonable judgment of the Board, Executive’s credibility and reputation no longer conform to the standard of Company’s executives, (iv) Executive’s indictment (or its equivalent) for the commission of a crime by Executive that constitutes a felony, or (v) a breach of the Restrictive Covenants Agreement. For purposes of this Agreement, no act, or failure to act, on Executive’s part shall be deemed “willful” unless done, or omitted to be done, by Executive not in good faith and without reasonable belief that Executive’s action or omission was in the best interest of Company.

(f) **Change in Control** means the first to occur of any of the following: (i) the consummation of a transaction, approved by the stockholders of Company, to merge Company with or into or consolidate Company with another entity or sell or otherwise dispose of all or substantially all of its assets, or the stockholders of Company adopt a plan of liquidation; provided, however, that a Change in Control shall not be deemed to have occurred by reason of a transaction, or a substantially concurrent or otherwise related series of transactions, upon the completion of which fifty percent (50%) or more of the beneficial ownership of the voting power of Company, the surviving corporation or corporation directly or indirectly controlling Company or the surviving corporation, as the case may be, is held by the same persons (although not necessarily

in the same proportion) as held the beneficial ownership of the voting power of Company immediately prior to the transaction or the substantially concurrent or otherwise related series of transactions, except that upon the completion thereof, employees or employee benefit plans of Company may be a new holder of such beneficial ownership, or (ii) the “beneficial ownership” (as defined in Rule 13d-3 under the Exchange Act) of securities representing fifty percent (50%) or more of the combined voting power of Company is acquired, other than from Company, by any “person” as defined in Sections 13(d) and 14(d) of the Exchange Act (other than any trustee or other fiduciary holding securities under an employee benefit or other similar equity plan of Company), or (iii) at any time during any period of two (2) consecutive years, individuals who at the beginning of such period were members of the Board cease for any reason to constitute at least a majority thereof (unless the election, or the nomination for election by Company’s stockholders, of each new director was approved by a vote of at least two-thirds of the directors still in office at the time of such election or nomination who were directors at the beginning of such period).

(g) **COBRA Continuation Period** means the period commencing on the date that COBRA Coverage begins and ending on the date that COBRA Coverage terminates by its terms.

(h) **COBRA Coverage** means continuation of group medical coverage required under section 4980B of the Code.

(i) **Code** means the Internal Revenue Code of 1986, as amended.

(j) **Company** means Potbelly Corporation, a Delaware corporation, or any successor thereto.

(k) **Compensation Committee** means the Compensation Committee of the Board.

(l) **Disability/Disabled** means that Executive is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. Whether Executive has a “Disability” (or is “Disabled”) shall be determined by Company in a manner that is consistent with section 22(e)(3) of the Code.

(m) **Effective Date** means August 28, 2020.

(n) **Employment Law** is defined in Section 7.

(o) **Equity Plan** means Company’s long-term incentive plan, as in effect from time to time.

(p) **Exchange Act** means Securities Exchange Act of 1934, as amended.

(q) **Executive** means Adam Noyes.

(r) **Good Reason** as used herein means the occurrence, without Executive's consent, of (i) any reduction in either the annual base salary of Executive or the target annual bonus percentage or maximum annual bonus percentage applicable to Executive (other than across the board salary reductions for management employees); (ii) any material reduction in the position, authority, or office of Executive with respect to Company, or in executive's responsibilities or duties for Company; or (iii) any action or inaction by Company that constitutes a material breach of the terms of this Agreement; provided, however, that any such occurrence under clauses (i) — (iii) above shall constitute Good Reason only if Company fails to cure such occurrence within thirty (30) days after receipt from Executive of notice of such occurrence.

(s) **JAMS** means Judicial Arbitration and Mediation Services, Inc.

(t) **Medical Continuation Benefit** means reimbursement by Company of the portion of the applicable monthly premium required to be paid by Executive (and his eligible dependents) for COBRA Coverage, which reimbursement (i) shall be equal to the portion of the monthly premium paid by Company for group health coverage with respect to its active employees for the level of coverage provided to Executive and his dependents in the form of COBRA Coverage and (ii) shall be provided for the lesser of (A) twelve (12) months following the Termination Date or (B) the date that COBRA Coverage with respect to Executive and/or his covered dependents, as applicable, terminates in accordance with its terms.

(u) **Party** means Company and Executive, referred to jointly as the "Parties".

(v) **Payment Date** means the sixtieth (60th) day following the Termination Date.

(w) **Release** means a general release in favor of Company and its affiliates in a form determined by Company.

(x) **Release Requirements** is defined in paragraph 4(c).

(y) **Restrictive Covenants Agreement** is defined in paragraph 2(c).

(z) **Section 409A Payment Date** is defined in Section 11.

(aa) **Shares** means shares of common stock, \$.01 par value, of Company.

(bb) **Sign-On Bonus** is defined in subparagraph 3(b)(i).

(cc) **Sign-On Grant** is defined in subparagraph 3(c)(i).

(dd) **Term** is defined in paragraph 2(a).

(ee) **Termination Date** means the date on which Executive's employment with Company and its affiliates terminates for any reason.

(ff) **Vesting Date** is defined in subparagraph 3(c)(i).

2. **Term and Performance of Duties.**

(a) **Term.** Company hereby agrees to employ Executive, and Executive accepts such employment and agrees to perform services for, Company and its affiliates for the “Term” which shall be the period beginning on the Effective Date and expiring on the date this Agreement is terminated in accordance with Section 4 of this Agreement.

(b) **Performance of Duties.** During the Term, while Executive is employed by Company, Executive agrees that he shall devote his full business time, energies, loyalty, and talents to serving as its Chief Operations Officer, shall use his best efforts and abilities to promote the interests of Company and its affiliates and to perform the services contemplated by this Agreement, and shall perform his duties faithfully and efficiently subject to the directions of the Chief Executive Officer of Company (the “CEO”). Executive’s duties may include providing services for both Company and its affiliates, as determined by the Board; provided, that Executive shall not, without his consent, be assigned tasks that would be inconsistent with those of Company’s Chief Operations Officer. Executive shall have such authority and power as are inherent to the undertakings applicable to his positions and necessary to carry out his responsibilities and the duties required of him hereunder. Executive will be subject to reasonable and appropriate travel on Company business. Notwithstanding the foregoing, during the Term, Executive may devote reasonable time to activities other than those required under this Agreement, including the supervision of his personal investments, and activities involving professional, charitable, educational, religious and similar types of organizations, speaking engagements, membership on the boards of directors of other organizations, and similar type activities, to the extent that such other activities do not, in the reasonable judgment of the Board, inhibit or prohibit the performance of Executive’s duties under this Agreement, or conflict in any material way with the business of Company or any of its affiliates; provided, however, that Executive shall not serve on the board of any business, or hold any other position with any business, without the consent of the Board, which shall not be unreasonably withheld.

(c) **Confidentiality, Non-Competition, Non-Interference and Intellectual Property.** Executive hereby acknowledges and confirms that, on or prior to the Effective Date, Executive shall execute the form of Executive Confidentiality and Non-Compete Agreement set forth in Appendix A hereto and which is hereby incorporated into and forms part of this Agreement (the “Restrictive Covenants Agreement”).

3. **Compensation.** Subject to the terms of this Agreement, during the Term, while Executive is employed by Company, Executive shall be compensated for his services as follows:

(a) **Base Salary.** During the Term while he is employed by Company, Company shall (or shall cause one of its affiliates to) pay to Executive as compensation for services to be rendered hereunder as follows a “Base Salary” at the annual rate of \$325,000, which rate of Base Salary shall increase to an annual rate of \$400,000 on September 1, 2021. The Base Salary shall be payable in substantially equal monthly, or more frequent, payments. The rate of Base Salary shall be subject to annual review beginning for calendar year 2022 and may be increased for performance as determined in the discretion of the Board (or applicable committee thereof) subject to recommendation by the CEO. The Base Salary shall be pro-rated for any period of less than twelve (12) months.

(b) **Bonuses.** Executive shall be eligible to receive bonuses in accordance with the following:

- (i) To incentivize Executive to accept Company's offer of employment, Executive shall receive a cash sign-on bonus (the "Sign-On Bonus") in an amount equal to \$100,000. The Sign-On Bonus shall be payable in a lump sum on the first payroll date following the Effective Date. In the event Executive's Termination Date occurs prior to the eighteen (18) month anniversary of the Effective Date for any reason other than due to termination by Company without Cause or by Executive for Good Reason, Executive shall be required to repay the full after tax amount of the Sign-On Bonus to Company within ninety (90) days following Executive's Termination Date.
- (ii) For any calendar year during the Term beginning with calendar year 2020, Executive shall be eligible to receive an "Annual Bonus" with a target amount equal to sixty percent (60%) Executive's Base Salary, subject to satisfaction of applicable performance targets determined by the Compensation Committee in its sole discretion, payable no later than March 15 of the applicable calendar year and in accordance with the terms and conditions of Company's annual bonus plan as in effect from time to time. The Annual Bonus for any calendar year shall be pro-rated for periods of less than a full calendar year.

(c) **Equity Compensation.** As of the Effective Date (or, if the Effective Date does not occur in an open trading window, in the first open trading window occurring after the Effective Date and as soon as practicable after the Effective Date), Executive shall receive equity awards in accordance with the following:

- (i) To incentivize Executive to accept Company's offer of employment, Executive shall be granted a restricted stock unit award (the "Sign-On Grant") with respect to that number of Shares having a value equal to \$325,000 (based on the closing price of a Share on the last trading day prior to the grant). The Sign-On Grant shall vest with respect to one-third (1/3) of the Shares subject thereto on each of the first, second and third anniversaries of the grant date (each a "Vesting Date") provided that Executive's Termination Date has not occurred as of the applicable Vesting Date, subject to pro rata vesting in the event that Executive's Termination Date occurs by reason of termination by Company without Cause or termination by Executive for Good Reason, and subject to the terms and conditions of the award which shall be set forth in an award agreement. Any portion of the Sign-On Grant that is not vested on the Termination Date in accordance with the provisions of this subparagraph 3(c)(i) shall be forfeited as of the Termination Date. The Sign-On Grant shall constitute an inducement grant and shall not be granted pursuant to the Equity Plan.

(ii) Beginning in calendar year 2021, Executive will be eligible for annual long-term equity incentive awards consistent with other members of the Company's Senior Leadership Team under Company's pay for performance program. The type and amount of the incentive awards shall be determined in the sole discretion of the Board or the Committee. Subject to the foregoing, Executive's annual target award under this program will be 100% of the Base Salary (which will be treated as \$400,000 for the 2021 year). All equity awards are subject to the applicable exchange guidelines, rules, regulations and approvals, the terms of the Equity Plan and the applicable award agreement.

(d) **Benefits and Perquisites.** Executive shall be eligible to participate in employee benefit plans, programs and arrangements, to the extent and on substantially the same terms as those benefits are provided by Company from time to time to Company's similarly-situated executive employees, including vacation programs, fringe benefit programs, retirement plans, and welfare plans, subject in all cases to the eligibility requirements thereof. Without limiting the generality of the foregoing, Executive shall be entitled to twenty five (25) days of vacation and two (2) personal days for each calendar year during the Term (pro-rated for any partial year).

(e) **Expense Reimbursements.** Company shall pay or reimburse Executive for all reasonable business expenses actually incurred or paid by Executive during the Term in the performance of Executive's duties and responsibilities under this Agreement, subject to and in accordance with Company's applicable expense reimbursement policies as in effect from time to time. Without limiting the generality of the foregoing, Company shall pay or reimburse Executive for relocation expenses in accordance with Company's relocation policy, up to a maximum amount of \$25,000. All reimbursements provided hereunder shall be subject to the provisions of paragraph 11(b) to the extent applicable.

4. **Termination and Payments on Termination.** Company or Executive may terminate the Term and Executive's employment with Company and its affiliates at any time for any reason or no reason without any breach of this Agreement. Any such termination (other than termination on account of Executive's death) shall be effected through an advance written notice from the terminating Party to the other Party, which notice shall be provided within applicable time periods set forth in this Agreement, if applicable, shall indicate the specific termination provision in this Agreement relied on, and shall set forth in reasonable detail the facts and circumstances, if any, on which such termination is based. Notwithstanding the foregoing, Executive's employment shall not be considered to have terminated due to Good Reason unless, within thirty (30) days of an event that Executive considers to constitute Good Reason, Executive provides written notice to Company of such event, Company has not cured such event or condition within thirty (30) days following receipt of such notice, and Executive terminates employment for Good Reason within fifteen (15) days after expiration of such cure period. Subject to the terms and conditions of this Agreement, Executive's right to payment and benefits under this Agreement for periods after his Termination Date shall be determined in accordance with the following provisions of this Section 4.

(a) **Termination for Any Reason or No Reason.** In the event the Termination Date occurs for any reason or no reason, whether by Company or Executive, Executive shall be entitled to (i) payment of his earned but unpaid Base Salary for the period ending on the Termination Date, payable as required by applicable law, (ii) payment of his earned but unused vacation days, as determined in accordance with Company's policy as in effect from time to time, payable in accordance with applicable law, (iii) any equity compensation to which Executive is entitled under the terms of the Equity Plan or applicable award agreements, (iv) reimbursements of any reasonable business expenses incurred prior to the Termination Date and submitted as required under the expense reimbursement policy or relocation policy of Company, as applicable, and (v) any other payments or benefits to which Executive is entitled under the express terms of any employee benefit plans, arrangements or programs of Company and its affiliates. For purposes of this Agreement, the payments and benefits to which Executive is entitled pursuant to this paragraph 4(a) are referred to herein as the "Accrued Obligations". Except as otherwise expressly provided to the contrary in this Agreement, nothing in this Agreement shall be construed as requiring Executive to be treated as employed by Company for purposes of any employee benefit plan, arrangement or program following the date of the Termination Date.

(b) **Termination by Company for Cause; Termination by Executive without Good Reason; Termination by Reason of Account of Death or Disability.** In the event that the Termination Date occurs by reason of (i) termination of Executive's employment by Company for Cause, (ii) termination by Executive without Good Reason, or (iii) Executive's death or Disability, Executive (or in the event of his death, his estate) shall be entitled to the Accrued Obligations and he shall be entitled to no other payments or benefits from Company under this Agreement or otherwise.

(c) **Termination by Company without Cause; Termination by Executive for Good Reason.** In the event that the Termination Date occurs by reason of (i) termination by Company without Cause or (ii) termination by Executive for Good Reason and, in either case, if the Release Requirements (as defined below) are met as of the Payment Date, Executive shall be entitled to the following payments and benefits: (A) an amount equal to the Base Salary set forth in paragraph 3(a) (as the same may be increased from time to time), payable in twelve (12) substantially equal monthly installments, beginning on the Payment Date, and (B) if Executive is entitled to and elects COBRA Coverage, the Medical Continuation Benefit. The Medical Continuation Benefit to which Executive is entitled for any month shall be paid monthly during the period for which the Medical Continuation Benefit is payable; provided, however, that any portion of the Medical Continuation Benefit for the period beginning on the Termination Date and ending on the Payment Date shall be paid in a lump sum on the Payment Date. In no event shall the Medical Continuation Benefit have the effect of extending or otherwise modifying the maximum COBRA Continuation Period. The "Release Requirements" will be will be satisfied as of the Payment Date if, as of the Payment Date, (I) Executive has executed the Release, in connection with his Termination Date; (II) the revocation period required by applicable law has expired and Executive has not revoked the Release within such revocation period, and (III) the Release has become effective.

5. **Mitigation and Set-Off.** Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise. Company shall not be entitled to set off against the amounts payable to Executive under this Agreement any

amounts earned by Executive in other employment after termination of his employment with Company or any amounts which might have been earned by Executive in other employment had he sought such other employment; provided, however that Company shall be entitled to set off against the amounts payable to Executive under this Agreement any amounts owed to Company by Executive.

6. Assignment and Survival. This Agreement is personal to Executive and shall not be assignable by Executive. This Agreement may be assigned by Company to a successor-in interest to all or substantially all of the business operations of Company or any of its affiliates. The rights and obligations of the Parties shall survive s termination or expiration of this Agreement to the extent that any performance is required under this Agreement after the termination or expiration of the Agreement.

7. Disputes. Except as set forth in this Section 7, any dispute, claim or difference arising between the Parties including any dispute, claim or difference arising out of this Agreement, shall be settled exclusively by binding arbitration in accordance with the rules of the JAMS. The arbitration shall be held Chicago, Illinois unless the Parties mutually agree otherwise. Nothing contained in this Section 7 shall be construed to limit or preclude a Party from bringing any action in any court of competent jurisdiction for injunctive or other provisional relief to compel another party to comply with its obligations under this Agreement or any other agreement between or among the Parties during the pendency of the arbitration proceedings. Each Party shall bear its own costs and fees of the arbitration, and the fees and expenses of the arbitrator shall be borne equally by the Parties, provided, however, if the arbitrator determines that any Party has acted in bad faith, the arbitrator shall have the discretion to require any one or more of the Parties to bear all or any portion of fees and expenses of the Parties and/or the fees and expenses of the arbitrator; provided, further that, with respect to claims that, but for this mandatory arbitration clause, could be brought against Company under any applicable federal or state labor or employment law ("Employment Law"), the arbitrator shall be granted and shall be required to exercise all discretion belonging to a court of competent jurisdiction under such Employment Law to decide the dispute, whether such discretion relates to the provision of discovery, the award of any remedies or penalties, or otherwise and provided further that Company may be required to pay filing or administrative fees in the event that requiring Executive to pay such fees would render this Section 7 unenforceable under applicable law. As to claims not relating to Employment Laws, the arbitrator shall have the authority to award any remedy or relief that a Court of the State of Illinois could order or grant. The decision and award of the arbitrator shall be in writing and copies thereof shall be delivered to each Party. The decision and award of the arbitrator shall be binding on all Parties. In rendering such decision and award, the arbitrator shall not add to, subtract from or otherwise modify the provisions of this Agreement. Either Party to the arbitration may seek to have the award of the arbitrator entered in any court having jurisdiction thereof. All aspects of the arbitration shall be considered confidential and shall not be disseminated by any Party with the exception of the ability and opportunity to prosecute its claim or assert its defense to any such claim. The arbitrator shall, upon request of either Party, issue all prescriptive orders as may be required to enforce and maintain this covenant of confidentiality during the course of the arbitration and after the conclusion of same so that the result and underlying data, information, materials and other evidence are forever withheld from public dissemination with the exception of its subpoena by a court of competent jurisdiction in an unrelated proceeding brought by a third party.

8. **Indemnification.** If Executive (or his heirs, executors or administrators) is made a party or is threatened to be made a party to, or is involved in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that Executive is or was a director or officer of Company or is or was serving at the request of Company as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, Executive (and his heirs, executors or administrators) shall be indemnified and held harmless by Company to the fullest extent permitted by Delaware Law. To the fullest extent authorized by Delaware Law, the right to indemnification conferred in this Section 8 shall also include the right to be paid by Company the expenses incurred in connection with any such proceeding in advance of its final disposition upon delivery to Company of an undertaking by or on behalf of Executive to repay such amount if it shall ultimately be determined that Executive is not entitled to be indemnified. Company's obligations under this Section 8 shall survive the termination or expiration of this Agreement for any reason.

9. **Miscellaneous.**

(a) **Notices.** Notices and all other communications provided for in this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or sent by facsimile or prepaid overnight courier to the parties at the addresses set forth below (or such other addresses as shall be specified by the parties by like notice). Communications that are to be delivered by the U.S. mail or by overnight service are to be delivered to the addresses set forth below:

to Company:

Potbelly Corporation
111 N. Canal Street, Suite 850
Chicago, IL 60606

Attention: General Counsel

or to Executive, to Executive's home address as reflected in Company's records.

Each party, by notice furnished to the other party, may modify the applicable delivery address, except that notice of change of address shall be effective only upon receipt.

(b) **Modification, Waivers.** This Agreement may be modified or amended only by a writing signed by an authorized representative of Company and Executive. To the extent that the provision of Medical Continuation Benefit under this Agreement would subject Company to a material tax or penalty, Company shall have the authority to amend the Agreement to the limited extent reasonably necessary to avoid such tax or penalty and shall use all reasonable efforts to provide Executive with a comparable benefit that does not subject Company to such tax or penalty. Company's failure, or delay in exercising any right, or partial exercise of any right, shall not waive any provision of this Agreement or preclude Company from otherwise or further exercising any rights or remedies hereunder, or any other rights or remedies granted by any law or any related document.

(c) **Governing Law and Choice of Forum.** The construction, validity, and enforceability of this Agreement shall be governed by the laws of the State of Illinois without regard to conflicts of law principles.

(d) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Company, Executive, and Executive's personal representatives, beneficiaries, heirs, and successors. Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of Company to expressly assume and agree to perform this Agreement in the same manner and to the same extent that Company would be required to perform it if no such succession has taken place.

(e) **Severability.** To the extent any provision of this Agreement shall be invalid or enforceable with respect to Executive, it shall be considered deleted herefrom with respect to Executive and the remainder of such provision and this Agreement shall be unaffected and shall continue in full force and effect. In furtherance to and not in limitation of the foregoing, should the duration or geographical extent of, or business activities covered by, any provision of this Agreement be in excess of that which is valid and enforceable under applicable law with respect to Executive, then such provision shall be construed to cover only that duration, extent or activities which are validly and enforceably covered with respect to Executive. Executive acknowledges the uncertainty of the law in this respect and expressly stipulates that this Agreement be given the construction which renders its provisions valid and enforceable to the maximum extent (not exceeding its expressed terms) possible under applicable laws.

(f) **No Violation.** Executive represents and warrants to Company that the execution and delivery of this Agreement by Executive, and the carrying out of Executive's duties on behalf of Company as contemplated hereby, do not violate or conflict with the terms of any other agreements to which Executive is or was a party.

(g) **Independent Review and Advice.** Executive represents and warrants that Executive has carefully read this Agreement; that Executive executes this Agreement with full knowledge of the contents of this Agreement, the legal consequences thereof, and any and all rights which each party may have with respect to each other; that Executive has had the opportunity to receive independent legal advice with respect to the matters set forth in this Agreement and with respect to the rights and asserted rights arising out of such matters, and that Executive is entering into this Agreement of Executive's own free will. Executive expressly agrees that there are no expectations contrary to the Agreement and no usage of trade or regular practice in the industry shall be used to modify the Agreement.

(h) **No Strict Construction.** The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be used against any person.

10. **Withholding.** All payments and benefits under this Agreement are subject to withholding of all applicable taxes.

11. Special Section 409A Rules.

(a) **Generally.** It is intended that this Agreement shall comply with section 409A of the Code, to the extent applicable, and this Agreement shall be interpreted and construed on a basis consistent with such intent. Notwithstanding any other provision of this Agreement to the contrary, if any payment or benefit hereunder is subject to section 409A of the Code, and if such payment or benefit is to be paid or provided on account of Executive's Termination Date (or other separation from service or termination of employment (a) and if Executive is a specified employee (within the meaning of section 409A(a)(2)(B) of the Code) and if any such payment or benefit is required to be made or provided prior to the earlier of (i) the first (1st) day of the seventh (7th) month following Executive's separation from service or (ii) the date of Executive's death (the "Section 409A Payment Date"), such payment or benefit shall be delayed until the Section 409A Payment Date; and (b) the determination as to whether Executive has had a termination of employment (or separation from service) shall be made in accordance with the provisions of section 409A of the Code and the guidance issued thereunder without application of any alternative levels of reductions of bona fide services permitted thereunder. For purposes of section 409A of the Code, any installment payment or benefit under this Agreement shall be treated as a separate payment. If this Section 11 applies to any payment or benefit hereunder, any such payments or benefits that would otherwise have been paid or provided to Executive between Executive's Termination Date and the Section 409A Payment Date, shall be paid in a lump sum on the Section 409A Payment Date.

(b) **Expense Reimbursements.** To the extent that any reimbursements from Company to Executive under this Agreement or otherwise (including any reimbursements under this paragraph 3(e)) are taxable to Executive, such reimbursements shall be paid to Executive only if (i) to the extent not specified herein, the expenses are incurred and reimbursable pursuant to a reimbursement plan that provides an objectively determinable nondiscretionary definition of the expenses that are eligible for reimbursement and (ii) the expenses are incurred during the Term. With respect to any expenses that are reimbursable pursuant to the preceding sentence, the amount of the expenses that are eligible for reimbursement during one calendar year may not affect the amount of reimbursements to be provided in any subsequent calendar year, the reimbursement of an eligible expense shall be made no later than the last day of the calendar year following the calendar year in which the expense was incurred, and the right to reimbursement of the expenses shall not be subject to liquidation or exchange for any other benefit.

12. Counterparts. This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original hereof.

13. Entire Agreement. This Agreement, together with Executive Confidentiality and Non-Compete Agreement set forth in Exhibit A hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and cancels all prior or contemporaneous oral or written agreements and understandings between them with respect to the subject matter hereof, except as otherwise specifically stated in this Agreement. This Agreement may not be changed or modified orally but only by an instrument in writing signed by the parties hereto, which instrument states that it is an amendment to this Agreement.

IN WITNESS HEREOF, each party has caused this Executive Employment Agreement to be executed in a manner appropriate for such party as of the date first above written.

EXECUTIVE

By: /s/ Adam Noyes
Name: Adam Noyes
Its: Chief Operations Officer

POTBELLY CORPORATION

By: /s/ Robert D. Wright
Name: Robert D. Wright
Its: President & Chief Executive Officer

APPENDIX A

RESTRICTIVE COVENANTS AGREEMENT

POTBELLY SANDWICH WORKS
EXECUTIVE CONFIDENTIALITY AND BUSINESS PRESERVATION AGREEMENT

THIS POTBELLY SANDWICH WORKS EXECUTIVE CONFIDENTIALITY AND BUSINESS PRESERVATION AGREEMENT (the "Agreement") is made and entered into, and is effective, as of August 28, 2020 (the "Effective Date") between POTBELLY SANDWICH WORKS, LLC, an Illinois limited liability company (the "Company"), and Adam Noyes (the "Executive").

Recitals

- A. The Executive has and will obtain valuable knowledge and experience pertaining to the Company's business in Executive's role as an executive-level employee of the Company.
- B. The Company desires to enter into an agreement to avail itself of Executive's knowledge and experience and to provide for a prohibition on Executive's disclosing confidential information, improperly competing or otherwise interfering with the business conducted by the Company.

Agreements

NOW, THEREFORE, for and in consideration of the mutual covenants and benefits set forth in this Agreement and the Executive Employment Contract, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Company and Executive hereby agree as follows:

1. Consideration. Executive's consideration for entering into this Agreement is (i) as stated in Paragraph 1 of the Employment Agreement being entered into commensurate with this Agreement; (ii) the grant of Restricted Stock Units; and (iii) the cash sign on bonus of \$100,000.
2. Conduct; Confidentiality, Noncompetition, and Noninterference.

2.1 Conduct. Executive shall devote Executive's business time, energy, loyalty, and ability exclusively to the business, affairs, and interests of the Company and its affiliates, and shall use Executive's best efforts and abilities to promote the interests of the Company and its affiliates and to perform the services contemplated by this Contract. Without the prior approval of the CEO, Executive shall not, during the term of this Contract, directly or indirectly, render any other employment or consulting activities or services, including as a director, to any other person, firm, corporation, or other entity; provided however, that, to the extent that the following activities do not conflict with or detract from the performance by Executive of Executive's duties, Executive may act as a director of and may also engage in activities involving charitable, educational, religious, and similar types of organizations, and similar types of activities.

2.2 **Confidential Information.** The Executive acknowledges that in Executive's employment Executive is or will be making use of, acquiring, or adding to Confidential Information of the Company, and therefore agrees in order to protect such Confidential Information to the following:

(a) Except as may be required by the lawful order of a court or agency of competent jurisdiction, or except to the extent that Executive has express authorization from the Company, Executive will keep secret and confidential indefinitely all Confidential Information that was acquired by or disclosed to Executive during the course of Executive's employment with the Company or its predecessors or any of its Affiliates and not to disclose the same, either directly or indirectly, to any other person, firm, or business entity, or to use it in any way, other than for the benefit of the Company.

(b) Upon Executive's termination of employment with the Company or any of its Affiliates for any reason or at the Company's earlier request, Executive will promptly return to the Company without any unauthorized downloads or erasures and in good physical appearance and working order, any and all computers, smart phones, tablets or other electronic devices, records, documents, physical property, information, computer disks or other materials relating to the business of the Company and its Affiliates obtained by Executive during the course of Executive's employment with the Company.

(c) Executive will keep the Company informed of, and will execute such assignments as may be necessary to transfer to the Company or its Affiliates ownership in, and the benefits of, any inventions, discoveries, improvements, trade secrets, developments, processes, and procedures made by Executive, in whole or in part, or conceived by Executive either alone or with others, which result from any work which Executive has done or may do for or at the request of the Company or any of its Affiliates, whether or not conceived by Executive while on holiday, on vacation, or off the premises of the Company, including such of the foregoing items conceived during the course of employment which are developed or perfected after Executive's termination of employment and will assist the Company, or other entity nominated by it, to obtain patents, trademarks and service marks and to execute all documents and to take all other actions which are necessary or appropriate to secure to the Company and its Affiliates the benefits thereof. Such patents, trademarks, and service marks will become the property of the Company. The Executive will deliver to the Company all sketches, drawings, models, figures, plans, outlines, descriptions or other information with respect thereto.

(d) To the extent that any court or agency seeks to have Executive disclose Confidential Information, without engaging in contempt of court, or any unlawful conduct, Executive will promptly inform the Company, and Executive will take such reasonable steps at the Company's expense to prevent disclosure of Confidential Information until the Company has been informed of such requested disclosure, and the Company has an opportunity to respond to such court or agency. To the extent that Executive obtains information on behalf of the Company or any of its Affiliates that may be subject to attorney-client privilege as to the Company's attorneys, Executive will take reasonable steps to maintain the confidentiality of such information and to preserve such privilege.

(e) **Protected Rights.** Nothing in this Agreement is intended to or shall prohibit, prevent, or otherwise restrict Employee from: (1) reporting any good faith allegation of unlawful employment practices to any appropriate federal, State, or local government agency enforcing discrimination laws; (2) reporting any good faith allegation of criminal conduct to any appropriate federal, State, or local official; (3) participating in a proceeding with any appropriate federal, State, or local government agency enforcing discrimination laws; (4) making any truthful statements or disclosures required by law, regulation, or legal process; and (5) requesting or receiving confidential legal advice.

(f) Nothing in the foregoing provisions of this Agreement will be construed so as to prevent Executive from disclosing or using, in connection with Executive's employment for himself or an employer other than the Company or any of its Affiliates, knowledge which was acquired by Executive during the course of Executive's employment with the Company and its Affiliates, and which (i) is generally known to persons of Executive's experience in other companies in the same industry or (ii) has become public, published or is otherwise in the public domain through no fault of Executive prior to any disclosure thereof by Executive.

2.3 Inventions. (a) Executive agrees that: (i) all Inventions shall be the sole and exclusive property of the Company, (ii) all original works of authorship which are made by Executive (solely or jointly) are works made for hire under the United States Copyright Act (17 U.S.C., et seq.), and (iii) Executive shall promptly disclose to the Company all Inventions, all original works of authorship and all work product relating thereto. This disclosure will include complete and accurate copies of all Tangible Embodiments of any Invention, works of authorship and work product. All Tangible Embodiments of any Invention, work of authorship or work product related thereto will be deemed to have been assigned to the Company as a result of the act of expressing any Invention or work of authorship therein. Executive hereby assigns to the Company (together with the right to prosecute or sue for infringements or other violations of the same) the entire worldwide right, title and interest to any such Inventions or works made for hire, and Executive agrees to perform, during and after employment, all acts deemed necessary or desirable by the Company to permit and assist it, at the Company's expense, in registering, recording, obtaining, maintaining, defending, enforcing and assigning Inventions or works made for hire in any and all countries. Executive hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as Executive's agents and attorneys-in-fact to act for and in Executive's behalf and instead of Executive, to execute and file any documents and to do all other lawfully permitted acts to further the above purposes with the same legal force and effect as if executed by Executive; this designation and appointment constitutes an irrevocable power of attorney and is coupled with an interest. Without limiting the generality of any other provision of this Section, Executive hereby authorizes the Company and each of its Affiliates (and their respective successors) to make any desired changes to any part of any Invention, to combine it with other materials in any manner desired, and to withhold Executive's identity in connection with any distribution or use thereof alone or in combination with other materials. The obligations of Executive set forth in this Section (including, but not limited to, the assignment obligations) will continue beyond the termination of Executive's employment with respect to Inventions conceived or made by Executive alone or in concert with others during Executive's employment with the Company and during the one year thereafter, whether pursuant to this Employment Agreement or otherwise. These obligations will be binding upon Executive and Executive's executors, administrators and other representatives.

(b) The provisions of Paragraph 2.3 do not waive or transfer Executive's rights to any invention for which no equipment, supplies, facility, or trade secret or confidential information of the Company was used and which was developed entirely on Executive's own time, unless the invention relates to the business of the Company, or to the Company's actual or demonstrably anticipated research or development, or the invention results from any work that Executive performed for the Company during the term of Executive's business relationship with the Company.

2.4 Defend Trade Secrets Act. This Agreement requires that Executive maintain and protect the Company's confidential and trade secret information. Executive understands that the federal Defend Trade Secrets Act law limits individuals' obligations and allows individuals to disclose trade secret information in certain circumstances. An individual cannot be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (i) in confidence to a federal, state, or local governmental official, either directly or indirectly, or to an attorney, and (ii) solely for the purpose of reporting or investigating a suspected violation of law. In addition, individuals cannot be held liable for disclosure of a trade secret made in a complaint or other document filed in a lawsuit or other proceeding, provided the filing is made under seal. Further, in a lawsuit for retaliation for reporting a suspected violation of law, an individual may disclose a trade secret to his or her attorney, and the individual may use the trade secret information in such court proceeding, if that individual (i) files any document containing the trade secret under seal, and (ii) does not disclose the trade secret, except pursuant to court order.

2.5 Noncompetition. Executive acknowledges that the Company has tangible plans to expand operations both nationally and internationally. Executive's employment or contributions in a managerial, strategic, administrative, ownership, investor, or consultant role for a competitor in a fashion similar to Executive's duties and responsibilities for the Company or that would inevitably or likely result in the Executive's use or disclosure of Confidential Information would cause irreparable harm to the Company's operations and plans for expansion. Thus, during employment and for a one (1) year period following the termination of employment for any reason, Executive is prohibited from working for a Competitor in any such role described in this Paragraph in the United States or in any foreign country in which the Company and/or a Related Party engage, or have developed tangible plans to engage, in business. Ownership of five percent or less of the outstanding stock of any corporation listed on the New York or American Stock Exchange or traded in The Nasdaq Stock Market does not breach this Section 2.5.

2.6 Noninterference. The Executive agrees that Executive will not, at any time during the term of Executive's employment by the Company or any of its Affiliates and for the one (1) year period following the Executive's termination of employment for any reason, without the prior written consent of the Company, directly or indirectly actually, or attempt to, contact, solicit or induce any employee, agent or other representative or associate of the Company or any of its Affiliates to terminate that employee's or other entity's relationship with the Company or any of its Affiliates as the case may be or interfere with a relationship between the Company or any of its Affiliates and any of their employees, agents, contractors, representatives, customers, suppliers or distributors.

2.7 Residency. Executive (i) represents that Executive is currently a resident of the United States of America and (ii) covenants that Executive has no plans to become a resident of a country other than the United States of America or otherwise take any action which would exclude Executive from taxation by the United States of America during the Employment Period.

2.8 **Remedies.** The Executive acknowledges and agrees that the duration and restrictions set forth herein have been specifically discussed and negotiated and are reasonable in view of all the facts and circumstances known to Executive. The Executive also acknowledges that Executive's compliance with the covenants in this Agreement are necessary to protect the Company, and that a breach of any of these covenants will result in irreparable and continuing damage to the Company for which there will be no adequate remedy at law and Executive agrees that in the event of a breach of any of said covenants, the Company and its Affiliates and their successors and assigns will be entitled to injunctive relief, without the need for posting bond, and to such other relief as is proper under the circumstances.

2.9 **Definitions.** As used in the Agreement, the following terms have the following meanings:

"Affiliate" means with respect to a specified person or entity, any person or entity that directly or indirectly controls, is controlled by, or is under common control with, the specified person or entity.

"Competitor" means any fast food or quick-service restaurants, including owners and operators thereof, selling/marketing submarine, hoagie, grinder, hero-type, toasted or flat bread or deli-style sandwiches or such sandwich meals that generate system-wide sales of 15.0% or greater in the aggregate.

"Confidential Information" means all of the Company's meal preparation techniques, ingredient and other costs, pricing strategies, supplier information, training methods, customer surveys, marketing plans, advertising and promotion methods and plans, business plans, employee salary, wage, benefit and other compensation information (including that pertaining to Executive), recipes, methods of food preparation, product formulae, methods and standards, data and data bases, research, operational information, management information, financial information, marketing information, tax information, customer demographic information, site selection and evaluation information, lease terms, equipment specifications and all other confidential, non-public information, trade secrets, customer records and other customer information of or concerning the Company and its Affiliates. Confidential Information shall not include information which is or becomes publicly known through no wrongful act of Executive, but shall include compilations of such information where the coordination, selection or arrangement of such information is not publicly known or available.

"Control," "controlled" or "controlling" or words or phrases of similar import means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by contract or otherwise. For avoidance of doubt, any person or entity that is greater than or equal to 50 percent owned, or of which greater than or equal to 50 percent of the voting interests of such person or entity is owned or controlled, will be considered an Affiliate.

"Inventions" means any and all inventions, developments, discoveries, improvements, works of authorship, concepts or ideas, or expressions thereof, whether or not subject to patents, copyright, trademark, trade secret protection or other intellectual property right protection (in the United States or elsewhere), and whether or not reduced to practice, conceived

or developed by Executive while employed with the Company or within one year following termination of such employment that relate to or result from the actual or anticipated business, work, research or investigation of the Company or any of its Affiliates or which are suggested by or result from any task assigned to or performed by Executive for the Company or any of its Affiliates.

“Non-Competition Period” has the meaning defined in Paragraph 2.5.

“Related Party(ies)” means the Company and its Affiliates, subsidiaries, area developers, franchisees, and joint venturers.

“Tangible Embodiments” means all source code, object code or machine-readable copies, documentation, work notes, flow-charts, diagrams, test data, reports, samples and other tangible evidence or results of Inventions, works of authorship and work product.

3. Miscellaneous.

3.1 Assignment. Any attempt by Executive to assign Executive’s rights or delegate Executive’s duties under this Agreement without the prior written consent of the Company will be void. This Agreement will inure to the benefit of and will be binding upon the Company and its Affiliates and their successors and assigns, and will inure to the benefit of and be binding upon Executive and Executive’s personal representatives, successors-in-interest, and permitted assigns.

3.2 Waiver of Breach. No waiver shall be binding unless executed in writing by the party making the waiver. The waiver by either the Company or Executive of a breach of any provision of this Agreement will not operate as or be deemed a waiver of any subsequent breach by either the Company or Executive.

3.3 Severability. It is mutually agreed and understood by the parties that if any of the agreements and covenants contained herein be determined by any court of competent jurisdiction to be invalid by virtue of being vague or unreasonable, including but not limited to the provisions of Section 1, then the parties hereto consent that this Agreement will be amended retroactive to the date of its execution to include the terms and conditions said court deems to be reasonable and in conformity with the original intent of the parties and the parties hereto consent that under such circumstances, said court will have the power and authority to determine what is reasonable and in conformity with the original intent of the parties to the maximum extent that said covenants and/or agreements are enforceable.

3.4 Amendment. This Agreement may be amended or canceled by mutual Agreement of the parties in writing without the consent of any other person.

3.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument. Each counterpart may consist of a copy hereof containing multiple signature pages, each signed by one party hereto, but together signed by both of the parties hereto.

3.6 **Entire Agreement.** This Agreement and the Executive Employment Agreement constitutes the sole and complete Agreement between the Company and Executive and supersedes all other agreements, both oral and written, between the Company and Executive with respect to the matters contained herein including, without limitation any severance agreements or arrangements between the parties. No verbal or other statements, inducements, or representations have been made to or relied upon by Executive. The parties have read and understand this Agreement.

3.7 **Expenses.** Each party will be responsible for and bear, and hold the other party harmless from, all of its own costs and expenses (including the costs and expenses of its representatives) incurred at any time in connection with entering into or pursuing its rights under this Agreement.

3.8 **No Strict Construction.** The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be used against any person.

3.9 GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED UNDER ILLINOIS LAW, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES.

3.10 WAIVER OF JURY TRIAL. THE COMPANY AND EXECUTIVE HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHT, POWER, OR REMEDY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR UNDER OR IN CONNECTION WITH ANY AMENDMENT, INSTRUMENT, DOCUMENT, OR AGREEMENT DELIVERED OR THAT MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH OR ARISING FROM A RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT OR ANY RELATED AGREEMENT, AND AGREE THAT ANY SUCH ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE TERMS AND PROVISIONS OF THIS SECTION CONSTITUTE A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

3.11 CONSENT TO JURISDICTION. THE PARTIES HERETO HEREBY IRREVOCABLY AGREE THAT ANY SUIT, ACTION, PROCEEDING OR CLAIM AGAINST THEM ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT, OR ANY JUDGMENT ENTERED BY ANY COURT IN RESPECT THEREOF, MAY BE BROUGHT OR ENFORCED IN THE STATE OR FEDERAL COURTS LOCATED IN CHICAGO, ILLINOIS AND THE EMPLOYEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT HE MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY PROCEEDING BROUGHT IN CHICAGO, ILLINOIS AND FURTHER IRREVOCABLY WAIVES ANY CLAIMS THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

* * * * *

INTENDING TO BE LEGALLY BOUND, the parties have executed this Agreement as of the Effective Date. By signing below Executive acknowledges and signifies that Executive has carefully read this entire agreement and has had time to consider the terms, including the opportunity to have it reviewed by independent counsel, and fully understands and agrees to all provisions.

POTBELLY SANDWICH WORKS, LLC,
an Illinois limited liability company

By: _____
Its Authorized Signatory

EXECUTIVE



Potbelly Corporation Appoints Adam Noyes as Chief Operations Officer

Industry veteran brings deep company, franchise operations and supply chain management capabilities to Potbelly

CHICAGO, September 1, 2020 – Potbelly Corporation (NASDAQ: PBPB), the iconic neighborhood sandwich shop, today announced the appointment of Adam Noyes as the Company’s Chief Operations Officer (“COO”) effective as of August 28, 2020. The new COO position will assume the responsibilities of the Company’s prior Chief Restaurant Operations Officer (“CROO”) position, which will be vacated on September 4, 2020. In this leadership position, Mr. Noyes will focus on staffing, training and developing Potbelly’s most important resource – its people. His emphasis will be delivering overall customer experiences that bring people back again and again. He will concentrate on traffic-driven top-line growth, improved speed and throughput in shop and through digital channels, growing shop margins, and ensuring franchise operations integration.

Bob Wright, President and Chief Executive Officer of Potbelly commented, “Adam is a seasoned restaurant operations leader who possesses the combination of unique skills and experience that are a perfect fit for Potbelly at this stage of our turnaround, as well as our next stage of growth. Adam’s experience in the restaurant space means deep knowledge of the customer experience and team member needs from the bottom up. He has successfully led company and franchise operations at every level. In addition to his operations leadership depth, Adam brings a breadth of talent in training, operations support, supply chain and technology. He is a tremendous addition to our team, and we are looking forward to his many contributions as we strengthen this great brand and return it to growth.”

Mr. Noyes added, “I am thrilled to join the Potbelly family of over 6,000 employees and many franchise owners. Our continued turnaround will be fueled by achieving and exceeding customer expectations on every visit in our shops. I am eager to support and lead our passionate team in delivering on our Fresh, Fast & Friendly customer promise while positioning Potbelly for an exciting future of growth.”

Executive Profile

Adam Noyes has more than 30 years of experience in the restaurant industry. He has a long track record of Company and Franchise management and operations, supply chain management, restaurant technology solutions development, quality assurance and guest services. Prior to his most recent position, Mr. Noyes served in a variety of senior leadership roles with Checkers and Rally's Restaurants where his accomplishments included:

- Tripled EBITDA in company owned restaurants from 2010 to 2016.
- Led the franchise operations turnaround effort and delivered over 20% average sales growth and six consecutive years of same store sales growth.
- Refined back office system activation and improved food cost and labor management with real-time reporting for operators.
- Optimized supply chain processes delivering millions in savings.
- Created a new prototype restaurant image with reduced investment and operating cost.
- Leveraged experience to lead franchise sales, real estate, and construction teams to achieve 45+ openings in 2019.

Mr. Noyes holds a Bachelor of Arts in Business Management from the University of Florida and is earning a Masters in Business Administration from the University of South Florida.

About Potbelly

Potbelly Corporation is a neighborhood sandwich concept that has been feeding customers' smiles with warm, toasty sandwiches, signature salads, hand-dipped shakes and other fresh menu items, customized just the way customers want them, for more than 40 years. Potbelly promises Fresh, Fast & Friendly service in an environment that reflects the local neighborhood. Since opening its first shop in Chicago in 1977, Potbelly has expanded to neighborhoods across the country - with more than 400 company-owned shops in the United States. Additionally, Potbelly franchisees operate over 40 shops in the United States. For more information, please visit our website at www.potbelly.com.

Contact Investor Relations:

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