

FRANCHISE AGREEMENT
ROCOCO FRANCHISE CORPORATION

EXHIBIT FA

ROCOCO FRANCHISE CORPORATION
Franchise Agreement

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FRANCHISE AGREEMENT

ROCOCO FRANCHISE CORPORATION

THIS AGREEMENT, made this ____ day of _____, 20____, by and between Rococo Franchise Corporation, a corporation formed and operating under the laws of the State of Wisconsin, having its principal place of business at 105 East Wisconsin Avenue, Oconomowoc, Wisconsin 53066, (hereinafter referred to as "FRANCHISOR"), and _____, whose principal address is _____ (hereinafter referred to as "FRANCHISEE").

WHEREAS, FRANCHISOR as the result of the expenditure of time, skill, effort, and money, has developed, and owns and will use its best efforts to provide a unique system (hereinafter "System") relating to the establishment, development and operation of a restaurant concept specializing in pizza and offering and serving other food and beverage items (the "Products"), the distinguishing characteristics of which System include, without limitation, marketing and advertising methods and techniques, operating procedures and materials, training and supervision, management assistance, administrative systems, business and reporting forms, staffing procedures, and product and equipment specifications; all of which may be changed, improved and further developed by FRANCHISOR; and

WHEREAS, FRANCHISOR uses and licenses certain trademarks and service marks, including "ROCKY ROCOCO" and associated logo, and may hereafter adopt, use and license additional service marks, trademarks and tradenames in connection with the ROCKY ROCOCO RESTAURANTS (collectively, hereinafter referred to as the "Marks"), and FRANCHISOR continues to develop, use and control such Marks for the benefit and exclusive use of FRANCHISOR, and its franchisees, in order to identify for the public the source of services marketed thereunder and the system, and to represent the System's high standards of quality and service; and

WHEREAS, FRANCHISEE desires to enter into the business of operating a restaurant specializing in pizza and offering and serving other food and beverage items under

FRANCHISOR's System (the "RESTAURANT") and wishes to obtain a franchise for that purposes, as well as to receive the training, referrals and other assistance provided by FRANCHISOR, in connection therewith; and

WHEREAS, FRANCHISEE understands and acknowledges the importance of FRANCHISOR's high and uniform standards of quality, and service and the necessity of operating the RESTAURANT in conformity with FRANCHISOR's standards and specifications; and

WHEREAS, FRANCHISEE hereby acknowledges that FRANCHISEE has read this Agreement and the FRANCHISOR's Disclosure Document and that FRANCHISEE understands and accepts the terms, conditions and covenants contained in this Agreement as being reasonably necessary to maintain the FRANCHISOR's high standards of quality and service and the uniformity of those standards at all franchise locations and thereby to protect and preserve the goodwill of the Marks. FRANCHISEE acknowledges that FRANCHISEE has conducted an independent investigation of the business venture contemplated by this Agreement and recognizes that, like any other business, the nature of the business conducted by ROCKY ROCOCO RESTAURANTS may evolve and change over time, that an investment in a ROCKY ROCOCO RESTAURANT involves business risks and that the success of the venture is largely dependent upon FRANCHISEE's business abilities and efforts; and

WHEREAS, the FRANCHISOR expressly disclaims the making of, and FRANCHISEE acknowledges that FRANCHISEE has not received or relied upon, any warranty or guarantee, express or implied, as to the revenues, profits or success of the business venture contemplated by this Franchise Agreement. FRANCHISEE acknowledges that FRANCHISEE has no knowledge of any representations by the FRANCHISOR, or its officers, directors, shareholders, employees or agents that are contrary to the statements made in the FRANCHISOR's Disclosure Document or to the terms herein. FRANCHISEE further represents to FRANCHISOR, as an inducement to its entry into this Agreement, that all statements in FRANCHISEE's application for the franchise are accurate and complete and that FRANCHISEE has made no misrepresentations or material omissions in obtaining the franchise.

NOW, THEREFORE, the parties, in consideration of the undertakings and commitments of each party to the other party set forth herein, hereby mutually agree as follows:

I. GRANT OF FRANCHISE AND FRANCHISE FEE

A. GRANT OF FRANCHISE

FRANCHISOR hereby grants unto FRANCHISEE the right to use the mark, "ROCKY ROCOCOTM", and the right, franchise and privilege to use FRANCHISOR's techniques in the

operation of a ROCKY ROCOCO RESTAURANT, under the specific conditions hereinafter set forth, at one location only, from which FRANCHISEE shall operate the RESTAURANT continuously and without interruption throughout the term of this Agreement, such location to be _____ in the _____ of _____, State of _____ (hereinafter "Franchise Location").

FRANCHISOR will not, so long as this Agreement is in force and effect, and FRANCHISEE is not in default under any of the terms hereof, franchise or operate any other ROCKY ROCOCO RESTAURANT within a radius of one (1) mile of the RESTAURANT, except that a restaurant located within a major regional shopping mall shall not be granted a one (1) mile radius protection, nor shall a restaurant located within a major regional shopping mall which is within FRANCHISEE's one (1) mile radius protection be a violation of such protection, and if in the sole and exclusive judgment of FRANCHISOR, the RESTAURANT is located within a central business district the one (1) mile radius protection shall not apply. A major regional shopping mall is defined as a regional shopping mall consisting of a minimum of five hundred thousand (500,000) square feet of space, including a minimum of two (2) department stores as anchor tenants.

FRANCHISEE expressly acknowledges and agrees that this franchise relates solely to the location set forth above, and that the granting hereof is expressly subject to the conditions and limitations contained in this Agreement. Any change in location must first be approved in writing and signed by the FRANCHISOR.

FRANCHISOR retains the right, in FRANCHISOR's sole discretion, and without granting any right to FRANCHISEE:

1. To operate and grant to others the right to operate ROCKY ROCOCO RESTAURANTS, at such locations that do not infringe upon your Designated Territory, and on such terms and conditions as FRANCHISOR deems appropriate; and
2. To sell the products and services authorized for ROCKY ROCOCO RESTAURANTS under the Marks, or under other trademarks and service marks, through similar or dissimilar channels of distribution and on such terms and conditions as FRANCHISOR deems appropriate.

FRANCHISEE agrees that FRANCHISEE will at all times faithfully, honestly and diligently perform the obligations hereunder, continuously exert his best efforts to promote and enhance the RESTAURANT's business and not engage in any other business or activity that may conflict with FRANCHISEE's obligations hereunder. FRANCHISEE may not operate the RESTAURANT at any other site, except as set forth herein, without FRANCHISOR's prior written consent.

B. FRANCHISE FEE

In consideration of the franchise granted herein, FRANCHISEE shall pay to FRANCHISOR the sum of Twenty five thousand Dollars (\$25,000.00), payable upon the execution of this Agreement, less any deposit paid by FRANCHISEE to FRANCHISOR prior to the execution of this Agreement. The Franchise Fee is nonrefundable upon execution of this Agreement as consideration for expenses incurred by FRANCHISOR in furnishing assistance and services to FRANCHISEE and for FRANCHISOR's lost or deferred opportunity to franchise others, except as provided in Paragraph I.C. and V.A. of this Agreement.

C. CANCELLATION

FRANCHISEE shall have ten (10) days from the date of the execution of this Agreement within which to cancel this agreement. In the event FRANCHISEE elects to so cancel, FRANCHISEE shall send written notice of FRANCHISEE's election to FRANCHISOR; said notice shall be accompanied by a demand for refund and FRANCHISOR's signed copy of this Agreement. FRANCHISOR shall make full refund of all deposits within five (5) days of receipt of FRANCHISEE's notice, except as provided for in the Franchise Deposit Agreement.

FRANCHISOR shall have twenty-one (21) days from the receipt of the signed Franchise Agreement within which to perform a credit check on the FRANCHISEE and/or FRANCHISEE's principals. In the event the credit report is unacceptable to FRANCHISOR, FRANCHISOR shall have the right to cancel this Agreement by returning to the FRANCHISEE all signed copies of this Agreement along with a full refund of all deposits paid by the FRANCHISEE.

II. TERM AND RENEWAL

A. TERM

This Agreement shall be effective and binding from the date of its execution and shall continue for a period of fifteen (15) years thereafter.

B. RENEWAL

FRANCHISEE may, at FRANCHISEE's option, renew this Franchise for an additional fifteen (15) year term, provided, that at the end of the initial term:

1. FRANCHISEE has given FRANCHISOR written notice of such election at least two hundred forty (240) days prior to the expiration of the term of this Agreement. FRANCHISOR agrees to give FRANCHISEE written notice, not more than sixty (60)

days after receipt of FRANCHISEE's notice, of FRANCHISOR's decision to renew or not renew the franchise and the conditions or deficiencies in the operation of the restaurant, if any, that FRANCHISEE must correct and the time periods in which such conditions or deficiencies must be corrected. FRANCHISOR shall give FRANCHISEE written notice of a decision not to grant a renewal based upon FRANCHISEE's failure to cure deficiencies not less than ninety (90) days prior to the expiration of this Agreement; and

2. FRANCHISEE is not in default of any provision of this Agreement, any amendment hereof or successor hereto, or any other agreement between FRANCHISEE and FRANCHISOR, or FRANCHISOR's subsidiaries and affiliates, and has substantially complied with all the terms and conditions of such agreements during the terms thereof; and

3. FRANCHISEE shall execute upon renewal FRANCHISOR's then-current form of franchise agreement, which agreement shall supersede in all respects this Agreement, and the terms of which may differ from the terms of this Agreement. FRANCHISEE will not be required, however, to pay again the initial fee provided for, or its equivalent, as a condition for renewal; and

4. FRANCHISEE maintains possession of and shall agree to remodel the franchised premises in order to bring the inside and outside of the franchised premises up to the then-current standards of the FRANCHISOR prior to the commencement of the renewal term, or in the event, FRANCHISEE is unable to maintain possession of the premises, or in FRANCHISOR's judgment, the RESTAURANT should be relocated, FRANCHISEE secures substitute premises approved by FRANCHISOR and agrees to construct and develop such substitute premises in compliance with the then-current standards of the FRANCHISOR; and

5. Prior to renewal, FRANCHISEE shall, at FRANCHISEE's expense, attend and successfully complete to FRANCHISOR's reasonable satisfaction any retraining program FRANCHISOR may prescribe in writing.

III. SITE SELECTION, LEASE OF PREMISES AND DEVELOPMENT OF RESTAURANT

A. SITE SELECTION

FRANCHISEE acknowledges that, prior to the execution date of this Agreement, FRANCHISEE (with or without FRANCHISOR's assistance) located and FRANCHISOR approved the site for the premises of the RESTAURANT. FRANCHISEE acknowledges and

understands that FRANCHISOR's engaging in site selection activities, FRANCHISOR's suggestions, FRANCHISOR's approval of the premises and any information communicated to FRANCHISEE regarding the premises do not constitute a representation or warranty of any kind, express or implied, as to the suitability of the premises for a ROCKY ROCOCO RESTAURANT or for any other purpose and shall in no way give rise to any liability of FRANCHISOR with regard to the viability of any location selected. FRANCHISOR's approval of the premises indicates only that FRANCHISOR believes that the premises fall within the acceptable criteria established by FRANCHISOR as of the time period encompassing the evaluation. Both FRANCHISEE and FRANCHISOR acknowledge that application of criteria that have been effective with respect to other sites and premises may not be predictive of potential for all sites and premises and that, subsequent to FRANCHISOR's approval of a site and premises, demographic and/or economic factors, including competition from other food service businesses, included in or excluded from FRANCHISOR's criteria could change, thereby altering the potential of a site and premises. The uncertainty and instability of such criteria are beyond FRANCHISOR's control, and FRANCHISOR shall not be responsible for the failure of a site and premises approved by FRANCHISOR to meet expectations as to potential revenue or operational criteria. FRANCHISEE further acknowledges and agrees that his acceptance of a franchise for the operation of a ROCKY ROCOCO RESTAURANT at the premises is based on his own independent investigation of the suitability of the premises.

The Franchise Location shall be used for no purpose other than the operation of the RESTAURANT. FRANCHISEE shall not assign its lease or sublet the Franchise Location, or any portion of the Franchise Location, without the prior written consent of FRANCHISOR.

B. LEASE OF PREMISES

FRANCHISEE acknowledges that FRANCHISOR has approved the lease for the premises of the RESTAURANT prior to the execution date of this Agreement. FRANCHISEE agrees that FRANCHISEE will not execute a lease which FRANCHISOR has disapproved and shall deliver a copy of the signed lease to FRANCHISOR within fifteen (15) days after its execution. FRANCHISEE further agrees that FRANCHISEE will, at FRANCHISOR's request, collaterally assign any lease to FRANCHISOR as security for FRANCHISEE's timely performance of all obligations under this Agreement and secure the lessor's consent to such collateral assignment. FRANCHISEE acknowledges that FRANCHISOR's approval of the Lease for the premises does not constitute a guarantee or warranty by FRANCHISOR, express or implied, of the successful operation or profitability of a ROCKY ROCOCO RESTAURANT operated at the premises. Such approval indicates only that FRANCHISOR believes that the premises and the terms of the lease fall within the acceptable criteria established by FRANCHISOR as of the time period encompassing the evaluation. FRANCHISEE shall duly and timely perform all of the terms, conditions, covenants and obligations imposed upon FRANCHISEE under the lease.

C. FINANCING PLAN

Prior to development of the ROCKY ROCOCO RESTAURANT, FRANCHISEE must obtain FRANCHISOR's consent to FRANCHISEE's financing plan, which consent shall not be unreasonably withheld. FRANCHISEE must submit a written plan for financing, which must include the sources and terms of financing and other information FRANCHISOR may require.

D. DEVELOPMENT OF RESTAURANT

Unless the RESTAURANT has already been developed and operated prior to the date of this Agreement, FRANCHISEE shall be responsible for developing the RESTAURANT. FRANCHISOR will furnish to FRANCHISEE prototype or protostyle plans and specifications for a ROCKY ROCOCO RESTAURANT which reflect FRANCHISOR's requirements for dimensions, exterior design, interior design and layout, image, building materials, fixtures, equipment, furniture, signs and decor. Promptly after obtaining possession of the Premises and having been furnished with these plans and specifications, FRANCHISEE will do or cause to be done the following at FRANCHISEE's sole expense:

1. Prepare and submit to FRANCHISOR for FRANCHISOR's prior approval (which may be granted or withheld in FRANCHISOR's sole discretion) any proposed modifications to FRANCHISOR's prototype or protostyle plans and specifications. Such modifications are allowed only to the extent necessary to comply with applicable ordinances, building codes, permit requirements and lease or deed requirements and restrictions;
2. Obtain all required building, utility, sign, health, sanitation, business and other permits and licenses required for construction and operation of the RESTAURANT, including licenses and permits authorizing the RESTAURANT lawfully to sell and/or serve alcoholic beverages on the Premises;
3. Construct all required improvements to the Premises, purchase and install all required fixtures and equipment and decorate the Premises in compliance with the plans and specifications FRANCHISOR approves and all applicable ordinances, building codes, permit requirements and lease or deed requirements and restrictions;
4. Purchase in accordance with FRANCHISOR's specifications and requirements an opening inventory of food and beverage products, ingredients and other products and supplies required for the RESTAURANT;
5. Establish filing, accounting and inventory control systems conforming to the requirements prescribed by FRANCHISOR; and

6. Use a licensed general contractor reasonably satisfactory to FRANCHISOR to perform construction work at the site. If FRANCHISOR shall request, FRANCHISEE shall immediately furnish to FRANCHISOR prior to commencement of construction and/or remodeling and/or refurbishing of FRANCHISEE's location, the names and addresses of any subcontractor and/or vendor to be involved in such construction, furnishing or design activity; copies of all permits, licenses, contractor's liability insurance certificates or other items required for the lawful construction, equipping and operation of the RESTAURANT; and copies of all construction contracts and documents. FRANCHISOR shall not be responsible for delays in the construction, equipping or decoration of the premises, or for any loss resulting from the location design or construction. FRANCHISOR shall be permitted, at FRANCHISOR's option, to conduct a final inspection of the premises and may require such corrections and modifications as it deems necessary to bring the premises into compliance with approved plans and specifications.

FRANCHISOR will provide such consultation in connection with the RESTAURANT's development as FRANCHISOR deems appropriate.

FRANCHISEE specifically agrees not to hold FRANCHISOR liable for any defects or alleged defects in the premises, plans and specifications and the equipment specifications to be furnished by FRANCHISOR to FRANCHISEE. FRANCHISEE shall indemnify FRANCHISOR and hold FRANCHISOR harmless from any damage occurring to third parties should there be any defect in said plans and specifications.

E. FIXTURES, EQUIPMENT, FURNITURE AND SIGNS

FRANCHISEE agrees to use in constructing and operating the RESTAURANT fixtures, equipment, furniture and signs that meet FRANCHISOR's specifications and standards for appearance, function and performance. FRANCHISEE may purchase fixtures, equipment, furniture and signs from any supplier which meet FRANCHISOR's specifications and standards for appearance, function and performance.

All signs to be used in connection with the RESTAURANT, both exterior and interior, must conform to FRANCHISOR's sign criteria as to type, color, size, design, and location. All signs must be approved in writing by FRANCHISOR prior to installation or display.

F. RESTAURANT OPENING

FRANCHISOR shall be permitted, at FRANCHISOR's option, to conduct a final inspection of the premises and may require such corrections and modifications as FRANCHISOR deems necessary to bring the premises into compliance with approved plans and

specifications. FRANCHISEE agrees that FRANCHISEE will not open the RESTAURANT for business without FRANCHISOR's prior written approval. FRANCHISEE agrees to complete all required development and open the RESTAURANT for business within six (6) months after the date of this Agreement.

IV. PROPRIETARY MARKS

A. OWNERSHIP AND GOODWILL OF MARKS

It is understood and agreed that this license to use FRANCHISOR's Marks applies only to their use in connection with the operation of the business licensed hereunder and includes only such Marks as are now or may hereafter be designated by FRANCHISOR in writing for use by FRANCHISEE, and no other Marks of FRANCHISOR now existing or yet to be developed or acquired by FRANCHISOR. FRANCHISEE agrees to operate and advertise the RESTAURANT only under the Marks designated by FRANCHISOR in writing for that purpose. FRANCHISOR reserves the right to change, improve, discontinue, and substitute its tradenames, trademarks, service marks and logotypes. All provisions of this Agreement applicable to the Marks shall apply to any additional trademarks, service marks, and tradenames FRANCHISOR hereafter authorizes FRANCHISEE to use.

FRANCHISEE acknowledges that FRANCHISOR is the owner of all right, title and interest in and to the Marks and FRANCHISOR's ownership of the identification schemes, standards, specifications, operating procedures and other concepts embodied in the System. FRANCHISEE accordingly agrees that any unauthorized use of the System and the Marks is and shall be deemed an infringement of FRANCHISOR's rights; that, except as expressly provided by this Agreement, FRANCHISEE acquires no right, title or interest therein; that any and all goodwill associated with the System and the Marks shall inure exclusively to FRANCHISOR's benefit; and that, upon the expiration or termination of this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with FRANCHISEE's use of the System and the Marks.

B. LIMITATIONS ON FRANCHISEE'S USE OF MARKS

FRANCHISEE acknowledges that the use of the Marks outside of the scope of this Agreement, without FRANCHISOR's prior written consent, is an infringement of FRANCHISOR's license to the right, title and interest in and to the Marks, and expressly covenants that during the term of this Agreement, and after the expiration or termination hereof, FRANCHISEE shall not, directly or indirectly, commit an act of infringement or contest or aid in contesting the validity or ownership of FRANCHISOR's Marks, or take any other action in derogation thereof.

FRANCHISEE shall operate the RESTAURANT under the trade name, "ROCKY ROCOCO PAN STYLE PIZZA AND PASTA", and shall use no other name.

FRANCHISEE shall not use the Marks as part of FRANCHISEE's corporate or other legal name, nor hold out or otherwise employ the Marks to perform any activity, or to incur any obligation or indebtedness, in such a manner as could reasonably result in making FRANCHISOR liable therefor.

FRANCHISEE understands and acknowledges that each and every detail of FRANCHISOR's System is important to FRANCHISEE and FRANCHISOR in order to develop and maintain high and uniform standards of quality and service and hence to protect and enhance the reputation and goodwill of FRANCHISOR. FRANCHISEE accordingly agrees:

1. Except as provided herein, to refrain from using any of the Marks in conjunction with any other word or symbol without FRANCHISOR's prior written consent;
2. To adopt and use the Marks licensed hereunder solely in the manner prescribed by FRANCHISOR;
3. To observe all such requirements with respect to service mark, trademark and copyright notices, fictitious name registrations, and the display of the legal name or other identifications of FRANCHISEE as FRANCHISOR may direct in writing; and
4. To execute and convey all documents requested by FRANCHISOR or FRANCHISOR's counsel that are necessary to obtain protection for the Marks or to maintain their continued validity or enforceability, and to take no action that would jeopardize the validity or enforceability thereof.

C. NOTIFICATION OF INFRINGEMENTS AND CLAIMS

FRANCHISEE shall promptly notify FRANCHISOR of any use by any person or legal entity other than FRANCHISOR, or another of FRANCHISOR's franchisees, of any Marks licensed hereunder, any colorable variation thereof, or any other mark in which FRANCHISOR has or claims a proprietary interest. FRANCHISEE further agrees to notify FRANCHISOR promptly of any litigation instituted by any person or legal entity against FRANCHISOR or FRANCHISEE involving the Marks. In the event FRANCHISOR, in its sole discretion, undertakes the defense or prosecution of any litigation relating to the Marks, FRANCHISEE agrees to execute and convey to FRANCHISOR any and all documents, and to render such assistance as may, in the opinion of FRANCHISOR's counsel, be reasonably necessary to carry

out such defense or prosecution. FRANCHISOR alone has the right to control or settle any litigation or proceedings relating to the Marks.

D. NON-EXCLUSIVE USE OF MARKS

FRANCHISEE expressly acknowledges and agrees that this license to use the Marks is nonexclusive, and that FRANCHISOR has and retains the rights among others:

1. To grant other licenses for the Marks, in addition to those licenses already granted to existing franchisees; and
2. To use the Marks in soliciting customers for FRANCHISOR's restaurants and other related services. This solicitation may occur within FRANCHISEE's designated area.

E. INDEMNIFICATION OF FRANCHISEE/DISCONTINUANCE OF USE OF MARKS

FRANCHISOR agrees to indemnify FRANCHISEE against and to reimburse FRANCHISEE for all damages for which FRANCHISEE is held liable in any proceeding in which FRANCHISEE's proper use of any Mark in compliance with this Agreement is held to constitute trademark infringement, unfair competition or dilution and for all costs FRANCHISEE reasonably incurs in defending any such claim brought against FRANCHISEE or any proceeding in which FRANCHISEE is named as a party, provided that FRANCHISEE has timely notified FRANCHISOR of such claim or proceeding and has otherwise complied with this Agreement. FRANCHISOR, at FRANCHISOR's option, shall be entitled to defend and control the defense of any proceeding arising out of FRANCHISEE's use of any Mark pursuant to and in compliance with this Agreement.

If it becomes advisable at any time in FRANCHISOR's sole discretion for FRANCHISOR and/or FRANCHISEE to modify or discontinue use of any Mark and/or use one or more additional or substitute trademarks or service marks, FRANCHISEE agrees to comply with FRANCHISOR's directions to modify or otherwise discontinue the use of such Mark and/or use one or more additional or substitute trademarks or service marks within a reasonable time after notice thereof by FRANCHISOR. FRANCHISOR's sole obligation in any such event shall be to reimburse FRANCHISEE for FRANCHISEE's reasonable out-of-pocket costs of changing signage. FRANCHISOR shall not be obligated to reimburse FRANCHISEE for any loss of goodwill associated with any modified or discontinued Mark or for any expenditures made by FRANCHISEE to promote a modified or substitute trademark or service mark.

The Minnesota Department of Commerce requires that the FRANCHISOR indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee's use of the FRANCHISOR's trademark infringes trademark rights of the third party. FRANCHISOR does not indemnify against the consequences of franchisee's use of the FRANCHISOR's trademark except in accordance with the requirements of the franchise, and, as a condition to indemnification, franchisee must provide notice to FRANCHISOR of any such claim within ten (10) days and tender the defense of the claim to FRANCHISOR. If FRANCHISOR accepts the tender of defense, FRANCHISOR has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim.

V. TRAINING AND ASSISTANCE

A. TRAINING

Prior to the RESTAURANT's opening, FRANCHISOR shall furnish an initial training program on the operation of a ROCKY ROCOCO RESTAURANT at such place and time as FRANCHISOR designates. FRANCHISEE (or, if FRANCHISEE is a partnership, limited liability company or corporation, a designated person) shall be required to complete all phases of the initial training program to FRANCHISOR's satisfaction and to participate in all other activities required to open the RESTAURANT. FRANCHISEE shall be solely responsible for the compensation, travel, lodging and living expenses which FRANCHISEE (or its designated person) incurs in connection with the initial training program or any supplemental or refresher training programs.

Subsequent to the RESTAURANT's opening, FRANCHISOR will provide training (subject to reasonable limitations FRANCHISOR prescribes as to frequency and time) to any new manager of the RESTAURANT. FRANCHISOR shall have the right to charge FRANCHISEE reasonable fees for such training. FRANCHISOR shall also have the right to require that FRANCHISEE (or its designated person) and/or any managers complete supplemental and refresher training programs at such times and places as FRANCHISOR may designate.

FRANCHISEE acknowledges that, unless FRANCHISEE (or its designated person) expressly informs FRANCHISOR at the end of FRANCHISOR's initial training program that FRANCHISEE does not feel completely trained in the operation of a ROCKY ROCOCO RESTAURANT, if FRANCHISEE (or its designated person) passes FRANCHISOR's standard tests for determining proficiency in and knowledge of the operation of a ROCKY ROCOCO RESTAURANT and otherwise completes all phases of the initial training program to FRANCHISOR's satisfaction, FRANCHISEE shall be deemed to have been sufficiently trained in the operation of a ROCKY ROCOCO RESTAURANT.

If, during the initial training program, FRANCHISOR determines, in FRANCHISOR's sole discretion, that FRANCHISEE (or its designated person) is unable to complete the initial training program to FRANCHISOR's satisfaction, FRANCHISOR may terminate this Agreement. If this Agreement is terminated, and provided that FRANCHISEE executes all releases, waivers and other documents prescribed by FRANCHISOR, FRANCHISOR shall refund FRANCHISEE's initial franchise fee less the expenses FRANCHISOR incurred in connection with granting the Franchise, developing the RESTAURANT and training FRANCHISEE. FRANCHISEE acknowledges that such expenses will be no less than Five thousand Dollars (\$5,000.00). FRANCHISEE agrees and acknowledges that, in the event of such termination, FRANCHISEE is bound by the terms and conditions of Paragraph XVI.D. of this Agreement. Moreover, FRANCHISOR shall have the option, but not the obligation, to exercise its right to a collateral assignment of FRANCHISEE's lease for the Premises within twenty (20) days after receiving all written agreements relating to the lease, and/or the premises, including copies of all permits and licenses and such other documents that FRANCHISOR requests. If FRANCHISOR exercises its option to take a collateral assignment of the lease, FRANCHISOR shall reimburse FRANCHISEE for all of FRANCHISEE's reasonable out-of-pocket costs of developing the Premises.

B. HIRING AND TRAINING OF EMPLOYEES BY FRANCHISEE

FRANCHISEE shall hire all employees of the RESTAURANT, be exclusively responsible for the terms of their employment and compensation, and implement an employee training program that complies with FRANCHISOR's requirements. FRANCHISEE agrees to maintain at all times a staff of trained employees sufficient in number to operate the RESTAURANT in compliance with FRANCHISOR's standards.

C. OPENING ASSISTANCE

FRANCHISOR shall provide FRANCHISEE with such supervisory assistance and guidance in connection with the RESTAURANT's opening and initial operation for a period of five (5) days commencing three (3) days prior to opening the RESTAURANT. This assistance includes the providing, by FRANCHISOR, of one (1) member of FRANCHISOR's operational staff to assist FRANCHISEE. FRANCHISOR shall provide such staff at FRANCHISOR's expense, with the exception that all costs including lodging and meals that may be incurred by FRANCHISOR, of such personnel, after the expiration of the five (5) day opening training period is borne by FRANCHISEE, at FRANCHISEE's sole expense, if such personnel are available for such extended period.

D. OPERATING ASSISTANCE

FRANCHISOR shall advise FRANCHISEE of operating problems of the RESTAURANT disclosed by reports submitted to or inspections made by FRANCHISOR. Further, FRANCHISOR shall furnish to FRANCHISEE such guidance and assistance in connection with the RESTAURANT's operation as FRANCHISOR deems appropriate. Operating assistance may consist of advice and guidance with respect to:

1. Methods, standards and operating procedures utilized by ROCKY ROCOCO RESTAURANTS;
2. Products and services authorized for sale by ROCKY ROCOCO RESTAURANTS;
3. Selecting, purchasing and preparing Products, materials and supplies;
4. Advertising and promotional programs; and
5. Administrative, bookkeeping, accounting, inventory control, sales and general operating procedures for ROCKY ROCOCO RESTAURANTS.

Such guidance shall, in FRANCHISOR's discretion, be furnished in the form of FRANCHISOR's Operations Manual, bulletins or other written materials, telephonic consultations and/or consultations at FRANCHISOR's offices or at the RESTAURANT in conjunction with an inspection of the RESTAURANT. Additional guidance and assistance may, in FRANCHISOR's discretion, be made available at the per diem fees and charges established by FRANCHISOR.

E. NATIONAL CONVENTION

FRANCHISEE shall attend annually the National Convention for the System, if held, and wherever held. In the event that FRANCHISEE has a serious conflict which precludes FRANCHISEE from attending, FRANCHISEE may send an employee as a substitute attendee. FRANCHISEE shall bear all costs and expenses for travel, lodging and meals for all attendees of the National Convention. FRANCHISEE shall not be required to attend more than one (10) annual convention in any calendar year.

VI. ADVERTISING

A. CREATION OF MARKETING PROGRAMS BY FRANCHISOR

Recognizing the value of advertising and marketing to the goodwill and public image of ROCKY ROCOCO RESTAURANTS, FRANCHISOR will institute, maintain and administer a marketing fund (the "Fund") for the creation and development of such advertising, marketing, media placement, media and public relations programs, research, websites, and relative activities that FRANCHISOR deems necessary or appropriate to advertise or promote ROCKY ROCOCO RESTAURANTS. FRANCHISEE shall pay FRANCHISOR, for deposit into the Fund, an advertising fee in an amount designated by FRANCHISOR, in FRANCHISOR's sole discretion, not to exceed Three-quarters of One percent (0.75%) of the RESTAURANT's Gross Sales, payable weekly together with the Royalty and Service Fee due under this Agreement. Such payments shall be made in addition to and exclusive of any sums that FRANCHISEE may be required to spend on the local advertising fund and local advertising.

FRANCHISOR will direct all advertising, media placement, marketing and public relations programs and activities financed by the Fund, with sole discretion over strategic direction, creative concepts, materials and endorsements used therein, and the geographic, market and media placement and allocation thereof. The Fund may be used to pay various costs and expenses, including preparing and producing video, audio and written advertising materials; websites; interest on borrowed funds; sponsorship of sporting, charitable or similar events; reasonable salaries and expenses of employees of FRANCHISOR, or FRANCHISOR's affiliates, working for or on behalf of the Fund; or on advertising, marketing, public relations materials, programs or activities or promotions for the benefit of the Fund; and administrative costs and overhead of FRANCHISOR, or FRANCHISOR's affiliates, incurred in activities reasonably intended to the administration and activities of the Fund; administering advertising programs, including, without limitation, purchasing direct mail and other media advertising and employing advertising agencies to assist therewith; and supporting public relations, market research and other advertising; promotional and marketing activities, including testing and test market programs, fulfillment charges, and development, implementation and testing of trade dress and design prototypes. FRANCHISEE must participate in all advertising, marketing, promotions, websites, research and public relations programs instituted by the Fund. The Fund shall furnish FRANCHISEE with reasonable quantities of marketing, advertising and promotional formats and materials at the same cost, terms, and conditions that such materials are furnished to other franchised ROCKY ROCOCO RESTAURANTS.

The Fund shall be accounted for separately from FRANCHISOR's other funds, but shall not be required to be segregated, and shall not be used to defray any of FRANCHISOR's general operating expenses, except for such reasonable salaries, administrative costs and overhead as FRANCHISOR may incur in activities related to the administration of the Fund and its

marketing programs, including, without limitation, conducting market research, preparing advertising and marketing materials, developing and maintaining websites, and collecting and accounting for contributions to the Fund. FRANCHISOR may spend in any fiscal year an amount greater or less than the aggregate contribution of all ROCKY ROCOCO RESTAURANTS to the Fund in that year, and the Fund may borrow from FRANCHISOR or other lenders to cover deficits of the Fund or cause the Fund to invest any surplus for future use by the Fund. It is anticipated, and it is the intent of FRANCHISOR that all contributions to the Fund shall be expended for advertising and promotional purposes during the FRANCHISOR's fiscal year within which year contributions are made. Funds not expended in the fiscal year contributed may be applied and used for Fund expenses in the following year, or at the discretion of FRANCHISOR, distributed to FRANCHISOR'S franchisees, FRANCHISOR, and FRANCHISOR'S affiliates, in proportion to the respective contributions to the Fund during the preceding twelve (12) month period. All interest earned on monies contributed to the Fund will be used to pay advertising costs incurred by the Fund before other assets of the Fund are expended. A statement of monies collected and costs incurred by the Fund shall be prepared annually by FRANCHISOR and shall be furnished to FRANCHISEE upon written request. FRANCHISOR will have the right to cause the Fund to be incorporated or operated through an entity separate from FRANCHISOR at such time as FRANCHISOR deems appropriate, and such successor entity shall have all rights and duties of FRANCHISOR pursuant to this Paragraph. Except as expressly provided in this Paragraph, FRANCHISOR assumes no direct or indirect liability or obligation to FRANCHISEE with respect to the maintenance, direction or administration of the Fund. FRANCHISEE agrees and acknowledges that the Fund is intended to maximize the general public recognition and acceptance of the Marks for the benefit of the System and that FRANCHISOR, and FRANCHISOR's designee, make no representation and undertake no obligation in administering the Fund to make the expenditures for FRANCHISEE which are equivalent or proportionate to FRANCHISEE's contribution, or to insure that any particular FRANCHISEE benefits directly or pro rata from the Fund. FRANCHISEE further acknowledges and agrees that the failure of any other franchisee to make the appropriate amount of contributions to the Fund shall not in any way release FRANCHISEE from, or reduce, FRANCHISEE's obligations under this Paragraph VI.A., such obligations being separate and independent obligations of FRANCHISEE under this Agreement.

Although FRANCHISOR intends the Fund to be of perpetual duration, FRANCHISOR reserves the right to suspend contributions to and operations of the Fund for one or more periods, and the right to terminate the Fund, upon thirty (30) days' prior written notice to FRANCHISEE. All unspent monies on the date of termination shall be distributed to FRANCHISOR's franchisees and FRANCHISOR, and FRANCHISOR's affiliates, in proportion to their respective contributions to the Fund during the preceding twelve (12) month period. FRANCHISOR shall have the right to reinstate the Fund upon the same terms and conditions set forth herein upon thirty (30) days' prior written notice to FRANCHISEE.

FRANCHISOR may increase the maximum contribution to the Fund, provided, that such increase is approved by the owners of not less than Sixty percent (60%) of the RESTAURANTS which are required to contribute to the Fund.

FRANCHISOR will develop and maintain a website serving both FRANCHISOR and FRANCHISEE. FRANCHISEE's RESTAURANT shall be listed in such website. FRANCHISEE shall not create a website separate from the website created by FRANCHISOR.

B. CREATION OF LOCAL ADVERTISING FUND

FRANCHISEE agrees that, unless otherwise notified by FRANCHISOR, in FRANCHISOR's sole discretion, FRANCHISEE shall participate in a local advertising fund (the "Local Ad Fund") comprised of ROCKY ROCOCO RESTAURANTS (including those owned by FRANCHISOR, or FRANCHISOR's affiliates, or other franchisees, to the extent FRANCHISOR has the right to require any such affiliate or franchise owner to do so) located in the same market area (subject to the rights of other ROCKY ROCOCO franchise owners under their Franchise Agreements with FRANCHISOR). FRANCHISOR shall establish, maintain and administer the Local Ad Fund for such advertising, media placement, websites, marketing and public relations programs and related activities as FRANCHISOR, in FRANCHISOR's sole discretion, may deem necessary or appropriate to promote ROCKY ROCOCO RESTAURANTS in the market area. FRANCHISEE shall contribute to such Local Ad Fund an amount designated by FRANCHISOR, in FRANCHISOR's sole discretion, not to exceed Three and one-half percent (3 1/2%) of RESTAURANT's gross sales, based upon the following formula:

1. Restaurants with no electronic media shall contribute One and one-half percent (1 1/2%) of weekly gross sales;
2. Restaurants with radio media shall contribute Two and one-half percent (2 1/2%) of weekly gross sales; and
3. Restaurants with television media shall contribute Three and one-half percent (3 1/2%) of weekly gross sales

The contribution to the Local Ad Fund is payable weekly together with the Royalty and Service Fee due hereunder, for each week in which the FRANCHISEE participates in the Local Ad Fund.

FRANCHISOR may increase the maximum contribution to the Local Ad Fund, provided, that such increase is approved by the owners of not less than Sixty percent (60%) of the

RESTAURANTS which are required to contribute to the Local Ad Fund (including FRANCHISOR-owned, affiliate-owned, and Franchised Restaurants).

Amounts paid to such Local Ad Fund by FRANCHISEE shall be payable to FRANCHISOR by separate check or transfer at the same time and in the same manner as the Royalty and Service Fee and Fund contributions due under this Agreement. ROCKY ROCOCO RESTAURANTS located in the same market area which are owned by FRANCHISOR, or FRANCHISOR's affiliates, to the extent FRANCHISOR has the right to require such affiliates to do so, shall contribute to such Local Ad Fund on the same basis as franchise owners who are members of such Local Ad Fund.

FRANCHISOR, or FRANCHISOR's designee, shall direct all advertising, media placement, marketing and public relations programs and activities of the Local Ad Fund, with sole discretion over the strategic direction, creative concepts, materials and endorsements used therein, and the geographic, market, and media placement and allocation thereof within the market area. FRANCHISEE may consult with and advise FRANCHISOR concerning activities of the Local Ad Fund. FRANCHISEE agrees that the Local Ad Fund may be used to pay the costs of preparing, adopting and producing video, audio and written advertising materials, interest on borrowed funds, sponsorship of sporting, charitable or similar events, reasonable salaries and expenses of employees of FRANCHISOR, or FRANCHISOR's affiliates, working for or on behalf of the Local Ad Fund or on advertising, marketing, public relations materials, programs, or activities or promotions for the benefit of the Local Ad Fund and administrative costs and overhead of FRANCHISOR, or FRANCHISOR's affiliates, incurred in activities reasonably related to administration or activities of the Local Ad Fund; administering advertising programs, including, without limitation, purchasing direct mail or other media advertising and employing advertising agencies to assist therewith; and supporting public relations, market research and other advertising, promotional and marketing activities including testing and test marketing, fulfillment charges and development, implementation, and testing of design prototypes. FRANCHISEE agrees to participate in all advertising, promotional events and public relations programs instituted by the Local Ad Fund.

The Local Ad Fund shall be accounted for separately from FRANCHISOR's other funds, but shall not be required to be segregated, and shall not be used to defray any of FRANCHISOR's general operating expenses, except for such reasonable salaries, administrative costs and overhead as FRANCHISOR may incur in activities related to the administration of the Fund and its marketing programs, including, without limitation, conducting market research, preparing advertising and marketing materials and collecting and accounting for contributions to the Local Ad Fund. FRANCHISOR may spend in any fiscal year an amount greater or less than the aggregate contribution of all ROCKY ROCOCO RESTAURANTS to the Local Ad Fund in that year, and the Local Ad Fund may borrow from FRANCHISOR or other lenders to cover deficits of the Local Ad Fund or cause the Local Ad Fund to invest any surplus for future use by

the Local Ad Fund. It is anticipated, and it is the intent of FRANCHISOR that all contributions to the Local Ad Fund shall be expended for advertising and promotional purposes during the FRANCHISOR's fiscal year within which year contributions are made. Any funds not expended in the fiscal year contributed shall be applied and used for Local Ad Fund expenses in the following year. All interest earned on monies contributed to the Local Ad Fund will be used to pay advertising costs incurred by the Local Ad Fund before other assets of the Local Ad Fund are expended. A statement of monies collected and costs incurred by the Local Ad Fund shall be prepared annually by FRANCHISOR and shall be furnished to FRANCHISEE upon written request. FRANCHISOR will have the right to cause the Local Ad Fund to be incorporated or operated through an entity separate from FRANCHISOR at such time as FRANCHISOR deems appropriate, and such successor entity shall have all rights and duties of FRANCHISOR pursuant to this Paragraph. Except as expressly provided in this Paragraph, FRANCHISOR assumes no direct or indirect liability or obligation to FRANCHISEE with respect to the maintenance, direction or administration of the Local Ad Fund. FRANCHISEE agrees and acknowledges that the Local Ad Fund is intended to maximize the general public recognition and acceptance of the Marks for the benefit of the System and that FRANCHISOR, and FRANCHISOR's designee, make no representation and undertake no obligation in administering the Local Ad Fund to make the expenditures for FRANCHISEE which are equivalent or proportionate to FRANCHISEE's contribution, or to insure that any particular FRANCHISEE benefits directly or pro rata from the Local Ad Fund. FRANCHISEE further acknowledges and agrees that the failure of any other franchisee to make the appropriate amount of contributions to the Local Ad Fund shall not in any way release FRANCHISEE from, or reduce, FRANCHISEE's obligations under this Paragraph VI.B., such obligations being separate and independent obligations of FRANCHISEE under this Agreement.

Although FRANCHISOR intends the Local Ad Fund to be of perpetual duration, FRANCHISOR reserves the right to suspend contributions to and operations of the Local Ad Fund for one or more periods, and the right to terminate the Local Ad Fund, upon thirty (30) days' prior written notice to FRANCHISEE. All unspent monies on the date of termination shall be distributed to FRANCHISOR's franchisees and FRANCHISOR, and FRANCHISOR's affiliates, in proportion to their respective contributions to the Local Ad Fund during the preceding twelve (12) month period. FRANCHISOR shall have the right to reinstate the Local Ad Fund upon the same terms and conditions set forth herein upon thirty (30) days' prior written notice to FRANCHISEE.

C. LOCAL ADVERTISING BY FRANCHISEE

During any week during the term of this Agreement in which FRANCHISEE does not participate in the Local Ad Fund, as set forth in Section VI.B. above, an amount designated by FRANCHISOR, at FRANCHISOR's sole discretion, not to exceed Three and one-half percent (3 1/2%) of RESTAURANT's gross sales during such week, shall be expended by FRANCHISEE

for local advertising and promotion of the RESTAURANT. The amount expended shall be based upon the following formula:

1. Restaurants with no electronic media shall expend One and one-half percent (1 1/2%) of weekly gross sales;
2. Restaurants with radio media shall expend Two and one-half percent (2 1/2%) of weekly gross sales; and
3. Restaurants with television media shall expend Three and one-half percent (3 1/2%) of weekly gross sales

Such expenditures shall be made within ninety (90) days of the close of a weekly period. Such expenditures shall be referred to as "Local Expenditures". The following shall not count as Local Expenditures: 1) money spent on classified telephone directory listings and advertisements, advertising and promotional expenses required under the Lease for the RESTAURANT and discounts and the redemption of coupons; and 2) the cost of goods or services supplied without charge. If required by FRANCHISOR, within fifteen (15) days after the end of each calendar quarter, during the term of this Agreement, FRANCHISEE shall submit, in a form prescribed by FRANCHISOR, verification of its local expenditures for the previous calendar quarter. Amounts spent for local advertising and promotion of the RESTAURANT shall not be credited towards FRANCHISEE Local Expenditures under this Agreement to the extent that FRANCHISEE is reimbursed for such expenditures by, or such expenditures are made by, a supplier of the RESTAURANT.

FRANCHISOR may increase the maximum amount which shall be expended by FRANCHISEE for local advertising and promotion of the RESTAURANT, provided, that such increase is approved by the owners of not less than Sixty percent (60%) of the RESTAURANTS which are not participating in the Local Ad Fund, as set forth in Section VI.B. above (including FRANCHISOR-owned, affiliate-owned, and franchised RESTAURANTS).

FRANCHISEE agrees to list and advertise the RESTAURANT in the principal regular (white pages) and classified (yellow pages) telephone directories distributed within FRANCHISEE's primary trading area, in such directory categories that FRANCHISOR specifies, utilizing FRANCHISOR's standard forms of listing and classified directory advertisements. Such classified directory advertisements shall list other ROCKY ROCOCO RESTAURANTS operating within the distribution area of such classified directories and the cost of such advertisements shall be reasonably apportioned among all ROCKY ROCOCO RESTAURANTS listed therein.

FRANCHISEE agrees to conduct a grand opening advertising and promotion program for the RESTAURANT during the period commencing thirty (30) days before and ending thirty (30) days after its opening and to expend not less than Five thousand Dollars (\$5,000.00) for such purpose. Such advertising and promotion shall utilize the standard marketing and public relations programs and media and advertising materials that FRANCHISOR has developed for grand opening programs.

For purposes of FRANCHISEE's local advertising and promotion requirements, advertising expenditures shall include amounts individually expended for advertising media such as television, radio, newspaper, billboards, magazines, posters, direct mail, sports program booklet advertising, collateral promotional and novelty items (e.g., matchbooks, pens, pencils, bumper stickers), advertising on public vehicles, such as cabs and busses, and, if not provided by FRANCHISOR, the cost of producing approved materials necessary to participate in these media, including advertising agency commissions related to the production of such advertising. Advertising expenditures shall not include payments for items which FRANCHISOR, in FRANCHISOR's reasonable judgment, deems inappropriate for the advertising requirements, including, without limitation, payments for permanent on-premises signs and menu boards, lighting, menus, vehicles, even though such vehicles may display the Marks (cost of production, decals or sign painting on vehicles will qualify), and contributions, sponsorships, premiums or similar offers, such as discounts, price reductions, free offers, sweepstakes, employee incentive programs and other similar payments.

Prior to their use by FRANCHISEE, samples of all local advertising and promotional materials not prepared or previously approved by FRANCHISOR shall be submitted to FRANCHISOR for FRANCHISOR's approval, which will not be unreasonably withheld. If FRANCHISEE does not receive written disapproval within fifteen (15) days after FRANCHISOR's receipt of such materials, FRANCHISOR shall be deemed to have not given the required approval. FRANCHISEE shall not use any advertising or promotional materials that FRANCHISOR has disapproved. FRANCHISOR, in FRANCHISOR's sole discretion, may disapprove on a prospective basis material that FRANCHISOR had previously approved.

In the event FRANCHISEE as part of FRANCHISEE's advertising program provides coupons to prospective purchasers, such coupons shall be location specific only and shall be redeemed only at FRANCHISEE's location.

FRANCHISEE shall not advertise or use in advertising or any other form of promotion, the Marks of FRANCHISOR without appropriate "C" or "R" copyright and registration marks or the notation "TM" as to unregistered marks.

FRANCHISOR shall have the right to conduct market research in FRANCHISEE's designated area.

VII. CONFIDENTIAL OPERATIONS MANUAL

In order to protect the reputation and goodwill associated with the mark, "ROCKY ROCOCO" and to maintain the uniform standards of operation thereunder, FRANCHISEE shall conduct FRANCHISEE's ROCKY ROCOCO RESTAURANTS in strict accordance with FRANCHISOR's Confidential Operations Manual (the "Operations Manual"). The specifications, standards and operating procedures included in the Confidential Operations Manual include, but are not limited to, the following:

- Operations
- Equipment
- Administration
- Purchasing
- Human Resources
- Training

FRANCHISOR will loan to FRANCHISEE during the term of this Agreement one (1) copy of the Operations Manual which may consist of one (1) or more manuals and other written materials. The Operations Manual shall contain mandatory and suggested specifications, standards and operating procedures that FRANCHISOR prescribes for ROCKY ROCOCO RESTAURANTS and information relating to FRANCHISEE's other obligations hereunder. FRANCHISOR shall have the right to add to and otherwise modify the Operations Manual to reflect changes in products and services and in the specifications, standards and operating procedures of a ROCKY ROCOCO RESTAURANT, provided that no such addition or modification shall alter FRANCHISEE's fundamental status and rights under this Agreement. FRANCHISEE shall keep FRANCHISEE's copy of the Operations Manual current, and the master copy that FRANCHISOR maintains at FRANCHISOR's principal office shall be controlling in the event of a dispute relating to the contents of the Operations Manual. In the event FRANCHISEE's copy of the Operations Manual is lost, destroyed or significantly damaged, FRANCHISEE shall be obligated to obtain from FRANCHISOR, at FRANCHISOR's then-applicable charge, a replacement copy of the Operations Manual. FRANCHISEE shall promptly disclose to FRANCHISOR FRANCHISEE's knowledge of any unauthorized use of the proprietary information contained in the Operations Manual.

FRANCHISEE shall at all times treat as confidential, and shall not at any time disclose, copy, duplicate, record or otherwise reproduce, in whole or in part, or otherwise make available to any unauthorized person or source, the contents of said Operations Manual.

The Operations Manual shall at all times remain the sole property of FRANCHISOR and shall promptly be returned upon the expiration or other termination of this Agreement.

FRANCHISOR may revise the contents of the Operations Manual so as to convey to FRANCHISEE advancements and new developments in sales, marketing, operational techniques and other items and procedures relevant to the operation of the RESTAURANT and FRANCHISEE agrees to be bound by and to conduct business in accordance with such revised requirements of the Operations Manual.

VIII. CONFIDENTIAL INFORMATION

FRANCHISOR possesses certain confidential information (the "Confidential Information") relating to the operation of ROCKY ROCOCO RESTAURANTS, which includes: (1) site and premises selection criteria; (2) plans and specifications for the development of ROCKY ROCOCO RESTAURANTS; (3) methods, techniques, formats, specifications, systems, procedures, sales and marketing techniques and knowledge of and experience in the development and operation of ROCKY ROCOCO RESTAURANTS; (4) marketing and advertising programs for ROCKY ROCOCO RESTAURANTS; (5) knowledge of specifications for and suppliers of certain products, materials, supplies, equipment and furnishings; and (6) knowledge of operating results and financial performance of ROCKY ROCOCO RESTAURANTS other than the RESTAURANT. FRANCHISOR may disclose certain Confidential Information to FRANCHISEE (or its approved partner, member or shareholder) and FRANCHISEE's managers in the initial training program and subsequent training, the Operations Manual and guidance furnished to FRANCHISEE (or its approved partner, member or shareholder) and FRANCHISEE's managers during the term of this Agreement.

FRANCHISEE acknowledges and agrees that FRANCHISEE will not acquire any interest in Confidential Information, other than the right to utilize Confidential Information disclosed to FRANCHISEE in the operation of the RESTAURANT during the term of this Agreement, and that the use or duplication of any Confidential Information in any other business would constitute an unfair method of competition. FRANCHISEE further acknowledges and agrees that Confidential Information is proprietary, includes trade secrets of FRANCHISOR and will be disclosed to FRANCHISEE solely on the condition that FRANCHISEE agrees, and FRANCHISEE does hereby agree, that FRANCHISEE: (1) will not use Confidential Information in any other business or capacity; (2) will maintain the absolute confidentiality of Confidential Information during and after the term of this Agreement; (3) will not make unauthorized copies of any portion of Confidential Information disclosed in written or other tangible form; and (4) will adopt and implement all reasonable procedures that FRANCHISOR prescribes to prevent unauthorized use or disclosure of Confidential Information, including, without limitation, restrictions on disclosure thereof to FRANCHISEE's employees and the use of nondisclosure and noncompetition agreements with employees who have access to Confidential Information. Notwithstanding anything to the contrary contained in this Agreement and provided FRANCHISEE shall have obtained FRANCHISOR's prior written consent, which shall not be unreasonably withheld, the restrictions on FRANCHISEE's disclosure and use of Confidential

Information shall not apply to the following: (1) information, processes or techniques which are or become generally known in the pizza restaurant industry other than through disclosure (whether deliberate or inadvertent) by FRANCHISEE; and (2) disclosure of Confidential Information in judicial or administrative proceedings to the extent that FRANCHISEE is legally compelled to disclose such information, provided FRANCHISEE shall have used FRANCHISEE's best efforts and afforded FRANCHISOR the opportunity to obtain an appropriate protective order or other assurance satisfactory to FRANCHISOR of confidential treatment for the information required to be disclosed.

FRANCHISEE agrees that FRANCHISOR shall have the perpetual right to use and authorize other ROCKY ROCOCO RESTAURANTS to use, and FRANCHISEE shall fully and promptly disclose to FRANCHISOR, all ideas, concepts, methods and techniques relating to the development and/or operation of a pizza restaurant or carry-out or delivery business conceived or developed by FRANCHISEE and/or FRANCHISEE's employees during the term of this Agreement.

IX. RECORDS AND REPORTS

A. ACCOUNTING AND RECORDS

During the term of this Agreement, FRANCHISEE shall maintain and preserve, for at least three (3) years from the dates of their preparation, full, complete and accurate books, records (including invoices and records relating to advertising expenditures) and accounts (utilizing the standard chart of accounts furnished or required by FRANCHISOR), copies of sales tax returns and copies of such portions of FRANCHISEE's State and Federal income tax returns as reflect FRANCHISEE's operation. FRANCHISEE shall utilize only cash registers with "non-resettable totals". The financial statements and/or other periodic reports described below must be prepared to segregate the income and related expenses of the RESTAURANT from those of any other business which may be conducted by FRANCHISEE, and for which royalty fee and service fees are not payable to FRANCHISOR.

B. REPORTS AND TAX RETURNS

During the term of this Agreement, FRANCHISEE shall establish and maintain, at FRANCHISEE's expense, a bookkeeping, accounting, record keeping and data processing system conforming to the requirements and formats that FRANCHISOR prescribes. FRANCHISEE shall furnish to FRANCHISOR in such forms that FRANCHISOR prescribes the following:

1. By Friday of each week, a report on the RESTAURANT's Gross Sales for the previous week;

2. Within five (5) days after the end of each four-week fiscal period, FRANCHISOR's Operational Report in the format prescribed by FRANCHISOR; and within twenty (20) days after the end of each four-week fiscal period, a profit and loss statement for the RESTAURANT for such four-week fiscal period and year-to-date and a balance sheet and statement of financial condition as of the end of such four-week fiscal period;

3. Within sixty (60) days after the end of FRANCHISEE's fiscal year, a balance sheet, profit and loss statement and statement of financial condition for the RESTAURANT as of the end of such fiscal year; and

4. Within ten (10) days after FRANCHISOR's request, exact copies of Federal and State income, service, sales and any other tax returns and such other forms, records, books and other information as FRANCHISOR may periodically require.

Each report and financial statement shall be signed and verified by FRANCHISEE in the manner FRANCHISOR prescribes. FRANCHISOR shall have the right to disclose data derived from such sales reports. FRANCHISOR reserves the right to require FRANCHISEE to have audited or reviewed financial statements prepared on an annual basis.

C. FRANCHISOR'S RIGHT TO AUDIT

FRANCHISOR, or FRANCHISOR's designated agents, shall have the right at any time during business hours, and without prior notice to FRANCHISEE, to examine, audit, and copy, or cause to be examined, audited, and copied, at FRANCHISOR's expense, the books, records, cash control devices, bookkeeping and accounting records, bank statements, sales and income tax records and returns, and other books and records and the books and records of any corporation or partnership which holds the franchise. FRANCHISOR shall also have the right, at any time, to have an independent audit made of the books of the FRANCHISEE. If an inspection should reveal that any payments due FRANCHISOR have not been paid or have been understated in any report to FRANCHISOR, then FRANCHISEE shall immediately pay to FRANCHISOR the amount previously unreported or understated upon demand. Upon the discrepancy in the report of gross receipts of two percent (2%) or more, FRANCHISEE shall pay and reimburse FRANCHISOR for any and all expenses connected with said inspection, including, but not limited to, reasonable accounting and legal fees, as well as interest on the unreported receipts at the maximum rate permitted by law. The foregoing remedies shall be in addition to any other remedies FRANCHISOR may have.

D. FRANCHISOR'S RIGHT TO COMPUTERIZE

FRANCHISOR may, partially or completely, computerize as many facets of the franchise system operations which, in the sole discretion of FRANCHISOR, will benefit the franchise system. FRANCHISOR may develop, or contract for development, "licensed programs", defined as computer software programs which may include, without limitation, FRANCHISOR's required point-of-sale system, bookkeeping, inventory, training, marketing, employee selection, operations and financial information collection or retrieval systems for use in connection with the operation of the RESTAURANT. FRANCHISEE agrees, when available, to use in the development and operation of the RESTAURANT only the licensed program and those brands, types, makes and/or models of computer hardware which FRANCHISOR may specify or require for the computer system. During the term of this Agreement, FRANCHISOR may require FRANCHISEE to obtain specified computer hardware and/or software, including, without limitation, a license to use the licensed program from FRANCHISOR, or FRANCHISOR's designee, under a separate Agreement. FRANCHISOR's development and/or modification of such specifications for the components of the computer system may require FRANCHISEE to incur costs to purchase, lease and/or license new or modified computer hardware and/or software, and to obtain service and support for the computer system during the term of this Agreement. Within one hundred twenty (120) days after FRANCHISEE receives notice from the FRANCHISOR, FRANCHISEE shall obtain the components of the computer system which FRANCHISOR designates and requires, provided, that FRANCHISOR shall not require FRANCHISEE to upgrade the computer system in the event FRANCHISEE has expended the sum of at least Ten thousand Dollars (\$10,000.00) to computerize or upgrade the computer equipment during the previous five (5) years. FRANCHISEE shall install and use the computer system at the RESTAURANT, when use of the computer system is available, and transmit information to FRANCHISOR through use of the computer system. FRANCHISEE, at FRANCHISEE's own expense, shall establish and maintain, at the RESTAURANT, a telephone modem and line, or broadband connection, which FRANCHISOR may use to access the computer system. Each transaction of the RESTAURANT shall be processed on the computer system in the manner prescribed by FRANCHISOR. FRANCHISOR shall have at all times, the right to retrieve information from any data processed on the computer system with respect to the RESTAURANT, and FRANCHISEE shall take such action as may be necessary to provide such access to FRANCHISOR.

E. CREDIT CARDS AND OTHER METHODS OF PAYMENTS

FRANCHISEE must at all times have arrangements in existence with a full range of credit and debit card issuers or sponsors, check verification services and electric fund transfer systems as FRANCHISOR designates, in FRANCHISOR's sole discretion, during the term of this Agreement, in order that the RESTAURANT may accept customers' credit and debit cards,

checks and other methods of payment. FRANCHISEE may use only such methods of payment which FRANCHISOR authorizes or approves, in writing.

X. STANDARDS OF QUALITY

A. CONDITION, APPEARANCE AND REBUILDING OF RESTAURANT

FRANCHISEE agrees to maintain the RESTAURANT's condition and appearance consistent with the image of a ROCKY ROCOCO RESTAURANT as an attractive, clean and efficiently operated restaurant offering a variety of high quality food products and beverages, efficient and courteous service and pleasant ambience. FRANCHISEE agrees to effect such maintenance of the RESTAURANT and such modifications and additions to its layout, decor and general theme as FRANCHISOR requires to maintain its condition, appearance, efficient operation, ambience and overall image, including, without limitation, replacement of worn out or obsolete fixtures, equipment, furniture, carpeting, signs and utensils, repair of the interior and exterior and appurtenant parking areas and periodic cleaning and redecorating. If at any time, in FRANCHISOR's reasonable judgment, the general state of repair, appearance or cleanliness of the Premises (including parking areas), or its fixtures, equipment, furniture, carpeting, signs or utensils, does not meet FRANCHISOR's standards, FRANCHISOR shall notify FRANCHISEE and specify the action that FRANCHISEE must take to correct such deficiency. If FRANCHISEE fails or refuses, within ten (10) days after receiving such notice, to initiate and thereafter continue in good faith and with due diligence a bona fide program to complete such required maintenance, FRANCHISOR shall have the right (in addition to FRANCHISOR's rights under Paragraph XV. hereof), but not the obligation, to enter upon the Premises and effect such maintenance on behalf of, and at the expense of, FRANCHISEE.

FRANCHISEE shall upgrade and/or remodel the RESTAURANT at least once during the term of this Agreement pursuant to plans and specifications provided by FRANCHISOR, provided, however, that FRANCHISOR shall not require such upgrading or remodeling during the last four (4) years of the initial franchise term or during the last four (4) years of any renewal term. FRANCHISOR's representatives shall be allowed to supervise any construction, repair or refixturing in connection with such upgrading or remodeling.

If the RESTAURANT is damaged or destroyed by fire or other casualty, FRANCHISEE shall within thirty (30) days thereof initiate (and continue until completion) all repairs or reconstruction to restore the Premises to their original condition. If, in FRANCHISOR's reasonable judgment, the damage or destruction is of such a nature that it is feasible for FRANCHISEE, without incurring substantial additional costs, to repair or reconstruct the Premises in accordance with the then standard ROCKY ROCOCO RESTAURANTS decor specifications. FRANCHISOR may require FRANCHISEE to repair or reconstruct the Premises in accordance with those decor specifications.

B. ALTERATIONS TO THE RESTAURANT

FRANCHISEE shall make no alterations of the Premises, nor any unapproved replacements or alterations of fixtures, equipment, furniture, carpeting, or signs, without FRANCHISOR's prior written approval. FRANCHISOR shall have the right, in FRANCHISOR's sole discretion, and at FRANCHISEE's sole expense, to rectify any alterations not previously approved by FRANCHISOR.

C. UNIFORM IMAGE

Presentation of a uniform image to the public is an essential element of a successful franchise system. FRANCHISEE therefore agrees that the RESTAURANT will offer for sale such food, beverage and other products and services that FRANCHISOR determines to be appropriate for ROCKY ROCOCO RESTAURANTS. FRANCHISEE further agrees to participate in systemwide food and beverage promotions from time to time as directed by FRANCHISOR. FRANCHISEE further agrees that the RESTAURANT will not, without FRANCHISOR's prior written approval, offer any products or services not then authorized by FRANCHISOR for ROCKY ROCOCO RESTAURANTS nor be used for any purpose other than the operation of a ROCKY ROCOCO RESTAURANT in compliance with this Agreement.

FRANCHISOR shall have the right to inspect the store to enhance uniformity and quality control. FRANCHISOR's personnel shall have the right to enter the store, at any reasonable time, for the purpose of examination, conferences with FRANCHISEE or FRANCHISEE's employees, inspection of the operation and products sold in the RESTAURANT, auditing, and all other purposes in connection with the determination that the RESTAURANT is being operated in accordance with the terms of this Agreement and FRANCHISOR's Operations Manual. FRANCHISEE agrees to remedy any defects, deficiencies, or unsatisfactory conditions discovered at the store by FRANCHISOR's personnel immediately upon being advised of such deficiencies.

D. FOOD PRODUCTS, BEVERAGES, SUPPLIES AND MATERIALS

The reputation and goodwill of ROCKY ROCOCO RESTAURANTS is based upon and can only be maintained by the sale of distinctive high quality products and services. FRANCHISEE therefore agrees that the RESTAURANT will:

1. Use ingredients in the preparation of food products and beverages;
2. Prepare and offer for sale food products and beverages;

3. Use plates, cups, utensils, uniforms, menus, forms, packaging materials, labels and other supplies; and

4. Use or offer for sale other products and services

that conform to FRANCHISOR's specifications and quality standards and/or are purchased from suppliers approved by FRANCHISOR (which may include FRANCHISOR and/or FRANCHISOR's affiliates). FRANCHISOR may modify the list of approved brands and/or suppliers, and FRANCHISEE shall not, having been notified of such modification, reorder any brand or from any supplier which is no longer approved. If FRANCHISEE proposes to use any brand and/or supplier which is not then approved, FRANCHISEE shall first notify FRANCHISOR and submit sufficient information, specifications and samples concerning such brand and/or supplier for FRANCHISOR to determine whether such brand complies with FRANCHISOR's specifications and standards and/or such supplier meets FRANCHISOR's approved supplier criteria. FRANCHISOR shall have the right to charge FRANCHISEE a reasonable fee to cover the costs FRANCHISOR incurs in making such determination and will notify FRANCHISEE of FRANCHISOR's decision within a reasonable time. FRANCHISOR may prescribe procedures for the submission of requests for approved brands or suppliers and obligations which approved suppliers must assume (which may be incorporated in a written agreement to be executed by approved suppliers). FRANCHISOR may impose limits on the number of suppliers and/or brands for any of the foregoing items.

In order to maintain a uniform image to the public and to maximize quantity discounts, FRANCHISOR shall have the right to designate a soft drink supplier and may require FRANCHISEE to use the designated brand.

FRANCHISEE shall at all times maintain an inventory of approved food products, beverages, ingredients and other products sufficient in quantity and variety to realize the RESTAURANT's full potential.

FRANCHISOR may conduct market research and testing to determine consumer trends and the saleability of new food products and services. FRANCHISEE agrees to cooperate by participating in FRANCHISOR's market research programs, test marketing new food products and services in the RESTAURANT and providing FRANCHISOR with timely reports and other relevant information regarding such market research. In connection with any such test marketing, FRANCHISEE shall purchase a reasonable quantity of and make a reasonable effort to sell such tested products.

E. SPECIFICATIONS, STANDARDS AND PROCEDURES

FRANCHISEE acknowledges and agrees that each and every detail of the appearance and operation of the RESTAURANT is important to FRANCHISOR and other ROCKY ROCOCO RESTAURANTS. FRANCHISOR shall endeavor to maintain high standards of quality and service at all ROCKY ROCOCO RESTAURANTS. To this end, FRANCHISEE agrees to cooperate with FRANCHISOR in maintaining such high standards in the RESTAURANT and to comply with all mandatory specifications, standards and operating procedures (whether contained in the Operations Manual or any other written or oral communication to FRANCHISEE) relating to the appearance or operation of a ROCKY ROCOCO RESTAURANT, including, without limitation:

1. Type, quality, taste, weight and dimensions, ingredients, uniformity, manner of preparation and sale of all food products and beverages sold by the RESTAURANT and all other products used in the packaging and sale thereof;
2. Hours and days during which the RESTAURANT will be open for business;
3. Manner of and limitations on delivery of food products and beverages outside the Premises;
4. Safety, maintenance, cleanliness, sanitation, function and appearance of the Premises and its fixtures, equipment, furniture, decor and signs;
5. Qualifications, dress, general appearance and demeanor of RESTAURANT employees;
6. Use of the Marks;
7. Use and retention of standard forms;
8. Identification of FRANCHISEE as the owner of the RESTAURANT;
9. Advertising and Promotion; and
10. Gift certificates and gift cards.

F. COMPLIANCE WITH LAWS AND GOOD BUSINESS PRACTICES

FRANCHISEE shall secure and maintain in force all required licenses, permits and certificates relating to the RESTAURANT's operation and operate the RESTAURANT in full compliance with all applicable laws, ordinances and regulations.

FRANCHISEE shall at all times give prompt, courteous and efficient service to FRANCHISEE's customers. The RESTAURANT shall in all dealings with customers, suppliers and the public adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct.

FRANCHISEE agrees that FRANCHISEE will not take or fail to take any action which may cause the RESTAURANT's licenses or permits to serve alcoholic beverages to be revoked, suspended or restricted, and FRANCHISEE shall be solely responsible for complying with all applicable laws, regulations, ordinances and standards pertaining thereto. FRANCHISEE shall immediately notify FRANCHISOR of steps taken or threatened by the issuing authority to revoke, suspend or restrict any such licenses or permits.

FRANCHISEE shall notify FRANCHISOR in writing within five (5) days after the commencement of any action, suit, proceeding or investigation, or the issuance of any order, writ, injunction, award or decree by any court, agency or other governmental instrumentality, which may adversely affect FRANCHISEE's or the RESTAURANT's operation or financial condition.

All advertising and promotion by FRANCHISEE shall be completely factual and conform to the highest standards of ethical advertising. FRANCHISEE agrees to refrain from any business or advertising practice which may injure FRANCHISOR's business and the goodwill associated with the Marks and other ROCKY ROCOCO RESTAURANTS.

G. MANAGEMENT OF THE RESTAURANT/CONFLICTING INTERESTS

The RESTAURANT shall at all times be under the direct, on-premises supervision of a Manager, or Assistant Manager, who shall devote full time, energy and best efforts, to the management and operation of the business licensed hereunder and to maintain any and all applicable, state, local or other registrations or licenses. The person who shall be responsible for the RESTAURANT's day-to-day supervision shall not engage directly or indirectly in any business or other activity requiring substantial management responsibility or time commitments or which otherwise may conflict with FRANCHISEE's obligations hereunder.

H. FRANCHISOR'S RIGHT TO INSPECT THE RESTAURANT

To determine whether FRANCHISEE and the RESTAURANT are complying with this Agreement and FRANCHISOR's mandatory standards, specifications and operating procedures, FRANCHISOR, or FRANCHISOR's designated agents, shall have the right at any reasonable time and without prior notice to FRANCHISEE to:

1. Inspect the RESTAURANT;
2. Observe, photograph and videotape the site, Premises and operations of the RESTAURANT for such consecutive or intermittent periods as FRANCHISOR deems necessary;
3. Remove samples of any food products, materials or supplies for testing and analysis;
4. Interview personnel of the RESTAURANT;
5. Interview customers of the RESTAURANT; and
6. Inspect and copy any books, records and documents relating to the RESTAURANT's operation.

FRANCHISEE agrees to cooperate fully with FRANCHISOR in connection with any such inspections, observations, photographing, videotaping, product removal and interviews. FRANCHISEE shall present to FRANCHISEE's customers such evaluation forms as FRANCHISOR periodically prescribes and participate and/or request FRANCHISEE's customers to participate in any surveys performed by or on behalf of FRANCHISOR. FRANCHISEE agrees to remedy any defects, deficiencies, or unsatisfactory conditions discovered at the store by FRANCHISOR's personnel immediately upon being advised of such deficiencies.

I. INSURANCE

FRANCHISEE shall at all times during the term of this Agreement maintain in force at FRANCHISEE's sole expense comprehensive public liability insurance, alcoholic beverages liability ("dram shop") insurance, product liability insurance and motor vehicle liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with FRANCHISEE's conduct of business pursuant to this Agreement. Such insurance coverage shall be maintained under policies of insurance containing such minimum liability protection as FRANCHISOR may specify in the Operations Manual.

FRANCHISEE shall carry property insurance to keep the Premises and its contents insured against loss or damage by fire and such other risks covered in the Standard Extended Coverage Endorsement in an amount not less than One hundred percent (100%) of the full replacement cost of such assets.

All liability insurance policies shall name FRANCHISOR as an additional insured, contain a waiver of the insurance company's right of subrogation against FRANCHISOR and provide that FRANCHISOR will receive thirty (30) days' prior written notice of the termination, expiration or cancellation of any such policy.

FRANCHISOR may reasonably increase the minimum liability protection requirement annually and require at any time on reasonable prior notice to FRANCHISEE different or additional kinds of insurance to reflect inflation, changes in standards of liability, higher damage awards in public, product, motor vehicle or dram shop liability litigation or other relevant changes in circumstances.

A certificate of insurance shall be submitted by FRANCHISEE for FRANCHISOR approval within thirty (30) days of the signing of this Agreement, but in no event later than three (3) weeks before the date on which the franchise first opens for business. FRANCHISEE shall submit to FRANCHISOR annually a copy of the certificate or other material evidencing the renewal or extension of each insurance policy. If FRANCHISEE at any time fails or refuses to maintain in effect any insurance coverage FRANCHISOR requires or to furnish satisfactory evidence thereof, FRANCHISOR may at FRANCHISOR's option and in addition to any of FRANCHISOR's rights and remedies obtain such insurance coverage on FRANCHISEE's behalf. FRANCHISEE shall promptly execute any applications or other forms or instruments required to obtain any such insurance and pay FRANCHISOR on demand any costs and premiums FRANCHISOR incurs.

FRANCHISEE's obligation to obtain and maintain the insurance described herein shall not be limited in any way by reason of any insurance which FRANCHISOR maintains, nor shall FRANCHISEE's performance of such obligations relieve FRANCHISEE of any obligations under Paragraph XIII. of this Agreement. Nothing contained herein shall be construed or considered an undertaking or representation by FRANCHISOR that such insurance required to be obtained by FRANCHISEE, or by FRANCHISOR for FRANCHISEE, will insure FRANCHISEE against any and all insurable risk of loss which may or can arise out of or in connection with the operation of the RESTAURANT.

J. VENDING MACHINES

No vending machines, newspaper racks, jukeboxes, gum or candy machines, games, pinball machines, video games, rides or other mechanical devices (except for pay telephones)

shall be installed or operated at the RESTAURANT without FRANCHISOR's prior written approval. Such approval may be conditioned upon the payment of a royalty on the revenues generated by such devices.

K. GIFT CERTIFICATES AND GIFT CARDS

In the event FRANCHISEE offers gift certificates or gift cards for sale, gift certificates shall be purchased through FRANCHISOR and accounted for by FRANCHISOR in a system-wide manner. FRANCHISEE may not produce for sale FRANCHISEE's own gift certificates or gift cards.

XI. MODIFICATION OF THE SYSTEM

FRANCHISEE recognizes and agrees that FRANCHISOR may change or modify the System presently identified by the Marks including the adoption and use of new or modified trade names, trademarks, service marks or copyrighted materials, new products, new services or new techniques, and that FRANCHISEE will accept, use and provide to the public for the purpose of this Agreement any such changes in System, including new or modified trade names, trademarks, service marks or copyrighted materials, new products, new services or new techniques, as if they were part of this Agreement at the time of execution hereof. FRANCHISEE shall make such expenditures as such changes or modifications in the System are reasonably called for by FRANCHISOR. FRANCHISEE shall not change, modify or alter in any way the System. FRANCHISOR will provide FRANCHISEE with reasonable notice of any modification to be made in the RESTAURANT.

XII. FEES

A. ROYALTY AND SERVICE FEE

FRANCHISEE agrees to pay FRANCHISOR a weekly fee (hereinafter "Royalty and Service Fee") in the amount of Five percent (5%) of the RESTAURANT's Gross Sales, unless the RESTAURANT fails to meet certain sales volume levels as outlined below, payable on or before the Friday following the end of the preceding week. Each week shall be deemed to end at the close of business on Monday.

In the event the RESTAURANT does not achieve sales volume of at least Four hundred twenty five thousand Dollars (\$425,000.00) in a fiscal year, which consists of thirteen (13), four (4) week periods during a calendar year, or Four hundred thirty three thousand one hundred seventy three Dollars (\$433,173.00) during a fifty-three (53) week fiscal year, which consists of twelve (12), four (4) week periods and one (1), five (5) week period during a calendar year, the weekly Royalty and Service Fee for that RESTAURANT shall be retroactively reduced for that

fiscal year to Three and one-half percent (3 1/2%). FRANCHISOR shall refund the excess to FRANCHISEE within thirty (30) days of the end of the fiscal year. In order to receive a refund, the FRANCHISEE must be current on all Royalty and Service Fees due FRANCHISOR, and any other accounts payable due FRANCHISOR, or one of FRANCHISOR'S affiliates.

B. DEFINITION OF "GROSS SALES"

As used in this Agreement, the term "Gross Sales" shall mean the aggregate amount of all sales of food, beverages, goods, articles and any other merchandise or services (including service charges in lieu of gratuity) made and rendered in connection with the RESTAURANT, including sales made at or away from the RESTAURANT, whether for cash or credit, but excluding all federal, state or municipal sales or service taxes paid by FRANCHISEE.

C. INTEREST ON LATE PAYMENTS

Required payments or reports not actually received by FRANCHISOR during regular business hours on the due date (or postmarked by postal authorities at least two (2) days prior thereto) shall be deemed delinquent. All Royalty and Service Fees, advertising contributions, amounts due for purchases by FRANCHISEE from FRANCHISOR or FRANCHISOR'S affiliates and other amounts which FRANCHISEE owes FRANCHISOR, or FRANCHISOR'S affiliates, shall bear interest after their due date at the highest applicable legal rate for open account business credit, not to exceed One and one-half percent (1 1/2%) per month. FRANCHISEE acknowledges that this Paragraph shall not constitute FRANCHISOR's or FRANCHISOR'S affiliates' agreement to accept such payments after they are due or a commitment by FRANCHISOR, or FRANCHISOR'S affiliates, to extend credit to or otherwise finance FRANCHISEE's operation of the RESTAURANT. Further, FRANCHISEE acknowledges that his failure to pay all amounts when due shall constitute grounds for termination of this Agreement, as provided in Paragraph XV.C. hereof, notwithstanding the provisions of this Paragraph.

D. APPLICATION OF PAYMENTS

Notwithstanding any designation by FRANCHISEE, FRANCHISOR shall have sole discretion to apply any payments by FRANCHISEE to any of FRANCHISEE'S past due indebtedness for Royalty and Service Fees, advertising fund contributions, local advertising fund contributions, purchases from FRANCHISOR or FRANCHISOR'S affiliates, interest or any other indebtedness.

E. ELECTRONIC FUNDS TRANSFER

FRANCHISOR reserves the right to require FRANCHISEE to remit Royalty and Service Fees, advertising fund contributions, local advertising fund contributions, and any other amounts due to FRANCHISOR hereunder via electronic funds transfer or other similar means. If FRANCHISOR notifies FRANCHISEE to use such payment method, FRANCHISEE agrees to comply with procedures specified by FRANCHISOR in this Paragraph and the Operations Manual, and/or perform such acts and deliver and execute such documents as may be necessary to assist in or accomplish payment by the method described in this Paragraph. On or before the Wednesday following the end of the preceding week, FRANCHISEE shall report to FRANCHISOR by telephone or electronic means the true and correct gross sales of the FRANCHISEE for the immediately preceding week. FRANCHISEE shall give FRANCHISOR authorization, in the form prescribed by FRANCHISOR, for direct debits from FRANCHISEE's business bank operating account. FRANCHISEE shall authorize FRANCHISOR to initiate debit entries and/or credit correction entries to a designated checking or savings account for payments of Royalty and Service Fees, advertising fund contributions, local advertising fund contributions, and any other amounts payable under this Agreement and any interest charges due thereon. FRANCHISEE shall make the funds available to FRANCHISOR for withdrawal by electronic transfer no later than the Friday following the end of the preceding week. The amount actually transferred from FRANCHISEE's accounts shall be based upon the gross sales indicated by computer or on FRANCHISEE's reports to FRANCHISOR as required hereunder. If FRANCHISEE has not reported the gross sales to FRANCHISOR for any reporting period as required above, then FRANCHISOR shall be authorized to debit FRANCHISEE's account in an amount equal to the fees transferred from FRANCHISEE's account for the last reporting period for which a report of gross sales was provided to FRANCHISOR. At FRANCHISOR's option, FRANCHISEE agrees that FRANCHISOR may base the amount of such debit information retrieved from FRANCHISEE's computer system, if any. If, at any time, FRANCHISOR determines that FRANCHISEE has under-reported the gross sales, or underpaid Royalty and Service Fees, advertising fund contributions, local advertising fund contributions, or other amounts due hereunder, FRANCHISOR shall be authorized to initiate immediately a debit to FRANCHISEE's account in the appropriate amount in accordance with the foregoing procedure, plus interest as provided for in this Agreement. Any overpayment shall be credited to FRANCHISEE's account through a credit effective as of the first reporting date after FRANCHISEE and FRANCHISOR determine that such credit is due.

XIII. INDEMNIFICATION

FRANCHISEE will, at all times, indemnify and hold harmless, to the fullest extent permitted by law, FRANCHISOR, its parent corporation, its subsidiaries, its corporate affiliates, successors and assigns, and their respective Directors, officers, employees, agents and representatives of each hereinafter collectively referred to as "indemnities" from all "losses and

expenses" (as defined below) incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or action has been instituted) which arises out of or is based upon any of the following:

1. FRANCHISEE's infringement, alleged infringement, or any other violation or alleged violation of any patent, mark or copyright or any other proprietary right owned or controlled by third parties;
2. FRANCHISEE's violation, breach or asserted violation or breach of any contract, federal, state or local law, regulation, ruling, standard or directive or of any industry standard;
3. Libel, slander or any other form of defamation, by FRANCHISEE;
4. FRANCHISEE's violation or breach of any warranty, representation, agreement or obligation in this Agreement;
5. Acts, errors or omissions of FRANCHISEE or any of FRANCHISEE's agents, servants, employees, contractors, partners, affiliates or representatives;
6. FRANCHISEE's dealings with prospective, existing or former franchisees;
7. Latent or other defects in the franchised business, whether or not discoverable by FRANCHISOR or FRANCHISEE;
8. The inaccuracy, lack of authenticity or non-disclosure of any information by any customer of the RESTAURANT or visitor to or guest of the RESTAURANT;
9. Any service provided by FRANCHISEE at, from or related to the operation of the RESTAURANT;
10. Any action by any customer of the RESTAURANT or visitor to the RESTAURANT; or
11. Any damage to the property of FRANCHISEE or FRANCHISOR, their agents or employees, or any third person, firm or corporation, whether or not such losses, claims, costs, expenses, damages, or liabilities were actually or allegedly caused in part through the active or passive negligence of FRANCHISOR or any of FRANCHISOR's agents or employees, or resulted from any strict liability imposed on FRANCHISOR or any of FRANCHISOR's agents or employees.

FRANCHISEE agrees to give FRANCHISOR notice, within three (3) days of FRANCHISEE receiving notice, of any such action, suit, proceeding, claim, demand, inquiry or investigation. At the expense and risk of FRANCHISEE, FRANCHISOR may elect to assume, but under no circumstances is obligated to undertake, the defense and/or settlement of any such action, suit, proceeding, claims, demand, inquiry or investigation. Such an undertaking by FRANCHISOR shall, in no manner or form, diminish FRANCHISEE's obligation to indemnify FRANCHISOR and to hold FRANCHISOR harmless. FRANCHISEE agrees to respond to all claims within the time required by law, rule or regulation. FRANCHISEE shall cooperate with FRANCHISOR (or its designee) in every fashion possible to defend FRANCHISOR and FRANCHISEE against any and all claims made by employees, customers or third parties. FRANCHISEE shall, when necessary, make appearances at administrative or other hearings to present or reinforce such defenses.

In order to protect persons or property, or FRANCHISOR's reputation or goodwill, or reputation or goodwill of others, FRANCHISOR may, at any time and without notice, as FRANCHISOR, in FRANCHISOR's judgment deems appropriate, order, consent or agree to settlements or take such other remedial or corrective action as it deems expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in FRANCHISOR's sole judgment, there are reasonable grounds to believe that:

1. Any of the acts or circumstances enumerated in Paragraph XIII. have occurred;
or
2. Any act, error, or omission of FRANCHISEE may result directly or indirectly in damage, injury or harm to any person or any property.

All losses and expenses incurred under this Paragraph XIII. shall be chargeable to and paid by FRANCHISEE pursuant to FRANCHISEE's obligations of indemnity under this Paragraph XIII., regardless of any actions, activity or defense undertaken by FRANCHISOR or the subsequent success or failure of such actions, activity or defense.

As used in this Paragraph XIII., the phrase "losses and expenses" shall include, without limitation, all losses, compensatory, exemplary or punitive damages, fines, charges, costs, expenses, lost profits, attorneys fees, court costs, settlement amounts, judgments, compensation for damages to the FRANCHISOR's reputation and goodwill, costs of or resulting from delays, financing, costs of advertising material and media time/space, and costs of changing, substituting or replacing the same, and any and all expenses of recall, refunds, compensation, public notices and other such amounts incurred in connection with the matters described.

Indemnities do not assume any liability whatsoever for acts, errors, or omissions of those with whom FRANCHISEE may contract, regardless of the purpose. FRANCHISEE shall hold

harmless and indemnify indemnities for all losses and expenses which may arise out of any acts, errors or omissions of these third parties.

Under no circumstances shall indemnities be required or obligated to seek money from third parties or otherwise mitigate their losses in order to maintain a claim against FRANCHISEE. FRANCHISEE agrees that the failure to pursue such recovery or mitigate losses will in no way reduce the amounts recoverable by indemnities from FRANCHISEE.

XIV. COVENANTS

A. EXCLUSIVE RELATIONSHIP

FRANCHISEE acknowledges and agrees that FRANCHISOR would be unable to protect Confidential Information against unauthorized use or disclosure and would be unable to encourage a free exchange of ideas and information among ROCKY ROCOCO RESTAURANTS if franchised owners of ROCKY ROCOCO RESTAURANTS were permitted to hold interests in or perform services for a Competitive Business. The term "Competitive Business" as used in this Agreement shall mean any business operating or granting franchises or licenses to others to operate a restaurant or carry-out, delivery or other business serving or selling pizza or other products or services substantially similar to those offered by a ROCKY ROCOCO RESTAURANT. Notwithstanding the foregoing, FRANCHISEE shall not be prohibited from owning securities in a company if such securities are listed on a stock exchange or traded on the over-the-counter market and represent Five percent (5%) or less of that class of securities. FRANCHISEE therefore agrees that, during the term of this Agreement, or any extension thereof, neither FRANCHISEE, any of FRANCHISEE's shareholders, members, or partners, nor any member of his or their immediate families shall:

1. Have any direct or indirect interest, as a disclosed or beneficial owner, in a Competitive Business, except ROCKY ROCOCO RESTAURANTS operated under franchise agreements with FRANCHISOR;

2. Communicate or divulge to any other persons, partnership, limited liability company, or corporation, except as such of its employees, agents, or contractors, as must know for purposes of operating the RESTAURANT, any information or knowledge concerning the suppliers or methods of sales or distribution used in the RESTAURANT, nor shall FRANCHISEE disclose or divulge, in whole or in part, any trade secrets, proprietary information or private processes of FRANCHISOR;

3. Perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for a Competitive Business, except ROCKY ROCOCO RESTAURANTS operated under franchise agreements with FRANCHISOR;

4. Recruit or hire any current employee of FRANCHISOR or of any ROCKY ROCOCO RESTAURANT operated by FRANCHISOR, FRANCHISOR's affiliates, or another franchisee of FRANCHISOR, or otherwise directly or indirectly induce or to seek to induce such person to leave his or her employment thereat, without obtaining the prior written permission of FRANCHISOR or such franchisee; or

5. Divert or to attempt to divert any business or customer of the RESTAURANT to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with FRANCHISOR's Marks and the System.

FRANCHISEE expressly agrees that it may conclusively be presumed that any violation of the terms of said covenants not to compete was accomplished by and through FRANCHISEE's unlawful utilization of FRANCHISOR's Confidential Information, know how, methods and procedures. FRANCHISEE acknowledges that any violation of the terms of said covenants not to compete will cause irreparable damage to FRANCHISOR, the exact amount of which may not be subject to reasonable or accurate ascertainment, and therefor, FRANCHISEE does hereby consent that in the event of such violation, FRANCHISOR shall be entitled to injunctive relief to restrain FRANCHISEE, or anyone acting for or on FRANCHISEE's behalf, from violating said covenants, or any of them. Such remedies, however, shall be cumulative and in addition to any other remedies to which FRANCHISOR may then be entitled. FRANCHISEE represents and acknowledges that in the event of the termination of this Agreement for whatever cause, FRANCHISEE's experience and capabilities are such that FRANCHISEE can obtain employment in business engaged in other lines or of a different nature than that of the operation of a restaurant, and that the enforcement of a remedy by way of injunction will not prevent FRANCHISEE from earning a livelihood. In the event FRANCHISOR brings suit to enforce any provision hereof, FRANCHISOR shall be entitled to receive, in addition to any relief or remedy granted, the cost of bringing such suit, including reasonable attorney's fees.

B. APPROPRIATION OF SYSTEM

FRANCHISEE covenants that FRANCHISEE shall not appropriate, use, or duplicate the FRANCHISOR's system, or any portion thereof, for use at any other business serving or selling pizza or other products or services substantially similar to those offered by a ROCKY ROCOCO RESTAURANT.

C. INTERPRETATION

The parties agree that the foregoing covenants shall be construed as severable and independent of any other covenant or provision of this Agreement and shall be interpreted and applied consistent with the requirements of reasonableness and equity. Any judicial reformation

of these covenants consistent with this interpretation shall be enforceable as though contained herein and shall not affect any other provisions or terms of this Agreement. If all or any portion of a covenant in this Paragraph XIV. is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which FRANCHISOR is a party, FRANCHISEE expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Paragraph.

D. SCOPE OF COVENANT

For purposes of construing the covenants contained in this Paragraph XIV., "FRANCHISEE" shall be deemed to include not only the individuals or entity which is defined as FRANCHISEE in the introductory paragraph of this Agreement, but if FRANCHISEE is an individual, shall also include his spouse, his children, his grandchildren, or his parents; if FRANCHISEE is a joint venture, limited liability company, or partnership, the foregoing restrictions shall apply to each partner, member, or venturer who, individually or collectively, through himself, his spouse, his children, his grandchildren, or his parents, owns a five percent (5%) or greater interest in such joint venture, limited liability company, or partnership; or if FRANCHISEE is a corporation, the foregoing restrictions shall apply to officers, directors, and to each shareholder, who individually or collectively, through himself, his spouse, his children, his grandchildren, or his parents, owns a five percent (5%) or greater interest in the outstanding capital stock of such corporation. By their signatures hereto, all partners, members, shareholders, officers and directors of the entity which signed this Agreement as FRANCHISEE acknowledges and accepts the duties and obligations imposed upon each and every one of them, individually, by the terms of this Paragraph. FRANCHISOR shall have the right to require all of FRANCHISEE's personnel to execute similar covenants in a form satisfactory to FRANCHISOR. The covenants set forth in this Paragraph XIV., shall survive the termination or expiration of this Agreement. FRANCHISEE acknowledges that the covenant not to compete set forth in this Paragraph XIV., is fair and reasonable, and will not impose any undue hardship on FRANCHISEE, since FRANCHISEE has other considerable skills, experience and education which afford FRANCHISEE the opportunity to derive income from other endeavors.

E. REDUCTION OF SCOPE OF COVENANT

FRANCHISEE understands and acknowledges that FRANCHISOR shall have the right, in FRANCHISOR's sole discretion, to reduce the scope of any covenant set forth in Paragraph XIV. of this Agreement, or any portion thereof, without FRANCHISEE's consent, effective immediately upon receipt by FRANCHISEE of written notice thereof, and FRANCHISEE agrees that FRANCHISEE shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding any other provisions of this Agreement.

XV. TERMINATION AND DEFAULTS

A. TERMINATION WITHOUT RIGHT TO CURE

FRANCHISEE shall be deemed to be in default under this Agreement and all rights granted to FRANCHISEE hereunder shall thereupon terminate, effective upon delivery of notice of termination to FRANCHISEE where the grounds for such termination are:

1. FRANCHISEE is adjudicated a bankrupt or insolvent;
2. FRANCHISEE makes an assignment for the benefit of creditors or a similar disposition of the assets of the RESTAURANT;
3. FRANCHISEE voluntarily abandons or fails to actively operate the RESTAURANT for three (3) days, unless the RESTAURANT has been closed for a purpose approved by FRANCHISOR or because of fire, flood or other casualty or government order;
4. FRANCHISEE is convicted of a felony or other crime which substantially impairs the goodwill associated with the FRANCHISOR's trademark, service mark, trade name or commercial symbol;
5. FRANCHISEE surrenders or transfers control of the RESTAURANT's operation without FRANCHISOR's prior written consent;
6. FRANCHISEE has made any material misrepresentation or omission in FRANCHISEE's application for the Franchise;
7. FRANCHISEE loses the right to possession of the Premises;
8. FRANCHISEE makes an unauthorized assignment of this Agreement, an ownership interest in FRANCHISEE or the RESTAURANT or fails to assign this Agreement or the interest in FRANCHISEE of a deceased or disable principal owner thereof as herein required;
9. FRANCHISEE makes any unauthorized use or disclosure of any Confidential Information or uses, duplicates or discloses any portion of the Operations Manual in violation of this Agreement;
10. FRANCHISEE fails or refuses to comply with FRANCHISOR's mandatory standards, specifications and operating procedures relating to the cleanliness or sanitation

of the RESTAURANT or violates any health, safety or sanitation law, ordinance or regulation and does not correct such noncompliance within seventy-two (72) hours after written notice thereof is delivered to FRANCHISEE;

11. FRANCHISEE intentionally understates the RESTAURANT's Gross Sales in any report or financial statement;

12. FRANCHISEE fails to comply with any other provision of this Agreement or any of FRANCHISOR's mandatory standards, specifications or operating procedures and does not correct such failure within thirty (30) days after written notice of such failure to comply is delivered to FRANCHISEE or provide proof acceptable to FRANCHISOR of efforts which are reasonably calculated to correct such failure within a reasonable time, which shall in no event be more than sixty (60) days after such notice, if such failure cannot reasonably be corrected within thirty (30) days after written notice of such failure to comply is delivered to FRANCHISEE;

13. FRANCHISEE fails on three (3) or more separate occasions within any period of twelve (12) consecutive months or on five (5) occasions during the term of this Agreement to submit when due reports or other data, information or supporting records or to pay when due the Royalty and Service Fees, Fund contributions or other payments due to FRANCHISOR or its affiliates or otherwise fails to comply with this Agreement, whether or not such failures to comply are corrected after notice thereof is delivered to FRANCHISEE; or

14. If FRANCHISEE submits to FRANCHISOR on two (2) or more separate occasions at any time during the term of the franchise, any reports or other data, information or supporting records which understate by more than one percent (1%) the Royalty and Service Fees for any period and FRANCHISEE is unable to demonstrate that such understatements resulted from inadvertent error;

15. FRANCHISEE repeatedly fails to comply with the lawful provisions of this Agreement or other Agreement.

B. TERMINATION WITH RIGHT TO CURE

Except as provided in Paragraph XV.A., if FRANCHISEE shall be in default under the terms of this Agreement FRANCHISOR, at FRANCHISOR's option, may terminate this Agreement by giving the FRANCHISEE thirty (30) days' written notice of termination. If such default shall not be cured within thirty (30) days after receipt of written notice of termination thereof from FRANCHISOR, in addition to all other remedies, law or in equity, the

FRANCHISEE's rights under this Agreement are terminated. FRANCHISEE shall be in default and the following shall constitute good cause under this Agreement:

1. If FRANCHISEE fails to submit reports or financial data which FRANCHISOR requires under this Agreement;
2. If a petition in bankruptcy is filed by FRANCHISEE or such a petition is filed against FRANCHISEE, or a receiver is appointed, or if a bill in equity or other proceeding for the appointment of a receiver of FRANCHISEE or other custodian for the FRANCHISEE's business or assets is filed, or a receiver or other custodian is appointed, or if proceedings for composition with creditors under any state or federal law shall be instituted by or against FRANCHISEE;
3. If the real or personal property of the FRANCHISEE shall be attached or levied upon by any sheriff, marshal, or constable;
4. If FRANCHISEE commits any act which materially impairs the goodwill associated with the FRANCHISOR's trademark, tradename, service mark, logotype or other commercial symbol;
5. If FRANCHISEE fails to comply with any of the requirements imposed upon it by this Agreement, the Operations Manual, or other such operational memoranda issued by FRANCHISOR, or uses bad faith in carrying out the terms of the franchise;
6. If FRANCHISEE fails to decorate and equip the premises as provided in this Agreement;
7. If FRANCHISEE defaults on the lease of the RESTAURANT;
8. If FRANCHISEE sells, leases, sub-leases or transfers any interest of the lease for the RESTAURANT without FRANCHISOR's prior written consent;
9. If the lease or sub-lease for the RESTAURANT is terminated or cancelled and FRANCHISEE is unable to renew or extend the lease or sub-lease or FRANCHISEE fails to maintain possession of the RESTAURANT location unless permitted to relocate by the FRANCHISOR;
10. If FRANCHISEE fails to obtain or maintain insurance as required by this Agreement and FRANCHISEE does not correct this failure within forty-eight (48) hours after written notice;

11. If FRANCHISEE fails to operate the RESTAURANT on the days and hours specified or approved in writing by FRANCHISOR;

12. If FRANCHISEE breaches or fails to perform any obligation under any agreement between FRANCHISOR and FRANCHISEE;

13. If FRANCHISEE fails to promptly pay when due and fails to maintain FRANCHISEE's trade accounts in a current status. For purposes of this paragraph, current status shall be deemed to be within sixty (60) days of the due date; or

14. If FRANCHISEE fails to pay any Federal or State income, service, sales or other taxes due on the RESTAURANT's operations, unless FRANCHISEE is in good faith contesting FRANCHISEE's liability for such taxes.

C. FAILURE TO PAY FEES

If FRANCHISEE fails to report accurately the RESTAURANT's gross sales or fails, refuses, or neglects to pay FRANCHISOR (or its parent, or the subsidiaries, affiliates or designees of such entity) any monies owing to FRANCHISOR (or its parent, or the subsidiaries, affiliates, or designees of such entity) on date due, the FRANCHISOR, at FRANCHISOR's option, may terminate this Agreement by giving the FRANCHISEE ten (10) days written notice of termination for non-payment of sums due under this Agreement. If such default shall not be cured within ten (10) days after receipt of written notice of termination from FRANCHISOR for non-payment of sums due under this Agreement, in addition to all other remedies, law or in equity, the FRANCHISEE's rights under this Agreement are terminated.

D. OTHER MATTERS

For purposes of this Section, receipt of notice is defined in Paragraph XXIII.

The foregoing notwithstanding, to the extent that the provisions of this Franchise Agreement provide for periods of notice less than those required by applicable law, or provide for termination, cancellation, non-renewal or the like other than in accordance with applicable law, such provisions shall, to the extent such are not in accordance with applicable law, not be effective, and FRANCHISOR shall comply with applicable law in connection with each of these matters.

Termination shall not relieve FRANCHISEE of any obligation to FRANCHISOR that shall have matured under or survived this Agreement or under any other written agreement of the parties.

XVI. RIGHTS AND DUTIES OF PARTIES UPON EXPIRATION OR TERMINATION

A. PAYMENT OF AMOUNTS OWED TO FRANCHISOR AND OTHERS

FRANCHISEE shall, within fifteen (15) days after the effective date of termination or expiration of this Agreement, pay FRANCHISOR (or its parent, or the subsidiaries, affiliates or designees of such entity) all sums owing from FRANCHISEE to FRANCHISOR under the terms of this Agreement. Said sums shall include Royalty and Service Fees, Fund contributions, amounts owed for purchases by FRANCHISEE from FRANCHISOR's affiliates, interest due on any of the foregoing, all damages, costs and expenses, including reasonable attorneys' fees, incurred by FRANCHISOR by reason of default on the part of FRANCHISEE, whether or not such occur prior to or subsequent to the termination or expiration of the franchise, and said sums shall include all costs and expenses, including reasonable attorneys' fees, incurred by FRANCHISOR in obtaining injunctive or other relief to enforce the provisions of this contract.

FRANCHISEE shall promptly pay all sums due and owing to any lessor, employees, taxing authorities, advertising agencies and all other third parties.

B. MARKS

FRANCHISEE agrees that, upon termination or expiration of this Agreement:

1. FRANCHISEE shall immediately thereafter cease to use, by advertising or in any manner whatsoever, the name "ROCKY ROCOCO" or any forms, manuals, slogans, signs, marks, symbols, or devices used in connection with the operation of a ROCKY ROCOCO RESTAURANT. FRANCHISEE shall not represent or advertise that FRANCHISOR or FRANCHISEE were formerly parties to this Franchise Agreement or that FRANCHISEE did business under the trademarks, servicemarks, or tradenames of FRANCHISOR;

2. FRANCHISEE shall not thereafter use, in any manner, or for any purpose, directly or indirectly, any of FRANCHISOR's Confidential Information, trade secrets, procedures, forms, techniques, know-how or materials acquired by FRANCHISEE by virtue of the relationship established by this Agreement, including FRANCHISOR's services, programs and products; specifications or descriptions of FRANCHISOR's services and products; lists of customers and lists of employees and independent contractors; any and all of the systems, procedures, techniques, criteria, concepts, designs, advertising and promotion techniques and products/service techniques; and all other components, specifications and standards which comprise part of FRANCHISOR's system;

3. FRANCHISEE shall return to FRANCHISOR all signs, sign faces, sign cabinets, advertising materials, forms, invoices and other materials containing any Mark or otherwise identifying or relating to a ROCKY ROCOCO RESTAURANT and allow FRANCHISOR, without liability, to remove all such items from the RESTAURANT;

4. FRANCHISEE shall take such action as shall be necessary to change FRANCHISEE's sole proprietorship/corporate/limited liability company/partnership name or cancel any assumed name or equivalent registration which contains the name "ROCKY ROCOCO" or any other mark of FRANCHISOR. FRANCHISEE shall furnish FRANCHISOR evidence satisfactory to FRANCHISOR of compliance with this obligation within thirty (30) days after said termination. If FRANCHISEE fails or refuses to do so, FRANCHISOR may, in FRANCHISEE's name and on FRANCHISEE's behalf and, at FRANCHISEE's expense, execute any and all documents necessary to cause discontinuance of FRANCHISEE's use of the name "ROCKY ROCOCO", or any related name used hereunder, and FRANCHISOR is hereby irrevocably appointed by FRANCHISEE as FRANCHISEE's attorney-in-fact to do so;

5. FRANCHISEE shall assign to FRANCHISOR all of FRANCHISEE's rights, title and interest in and to all telephone numbers of the RESTAURANT. FRANCHISEE shall notify the telephone company and all telephone directory publishers of the termination or expiration of FRANCHISEE's right to use any telephone and telecopy numbers and any regular, classified or other telephone directory listings associated with any Mark and to authorize transfer thereof to FRANCHISOR or at FRANCHISOR's direction, FRANCHISEE acknowledges that, as between FRANCHISEE and FRANCHISOR, FRANCHISOR has the sole rights to and interest in all telephone and telecopy numbers and directory listings associated with any Mark. FRANCHISEE authorizes FRANCHISOR, and hereby appoints FRANCHISOR and any of FRANCHISOR's officers as FRANCHISEE's attorney in fact, to direct the telephone company and all telephone directory publishers to transfer any telephone and telecopy numbers and directory listings relating to the RESTAURANT to FRANCHISOR or at FRANCHISOR's direction, should FRANCHISEE fail or refuse to do so, and the telephone company and all telephone directory publishers may accept such direction or this Agreement as conclusive of FRANCHISOR's exclusive rights in such telephone and telecopy numbers and directory listings and FRANCHISOR's authority to direct their transfer;

6. If FRANCHISOR does not purchase the RESTAURANT as provided in Paragraph XVI.E., FRANCHISEE shall make such changes to the appearance of the RESTAURANT as are prescribed in the Operations Manual. If FRANCHISEE fails to initiate immediately or complete such alterations within such period of time that FRANCHISOR deems appropriate, FRANCHISEE agrees that FRANCHISOR, or

FRANCHISOR's designated agents, may either enter the premises and adjacent areas at any time, without prior notice, and forcibly, if necessary, make such alteration at FRANCHISEE's sole risk and expense. FRANCHISOR shall not be responsible for any actual or consequential damages to FRANCHISEE's property or otherwise be liable for any trespass or other tort or criminal act;

7. FRANCHISEE, at FRANCHISOR's option, shall assign to FRANCHISOR any interest which FRANCHISEE has in any lease, sublease, right or entry or easement for the leased premises, and vacate the leased premises promptly and completely, rendering all necessary assistance to FRANCHISOR to enable it to take prompt possession thereof. FRANCHISOR shall not be liable for any back rent owed by the FRANCHISEE to the lessor;

8. FRANCHISEE shall return all materials and supplies identified by the Marks in full cases or packages to FRANCHISOR for credit and dispose of all other materials and supplies identified by the Marks within thirty (30) days after the effective date of termination or expiration of this Agreement;

9. FRANCHISEE shall immediately execute any and all agreements necessary to effectuate such termination in a prompt and timely manner;

10. FRANCHISEE shall furnish FRANCHISOR, within thirty (30) days after the effective date of termination or expiration, with evidence satisfactory to FRANCHISOR of FRANCHISEE's compliance with the foregoing obligations;

11. FRANCHISEE shall immediately turn over to FRANCHISOR all manuals, including the Operations Manual, records, files, instructions, correspondence, and any and all materials relating to the operation of the RESTAURANT in FRANCHISEE's possession, and all copies thereof (all of which are acknowledged to be FRANCHISOR's property), and shall retain no copy or record of any of the foregoing, excepting only FRANCHISEE's copy of this Agreement and of any correspondence between the parties, and any other documents which the FRANCHISEE reasonably needs for compliance with any provision of law; and

12. FRANCHISEE, within thirty (30) days after the effective date of termination or expiration, shall transfer all of FRANCHISEE's rights, title and interest in and to all websites of the RESTAURANT.

C. CONFIDENTIAL INFORMATION

FRANCHISEE agrees that, upon termination or expiration of this Agreement, FRANCHISEE will immediately cease to use any Confidential Information of FRANCHISOR, and FRANCHISOR's affiliates, disclosed to FRANCHISEE pursuant to this Agreement in any business or otherwise and return to FRANCHISOR all copies of the Operations Manual and any other confidential materials which have been loaned to FRANCHISEE by FRANCHISOR.

D. COVENANT NOT TO COMPETE

Upon termination of this Agreement by FRANCHISOR in accordance with its terms and conditions, or by FRANCHISEE without cause, or upon expiration of this Agreement (if FRANCHISOR refuses to grant or FRANCHISEE elects not to acquire a successor franchise), FRANCHISEE and FRANCHISEE's owners agree that, for a period of one (1) year (or two (2) years if the FRANCHISOR purchases the RESTAURANT as provided in Paragraph XVI.E.) commencing on the effective date of termination or expiration, or the date on which FRANCHISEE ceases to conduct business, whichever is later, that FRANCHISEE shall not have any direct or indirect interest (through a member of the immediate families of FRANCHISEE or FRANCHISEE's owners or otherwise) as disclosed or beneficial owner, investor, partner, member, director, officer, manager, employee, consultant, representative or agent in any other capacity in any Competitive Business located or operating within five (5) miles of the RESTAURANT or any ROCKY ROCOCO RESTAURANT operated by FRANCHISOR, or FRANCHISOR's affiliates, or FRANCHISEES. For purposes of construing the covenants contained in this Paragraph XVI., "FRANCHISEE" shall be deemed to include not only the individuals or entity which is defined as FRANCHISEE in the introductory paragraph of this Agreement, but if FRANCHISEE is an individual, shall also include his spouse, his children, his grandchildren, or his parents; if FRANCHISEE is a joint venture, limited liability company, or partnership, the foregoing restrictions shall apply to each partner, member, or venturer who, individually or collectively, through himself, his spouse, his children, his grandchildren, or his parents, owns a five percent (5%) or greater interest in such venture, limited liability company, or partnership; or if FRANCHISEE is a corporation, the foregoing restrictions shall apply to officers, directors, and to each shareholder, who individually or collectively, through himself, his spouse, his children, his grandchildren, or his parents, owns a five percent (5%) or greater interest in the outstanding capital stock of such corporation. By their signatures hereto, all partners, members, shareholders, officers and directors of the entity which signed this Agreement as FRANCHISEE acknowledges and accepts the duties and obligations imposed upon each and every one of them, individually, by the terms of this Paragraph. FRANCHISOR shall have the right to require all of FRANCHISEE's personnel to execute similar covenants in a form satisfactory to FRANCHISOR. The covenants set forth in this Paragraph XVI., shall survive the termination or expiration of this Agreement. FRANCHISEE acknowledges that the covenant not to compete set forth in this Paragraph XVI., is fair and reasonable, and will not impose any

undue hardship on FRANCHISEE, since FRANCHISEE has other considerable skills, experience and education which afford FRANCHISEE the opportunity to derive income from other endeavors. If the aforementioned shall be deemed unenforceable by law, then the period shall be reduced to such period as shall be legally enforceable.

No sale, assignment, transfer, conveyance, encumbrance or gift of any interest in this Agreement or in the Franchise granted thereby shall relieve FRANCHISEE and the shareholders or partners, as applicable, participating in any transfer, of the obligations of the covenants contained herein, except where FRANCHISOR shall expressly authorize in writing.

E. COMPANY HAS RIGHT TO PURCHASE RESTAURANT

Upon termination of this Agreement by FRANCHISOR in accordance with its terms and conditions or by FRANCHISEE without cause, or upon expiration of this Agreement (if FRANCHISOR refuses to renew or if FRANCHISEE elects not to renew this Agreement), FRANCHISOR, or FRANCHISOR's assignee, shall have the option, exercisable by giving written notice thereof within sixty (60) days from the date of such expiration or termination, to purchase from FRANCHISEE all the RESTAURANT's tangible assets (including, without limitation, usable inventory of food products, materials, supplies, leasehold improvements, fixtures, furnishings, equipment and signs, but excluding any unamortized portion of the initial franchise fee, cash and short-term investments) and to receive an assignment of FRANCHISEE's liquor license (if any), if assignable, and FRANCHISEE's lease or sub-lease for the Premises (or, if assignment is prohibited), a sublease for the full remaining term and on the same terms and conditions as FRANCHISEE's lease or sublease). FRANCHISOR shall have the unrestricted right to assign this option to purchase. FRANCHISOR, or FRANCHISOR's assignee, shall be entitled to all customary warranties and representations in connection with its asset purchase, including, without limitation, representations and warranties as to ownership, condition of and title to assets, liens and encumbrances on the assets, validity of contracts and agreements and liabilities inuring to FRANCHISOR or affecting the assets, contingent or otherwise.

In the event FRANCHISOR and FRANCHISEE cannot agree on the purchase price of the tangible assets as set forth above, the purchase price shall be determined by appraisal by a competent appraiser designated by FRANCHISOR and FRANCHISEE, provided, that if they cannot agree upon an appraiser, the two so appointed shall appoint a third appraiser, and the decision of the three appraisers shall determine the fair value of the tangible assets.

The purchase price shall be paid in cash at the closing of the purchase, which shall take place no later than ninety (90) days after the determination of the purchase price, at which time FRANCHISEE shall deliver instruments transferring to FRANCHISOR, or its assignee, good and merchantable title to the assets purchased, free and clear of all liens and encumbrances with all sales and other transfer taxes paid by FRANCHISEE, and all licenses, leases or permits of the

RESTAURANT which may be assigned or transferred. In the event that FRANCHISEE cannot deliver clear title to all of the purchased assets as aforesaid, or in the event there shall be other unresolved issues, at FRANCHISOR's or its assignee's option, the closing of the sale shall be accomplished through an escrow. Prior to closing, FRANCHISEE and FRANCHISOR or its assignee shall comply with the applicable Bulk Sales provisions of the Uniform Commercial Code as enacted in the state in which the RESTAURANT is located.

If FRANCHISOR or its assignee exercises this option to purchase, pending determination of the purchase price and the closing of such purchase, FRANCHISOR, or its assignee, may appoint a manager to maintain the operation of the RESTAURANT or, at its option, require FRANCHISEE to close the RESTAURANT during such time period without removing any assets (other than perishable food products). FRANCHISEE shall maintain in force all insurance policies required for the RESTAURANT until the date of closing.

F. CONTINUING OBLIGATIONS

The expiration or termination of this Agreement shall be without prejudice to the rights of FRANCHISOR against FRANCHISEE, and such expiration or termination shall not relieve FRANCHISEE of any of his obligations to FRANCHISOR existing at the time of expiration or termination, or terminate those obligations of FRANCHISEE which by their nature survive the expiration or termination of this Agreement.

No right or remedy herein conferred upon or reserved to FRANCHISOR is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder.

XVII. HOURS OF OPERATION

FRANCHISEE recognizes that continuous and daily availability of service to the public is essential to the adequate promotion of ROCKY ROCOCO and that any failure to provide such availability affects FRANCHISOR both locally and nationally. FRANCHISEE shall make itself available to provide the franchise services during the hours specified or approved in writing by FRANCHISOR, except where prohibited or otherwise regulated by governmental authority, and shall otherwise conduct the business in accordance with generally accepted business standards. These requirements may be changed by FRANCHISOR.

XVIII. ASSIGNMENT

A. BY FRANCHISOR

This Agreement and all rights hereunder may be assigned and transferred by FRANCHISOR and, if so, shall be binding upon and inure to the benefit of FRANCHISOR's successors and assigns. FRANCHISOR may sell FRANCHISOR's assets, Marks, or System outright to a third party; may go public; may engage in a private placement of some or all of FRANCHISOR's securities; may merge, acquire other corporations, or be acquired by another corporation; may undertake a refinancing, recapitalization, leverage buy-out or other economic or financial restructuring; and, with regard to any or all of the above sales, assignments and dispositions, FRANCHISEE expressly and specifically waives any claims, demands or damages arising from or related to the loss of said Marks (or any variation thereof) and/or the loss of association with or identification of FRANCHISOR.

B. FRANCHISEE MAY NOT ASSIGN WITHOUT APPROVAL OF FRANCHISOR

FRANCHISEE understands and acknowledges that the rights and duties created by this Agreement are personal to FRANCHISEE (or, if FRANCHISEE is a corporation or partnership, to its owners) and that FRANCHISOR has granted the Franchise to FRANCHISEE in reliance upon FRANCHISOR's perceptions of the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of FRANCHISEE (or its owners). Accordingly, neither this Agreement (or any interest herein) nor any part or all of the ownership of FRANCHISEE or the RESTAURANT (or any interest therein) may be transferred without FRANCHISOR's prior written approval. Any transfer without such approval shall constitute a breach of this Agreement and be void and of no effect. As used in this Agreement, the term "transfer" shall mean and include the voluntary, involuntary, direct or indirect assignment, sale, gift or other disposition by FRANCHISEE (or any of its owners) of any interest in:

1. This Agreement;
2. The ownership of FRANCHISEE; or
3. The RESTAURANT.

An assignment, sale, gift or other disposition shall include the following events:

1. Transfer of ownership of capital stock, membership interest, or a partnership interest;

2. Merger or consolidation or issuance of additional securities representing an ownership interest in FRANCHISEE;

3. Any sale of capital stock of FRANCHISEE or any security convertible to capital stock of FRANCHISEE;

4. Transfer of an interest in FRANCHISEE, this Agreement, or the RESTAURANT in a divorce, insolvency, corporate or partnership dissolution proceeding or otherwise by operation of law; or

5. Transfer of an interest in FRANCHISEE, this Agreement, or the RESTAURANT in the event of the death of FRANCHISEE, or an owner of FRANCHISEE by will, declaration of or transfer in trust, or under the laws of intestate succession.

C. CONDITIONS FOR APPROVAL OF TRANSFER

If FRANCHISEE is in full compliance with this Agreement (and, if FRANCHISEE is a corporation, partnership or limited liability company, its owners are in full compliance with this Agreement), FRANCHISOR shall not unreasonably withhold its approval of a transfer that meets all the applicable requirements of this Paragraph. The proposed transferee and its owners must be individuals of good moral character and otherwise meet FRANCHISOR's then applicable standards for ROCKY ROCOCO RESTAURANT franchisees. A transfer of ownership in the RESTAURANT may only be made in conjunction with a transfer of this Agreement. If the transfer is of this Agreement or a controlling interest in FRANCHISEE, or is one of a series of transfers which in the aggregate constitute the transfer of this Agreement or a controlling interest in FRANCHISEE, all of the following conditions must be met prior to or concurrently with the effective date of the transfer:

1. The transferee shall have sufficient business experience, aptitude and financial resources to operate the RESTAURANT;

2. FRANCHISEE shall have paid all Royalty and Service Fees, Fund contributions, amounts owed for purchases by FRANCHISEE from FRANCHISOR, and FRANCHISOR's affiliates, and all other amounts owed to FRANCHISOR, or FRANCHISOR's affiliates, and third-party creditors and shall have submitted to FRANCHISOR all required reports and statements;

3. The transferee (or its approved partner or shareholder) shall have agreed to complete FRANCHISOR's training program to FRANCHISOR's satisfaction;

4. The transferee shall have entered into a written assignment with FRANCHISEE and FRANCHISOR (in a form satisfactory to FRANCHISOR) assuming all of FRANCHISEE's obligations hereunder;

5. FRANCHISEE, or the transferee, shall have paid FRANCHISOR a transfer fee equal to Fifty percent (50%) of the then-current initial franchise fee charged by FRANCHISOR to defray expenses FRANCHISOR incurs in connection with the transfer;

6. FRANCHISOR shall have approved the material terms and conditions of such transfer, including, without limitation, that the price and terms of payment are not so burdensome as to affect adversely the transferee's operation of the RESTAURANT;

7. If FRANCHISEE finances any part of the sale price of the transferred interest, FRANCHISEE and/or FRANCHISEE's owners shall have agreed that all obligations of the transferee under or pursuant to any promissory notes, agreements or security interests reserved by FRANCHISEE or its owners in the assets of the RESTAURANT shall be subordinate to the transferee's obligations to pay Royalty and Service Fees, Fund contributions and other amounts due to FRANCHISOR, and FRANCHISOR's affiliates, and otherwise to comply with this Agreement;

8. FRANCHISEE and FRANCHISEE's owners shall have executed a noncompetition covenant in favor of FRANCHISOR and the transferee agreeing that, for a period of two (2) years commencing on the effective date of the transfer, FRANCHISEE, FRANCHISEE's owners and members of the immediate families of FRANCHISEE and each of FRANCHISEE's owners will not hold any direct or indirect interest as a disclosed or beneficial owner, investor, partner, member, director, officer, manager, employee, consultant, representative or agent, or in any other capacity, in a Competitive Business located or operating within five (5) miles of the RESTAURANT or any ROCKY ROCOCO RESTAURANT operated by FRANCHISOR, FRANCHISOR's affiliates, or franchisees;

9. FRANCHISEE shall have agreed that FRANCHISEE will not directly or indirectly at any time or in any manner (except with respect to ROCKY ROCOCO RESTAURANTS owned and operated by FRANCHISEE) identify FRANCHISEE or any business as a current or former ROCKY ROCOCO RESTAURANT, or as a franchisee, licensee or dealer of FRANCHISOR, or FRANCHISOR's affiliates, use any Mark, any colorable imitation thereof or other indicia of a ROCKY ROCOCO RESTAURANT in any manner or for any purpose or utilize for any purpose any trade name, trade or service mark or other commercial symbol that suggests or indicates a connection or association with FRANCHISOR, or FRANCHISOR's affiliates;

10. The lessor or sublessor of the Premises shall have consented to the assignment or sublease of the Premises to the transferee or the transferee must have secured substitute premises for the RESTAURANT approved by FRANCHISOR;

11. FRANCHISEE and/or transferee shall make reasonable capital expenditures to remodel, modernize and redecorate the franchised premises so that the franchised premises will reflect the current image intended to be portrayed by ROCKY ROCOCO facilities. All remodeling, modernization, redecoration of the franchised premises must be done in accordance with the standards and specifications prescribed by FRANCHISOR and all replacements must conform to FRANCHISOR's then-current quality standards and specifications and must be approved by FRANCHISOR in writing;

12. FRANCHISEE must give FRANCHISOR ninety (90) days written notice prior to any sale or assignment by FRANCHISEE. The purpose of this paragraph is to enable FRANCHISOR to comply with any applicable state or federal franchise disclosure laws. FRANCHISEE agrees to indemnify and hold FRANCHISOR harmless for FRANCHISEE's failure to comply with this Paragraph;

13. If transferee is a corporation:

a. Each stock certificate of the transferee corporation shall have conspicuously endorsed upon it a statement that it is held subject to, and if further assignment or transfer thereof is subject to, all restrictions imposed upon assignments by this Agreement; and

b. No new shares of common or preferred voting stock in a transferee corporation shall be issued to any person, partnership, trust, foundation, or corporation without obtaining FRANCHISOR's prior written consent;

14. Transferee and all owners, officers and directors of transferee shall execute such guarantees and other documents as may be required by FRANCHISOR; and

15. FRANCHISEE provides FRANCHISOR with a complete copy of the closing documents at least three (3) days prior to closing.

FRANCHISEE shall not sell or transfer, without the FRANCHISOR's prior written consent, to a third party any leasehold improvements, inventory, furniture, fixtures, or equipment without the transfer, to the same party, of this Agreement. Any purported assignment of the above-listed assets not having the aforesaid consent shall be null and void and shall constitute a material default hereunder.

D. TRANSFER TO A WHOLLY-OWNED CORPORATION OR LIMITED LIABILITY COMPANY

If FRANCHISEE is in full compliance with this Agreement, FRANCHISEE may transfer this Agreement to a corporation or limited liability company which conducts no business other than the RESTAURANT and in which FRANCHISEE maintains management control and owns and controls One hundred percent (100%) of the equity and voting power of all issued and outstanding capital stock or membership interest. Transfers of shares in such corporation or limited liability company will be subject to the provisions of Paragraph XVIII.C. All accrued money obligations of FRANCHISEE to FRANCHISOR, FRANCHISOR's subsidiaries or assignees, shall be satisfied prior to assignment or transfer. Notwithstanding anything to the contrary herein, FRANCHISEE shall remain personally liable under this Agreement as if the transfer to such corporation or limited liability company had not occurred. The Articles of Incorporation, By-Laws and other organizational documents of such corporation or Operation Agreement of such limited liability company shall recite that the issuance and assignment of any interest therein is restricted by the terms of Paragraph XVIII. hereof, and all issued and outstanding stock certificates of such corporation shall bear a legend reciting or referring to the restrictions hereof. Each shareholder or member of FRANCHISEE, at any time during the term of this Agreement, shall execute an "Owner's Guaranty and Assumption of Franchisee's Obligations", or such other agreement that FRANCHISOR prescribes, undertaking to be bound jointly and severally by all provisions of this Agreement. FRANCHISEE shall furnish to FRANCHISOR at any time upon request, in such form as FRANCHISOR may require, a list of FRANCHISEE's shareholders (of record and beneficially) reflecting their respective interests in FRANCHISEE. The transferee corporation or limited liability company shall enter into a written assignment with FRANCHISEE and FRANCHISOR (in a form satisfactory to FRANCHISOR) assuming all of FRANCHISEE's obligations hereunder. No new shares of common or preferred voting stock in the transferee corporation shall be issued to any person, partnership, limited liability company, trust, foundation, or corporation without obtaining FRANCHISOR's prior written consent.

E. DEATH OR DISABILITY OF FRANCHISEE

Upon the death or permanent disability of FRANCHISEE or, if FRANCHISEE is a corporation, limited liability company, or partnership, the owner of a controlling interest in FRANCHISEE, the executor, administrator, conservator, guardian or other personal representative of such person shall, within six (6) months of such event:

1. Apply to FRANCHISOR for the right to continue to operate the RESTAURANT (for the duration of the term of this Agreement), which right shall be granted upon the fulfillment of all of the conditions set forth in Paragraph XVIII.C. of this Agreement (except that no transfer fee shall be required); or

2. Transfer FRANCHISEE's interest in this Agreement or such interest in the RESTAURANT to a third party approved by FRANCHISOR. Such disposition of this Agreement or such interest in the RESTAURANT (including, without limitation, transfer by bequest or inheritance) shall be completed within a reasonable time, not to exceed six (6) months from the date of death or permanent disability, and shall be subject to all the terms and conditions applicable to transfers contained in Paragraph XVIII.C. Failure to transfer the interest in this Agreement or such interest in FRANCHISEE within said period of time shall constitute a breach of this Agreement. For purposes hereof, the term "permanent disability" shall mean a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent FRANCHISEE, or an owner of a controlling interest in FRANCHISEE, from supervising the management and operation of the RESTAURANT for a period of six (6) months from the onset of such disability, impairment or condition.

In the event of the death or incapacity of a FRANCHISEE, any partner, any member, or shareholder of a FRANCHISEE, which is a partnership, limited liability company, or corporation, where the aforesaid provisions have not been fulfilled within the time provided, all rights licensed to FRANCHISEE under this Agreement shall, at the option of FRANCHISOR, terminate forthwith and automatically revert to FRANCHISOR.

If, after the death or permanent disability of FRANCHISEE or a controlling owner of FRANCHISEE, the RESTAURANT is not being managed by a competent and trained manager, FRANCHISOR is authorized, but not obligated, to appoint a manager to maintain the RESTAURANT's operation until an approved assignee shall be able to assume its management and operation, for a period not exceeding ninety (90) days, renewable as necessary, for up to one (1) year, without the written approval of the personal representative of FRANCHISEE. In the event FRANCHISOR appoints such a manager to maintain the RESTAURANT'S operation, FRANCHISOR shall periodically discuss the status of the RESTAURANT with the personal representative of FRANCHISEE, or FRANCHISEE'S heirs. All funds from the RESTAURANT's operation during the period of management by FRANCHISOR's appointed manager shall be kept in a separate fund and all expenses of the RESTAURANT, including compensation, other costs and travel and living expenses of FRANCHISOR's appointed manager, shall be charged to such fund. As compensation for the management services provided, in addition to the fees due hereunder and the compensation, other costs and travel and living expenses which FRANCHISOR's appointed manager incurs. FRANCHISOR shall charge such fund Five percent (5%) of the RESTAURANT's Gross Sales (as defined in Paragraph XII.B. of this Agreement) during the period of FRANCHISOR's management. Operation of the RESTAURANT during any such period shall be for and on behalf of FRANCHISEE, provided, that FRANCHISOR shall have a duty only to utilize its good faith efforts and shall not be liable to FRANCHISEE or FRANCHISEE'S owners for any debts, losses or obligations incurred by the RESTAURANT or to any creditor of FRANCHISEE for any merchandise, materials, supplies or

services purchased by the RESTAURANT during any period in which it is managed by FRANCHISOR's appointed manager.

F. EFFECT OF CONSENT TO TRANSFER

FRANCHISOR's consent to a transfer of this Agreement or any interest in FRANCHISEE or the RESTAURANT shall not constitute a waiver of any claims FRANCHISOR may have against FRANCHISEE (or its owners) nor be deemed a waiver of FRANCHISOR's right to demand the transferee's exact compliance with any of the terms or conditions of this Agreement.

G. FRANCHISOR'S RIGHT OF FIRST REFUSAL

If FRANCHISEE (or its owners) shall at any time determine to sell a One hundred percent (100%) ownership interest in FRANCHISEE or the RESTAURANT, FRANCHISEE (or its owners) shall obtain a bona fide, executed written offer and an earnest money deposit (in the amount of Five percent (5%) or more of the offering price) from a responsible and fully disclosed purchaser (including lists of the owners of record and beneficially of any corporate offeror and all general and limited partners of any partnership offeror and, in the case of a publicly-held corporation or limited partnership, copies of the most current annual and quarterly reports). FRANCHISEE shall immediately submit to FRANCHISOR a true and complete copy of such offer, which shall include details of the payment terms of the proposed sale and the sources and terms of any financing for the proposed purchase price. The offer must apply only to an interest in FRANCHISEE, or the RESTAURANT, and may not include an offer to purchase any other property or rights of FRANCHISEE (or its owners). However, if the offeror proposes to buy any other property or rights from FRANCHISEE (or its owners) under a separate, contemporaneous offer, the price and terms of purchase offered to FRANCHISEE (or its owners) for the interest in this Agreement, FRANCHISEE or the RESTAURANT shall reflect the bona fide price offered therefor and shall not reflect any value for any other property or rights.

FRANCHISOR shall have the right, exercisable by written notice delivered to FRANCHISEE, or FRANCHISEE's owners, within thirty (30) days from the date of delivery of an exact copy of such offer to FRANCHISOR, to purchase such interest for the price and on the terms and conditions contained in such offer, provided that FRANCHISOR may substitute cash for any form of payment proposed in such offer, FRANCHISOR's credit shall be deemed equal to the credit of any proposed purchaser and FRANCHISOR shall have not less than ninety (90) days to prepare for closing. FRANCHISOR shall be entitled to purchase such interest subject to all customary representations and warranties given by the seller of the assets of a business or voting stock of an incorporated business, as applicable, including, without limitation, representations and warranties as to ownership, condition of and title to stock and/or assets, liens

and encumbrances relating to the stock and/or assets, validity of contracts and liabilities of the corporation whose stock is purchased and affecting the assets, contingent or otherwise.

If FRANCHISOR exercises FRANCHISOR's right of first refusal, FRANCHISEE, and FRANCHISEE's owners, agree that, for a period of two (2) years commencing on the date of the closing, neither FRANCHISEE, nor FRANCHISEE's owners, shall have any direct or indirect interest (through a member of the immediate families of FRANCHISEE or FRANCHISEE's owners or otherwise) as a disclosed or beneficial owner, investor, partner, director, officer, manager, employee, consultant, representative or agent or in any other capacity in any Competitive Business located or operating within five (5) miles of the RESTAURANT or any ROCKY ROCOCO RESTAURANT operated by FRANCHISOR, or FRANCHISOR's affiliates or franchisees. The restrictions of this Paragraph shall not be applicable to the ownership of shares of a class of securities listed and outstanding.

If FRANCHISOR does not exercise its right of first refusal, FRANCHISEE, or FRANCHISEE's owners, may complete the sale to such purchaser pursuant to and on the exact terms of such offer, subject to FRANCHISOR's approval of the transfer as provided in Paragraphs XVIII.B. and XVIII.C., provided that if the sale to such purchaser is not completed within one hundred twenty (120) days after delivery of such offer to FRANCHISOR, or if there is a material change in the terms of the sale, FRANCHISOR's right of first refusal shall be extended for thirty (30) days after the expiration of such one hundred twenty (120) day period or after the material change in the terms of the sale.

Notwithstanding the provisions in this Paragraph, where the offer to purchase is made by a member of FRANCHISEE's immediate family, or by a partner or owner of the entity which owns the RESTAURANT, FRANCHISOR shall not have the right to elect to purchase the RESTAURANT or property as described above where all conditions of this Agreement relating to transferability are fulfilled.

XIX. TAXES, PERMITS AND INDEBTEDNESS

A. TAXES

FRANCHISEE shall promptly pay when due all taxes levied or assessed, including without limitation, federal income taxes, unemployment and sales taxes.

FRANCHISOR shall have no liability for any sales, use, excise, gross receipts, income, property or other taxes, whether levied upon FRANCHISEE, the RESTAURANT, FRANCHISEE's property or upon FRANCHISOR, in connection with the services provided or business conducted by FRANCHISEE (except any taxes FRANCHISOR is required by law to

collect from FRANCHISEE with respect to purchases from FRANCHISOR). Payment of all such taxes shall be FRANCHISEE's responsibility.

B. PERMITS

FRANCHISEE shall comply with all federal, state and local laws, rules and regulations; and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the business licensed by this Agreement, including, without limitation, operating licenses, licenses to do business, fictitious name registration and sales tax permits.

FRANCHISEE shall notify FRANCHISOR in writing within five (5) days of the commencement of any action, suit or proceeding, and of the issuance of any order, writ, injunction, award or decree of any court agency or other governmental instrumentality which may adversely affect the operation or financial condition of the RESTAURANT.

C. INDEBTEDNESS

FRANCHISEE shall pay to FRANCHISOR (or FRANCHISOR's parent, or the subsidiary, affiliate or designee of either entity) immediately upon demand by FRANCHISOR: (1) the amount of all sales taxes, use taxes, personal property taxes, and similar taxes imposed upon, required to be collected, or paid by FRANCHISOR on account of services or goods furnished by FRANCHISOR to FRANCHISEE through sale, lease or otherwise, or on account of collection by FRANCHISOR of the franchise fee or Royalty and Service Fees called for by this Agreement; (2) all amounts advanced by FRANCHISOR, or which FRANCHISOR has paid, or for which FRANCHISOR has become obligated to pay on behalf of FRANCHISEE for any reason whatsoever; and (3) all amounts due to FRANCHISOR, or FRANCHISOR's parent, or the subsidiary, affiliate or designee of either party, for products or services purchased by FRANCHISEE from FRANCHISOR (or FRANCHISOR's parent, or the subsidiary, affiliate or designee of either party).

FRANCHISEE shall promptly pay when due and shall maintain FRANCHISEE's trade accounts in a current status and seek to promptly resolve any disputes with trade suppliers. In the event FRANCHISEE shall not maintain its trade accounts, FRANCHISOR may, in FRANCHISOR's sole discretion, but shall not be required to, pay any or all such accounts on behalf of FRANCHISEE, in which event FRANCHISEE agrees to immediately repay FRANCHISOR therefor with interest on the amounts advanced by FRANCHISOR at the rate of One and one-half percent (1 1/2%) per month for each and every month that said amount is not paid, but in no event shall FRANCHISEE be compelled to pay interest at a rate greater than the maximum permitted by applicable law.

XX. INDEPENDENT CONTRACTOR

This Agreement does not constitute FRANCHISEE as an agent, legal representative, joint venturer, partner, member, employee, or servant of FRANCHISOR for any purpose whatsoever; and it is understood between the parties hereto that FRANCHISEE shall be an independent contractor and is in no way authorized to make any contract, agreement, warranty or representation on behalf of FRANCHISOR, or to create any obligation, express or implied, on behalf of FRANCHISOR. No employee of FRANCHISEE shall be deemed to be an employee of FRANCHISOR. FRANCHISOR shall not have the power to hire or fire FRANCHISEE's employees and, except as herein expressly provided, FRANCHISOR may not control or have access to FRANCHISEE's funds or the expenditure thereof, or in any other way exercise dominion or control over FRANCHISEE's business.

FRANCHISEE shall prominently display in FRANCHISEE's place of business a certificate from FRANCHISOR stating that said business is operated by FRANCHISEE as a FRANCHISEE of FRANCHISOR, and not as an agent thereof. FRANCHISEE shall place such notice of independent ownership on all forms, business cards, stationery, advertising, signs and other materials and in such fashion as FRANCHISOR may, in FRANCHISOR's sole and exclusive discretion, specify and require, in FRANCHISOR's Operations Manual.

Under no circumstances shall FRANCHISOR be liable for any act, omission, debt or any other obligation of FRANCHISEE. FRANCHISEE shall indemnify and save FRANCHISOR harmless against any such claim and the cost of defending against such claims arising directly or indirectly from, or as a result of, or in connection with, FRANCHISEE's operation of the RESTAURANT.

XXI. LIEN GRANTED TO FRANCHISOR

FRANCHISOR is hereby given a first lien upon all property of FRANCHISEE, including, but not limited to, equipment, inventory, trade fixtures, leasehold improvements and all proceeds of said items whether acquired by FRANCHISEE before or after the date hereof. In the event of any default in this Agreement by FRANCHISEE, FRANCHISOR shall have all remedies of a secured party under the Uniform Commercial Code. FRANCHISOR may require FRANCHISEE to assemble the collateral and make it available to FRANCHISOR for FRANCHISOR's possession at a place to be designated by FRANCHISOR which is reasonably convenient to both FRANCHISOR and FRANCHISEE and further, that the net proceeds realized upon any disposition of the collateral by public or private sale in accordance with the provisions of the Uniform Commercial Code after deduction for the reasonable expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys fees and legal expenses incurred by FRANCHISOR in connection therewith, shall be applied in satisfaction of the obligations of FRANCHISEE secured hereby. FRANCHISOR agrees to account to

FRANCHISEE for any surplus realized in any such disposition and FRANCHISEE agrees to remain liable for any deficiency. FRANCHISEE agrees upon demand to execute and deliver to FRANCHISOR such financing statements and other documents in form satisfactory to FRANCHISOR and to do all such acts and things as FRANCHISOR may at any time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the above collateral as security for the obligations of FRANCHISEE secured hereby. The rights and remedies herein contained and reserved to FRANCHISOR shall not be considered as exclusive of any other right or remedy of FRANCHISOR, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. Upon demand from FRANCHISEE, FRANCHISOR shall subordinate this lien to: (1) any bank or financial institution requiring a first lien which provides financing for FRANCHISEE's business; and (2) any purchase money interest on property purchased for FRANCHISEE's business.

XXII. WAIVER OF OBLIGATIONS

FRANCHISOR and FRANCHISEE may by written instrument unilaterally waive or reduce any obligation of or restriction upon the other under this Agreement, effective upon delivery of written notice thereof to the other or such other effective date stated in the notice of waiver. Any waiver granted by FRANCHISOR shall be without prejudice to any other rights FRANCHISOR may have, will be subject to continuing review by FRANCHISOR and may be revoked, in FRANCHISOR's sole discretion, at any time and for any reason, effective upon delivery to FRANCHISEE of ten (10) days' prior written notice.

FRANCHISOR and FRANCHISEE shall not be deemed to have waived or impaired any right, power or option reserved by this Agreement (including, without limitation, the right to demand exact compliance with every term, condition and covenant herein or to declare any breach thereof to be a default and to terminate this Agreement prior to the expiration of its term) by virtue of any custom or practice of the parties at variance with the terms hereof; any failure, refusal or neglect of FRANCHISOR or FRANCHISEE to exercise any right under this Agreement or to insist upon exact compliance by the other with its obligations hereunder, including, without limitation, any mandatory standard, specification or operating procedure; any waiver, forbearance, delay, failure or omission by FRANCHISOR to exercise any right, power or option, whether of the same, similar or different nature, with respect to other ROCKY ROCOCO RESTAURANTS; or FRANCHISOR's acceptance of any payments due from FRANCHISEE after any breach of this Agreement.

Neither FRANCHISOR nor FRANCHISEE shall be liable for loss or damage or deemed to be in breach of this Agreement if their failure to perform obligations results from:

1. Transportation shortages, inadequate supply of equipment, merchandise, supplies, labor, material or energy or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any federal, state or municipal government or any department or agency thereof;

2. Compliance with any law, ruling, order, regulation, requirement or instruction of any federal, state or municipal government or any department or agency thereof;

3. Acts of God;

4. Fires, strikes, embargoes, war or riot; or

5. Any other similar event or cause.

Any delay resulting from any of said causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that said causes shall not excuse payments of amounts owed at the time of such occurrence or payment of Royalty and Service Fees and Fund contributions due on any sales thereafter.

XXIII. NOTICE

All written notices and reports permitted or required to be delivered by the provisions of this Agreement or of the Operations Manual shall be deemed so delivered at the time delivered by hand; one (1) business day after transmission by facsimiles, telecopy, telegraph, e-mail, or comparable electronic system; one (1) business day after being placed in the hands of a commercial carrier service for next business day delivery; or three (3) business days after placement in the mail by registered or certified mail, return receipt requested, postage prepaid, to the address set forth below. Any required payment or report which FRANCHISOR does not actually receive at the correct address during regular business hours on the due date (or postmarked by postal authorities at least two (2) days before it is due) will be deemed delinquent.

Notices to FRANCHISOR:

ROCOCO FRANCHISE CORPORATION
105 East Wisconsin Avenue
Oconomowoc, Wisconsin 53066
(262) 569-5580
(262) 569-5591 - Facsimile number

Notices to FRANCHISEE:

XXIV. COSTS OF ENFORCEMENT; ATTORNEYS FEES

FRANCHISOR shall be entitled to recover from FRANCHISEE reasonable attorneys fees, experts fees, court costs, and all other expenses of litigation, in the event that FRANCHISOR prevails in any action instituted against FRANCHISEE in order to secure or protect those rights inuring to FRANCHISOR under this Agreement, or to enforce the terms hereof. If FRANCHISOR is required to engage legal counsel in connection with FRANCHISEE's failure to pay when due amounts owing to FRANCHISOR, to submit when due any reports, information or supporting records or otherwise comply with this Agreement, FRANCHISEE shall reimburse FRANCHISOR for any of the above-mentioned costs and expenses which it incurs.

If FRANCHISOR becomes a party to any litigation or arbitration proceeding concerning this Agreement or the RESTAURANT by reason of any act or omission of FRANCHISEE or FRANCHISEE's authorized representatives and not by any act or omission of FRANCHISOR or any act or omission of FRANCHISOR's authorized representatives, or if FRANCHISOR becomes a party to any litigation or any insolvency proceedings pursuant to the bankruptcy code or any adversary proceeding in conjunction with an insolvency proceeding, FRANCHISEE shall be liable to FRANCHISOR for reasonable attorneys fees, experts fees and court costs and all other expenses of litigation incurred by FRANCHISOR in such arbitration, litigation or proceeding regardless of whether such arbitration, litigation or proceeding or action proceeds to judgment. In addition, FRANCHISOR shall be entitled to add all costs of collection, interest, attorneys fees and experts fees to its proof of claim in any solvency proceedings filed by FRANCHISEE.

XXV. ENTIRE AGREEMENT

This Agreement and the documents referred to herein, shall be construed together and constitute the entire, full and complete agreement between FRANCHISOR and FRANCHISEE concerning the subject matter hereof, and supersedes all prior agreements. There are no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein, which are of any force or effect with reference to this Agreement or otherwise. No amendment, change or variance from this Agreement shall be binding on either party unless

executed in writing and signed by both parties. Nothing in this Agreement requires the FRANCHISEE to waive reliance on the representations made in the Disclosure Document.

XXVI. SEVERABILITY AND CONSTRUCTION

Except as expressly provided to the contrary herein, each section, part, term and/or provision of this Agreement shall be considered severable; and if, for any reason, any section, part, term and/or provision herein is determined to be invalid and contrary to, or in conflict with any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms and/or provisions of this Agreement as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto; and said invalid sections, parts, terms and/or provisions shall be deemed not to be a part of this Agreement; provided, however, that if FRANCHISOR determines that such finding of invalidity or illegality adversely affects the basic consideration of this Agreement, FRANCHISOR, at FRANCHISOR's option, may terminate this Agreement.

Anything to the contrary herein notwithstanding, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than FRANCHISOR or FRANCHISEE and such of their respective successors and assigns as may be contemplated by this Agreement hereof, any rights or remedies under or by reason of this Agreement.

FRANCHISEE expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision hereof, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court may hold to be unreasonable and unenforceable in a final decision to which FRANCHISOR is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.

All captions in the Agreement are intended solely for the convenience of the parties, and none shall be deemed to affect the meaning or construction of any provision hereof.

All references herein to the masculine, neuter or singular shall be construed to include the masculine, feminine, neuter or plural, where applicable, and all acknowledgements, promises, covenants, agreements and obligations herein made or undertaken by FRANCHISEE shall be deemed jointly and severally undertaken by all the parties hereto on behalf of FRANCHISEE.

This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page of this

Agreement, by facsimile, or other electronic means, shall be effective as of the delivery of a manually executed counterpart of this Agreement. The parties agree that such electronically exchanged or stored copies will be enforceable as original documents.

The rights of FRANCHISOR and FRANCHISEE hereunder are cumulative and no exercise or enforcement by FRANCHISOR or FRANCHISEE of any right or remedy hereunder shall preclude the exercise or enforcement by FRANCHISOR or FRANCHISEE of any other right or remedy hereunder which FRANCHISOR or FRANCHISEE is entitled by law to enforce.

Except where this Agreement expressly obligates FRANCHISOR reasonably to approve or not unreasonably to withhold FRANCHISOR's approval of any action or request by FRANCHISEE, FRANCHISOR has the absolute right to refuse any requests by FRANCHISEE or to withhold FRANCHISOR's approval of any action by FRANCHISEE that requires FRANCHISOR's approval.

XXVII. APPLICABLE LAW

This Agreement was accepted in the State of Wisconsin and shall be interpreted and construed under the laws thereof, which laws shall prevail in the event of any conflict of laws, except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Section 1051 et seq.).

Minn. Stat. Section 80C.21 and Minn. Rule 2860.4400J prohibit FRANCHISOR from requiring litigation to be conducted outside Minnesota. In addition, nothing in this Agreement can abrogate or reduce any of FRANCHISEE's rights as provided for in Minnesota Statutes Chapter 80C, or FRANCHISEE's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

With respect to franchisees governed by Minnesota law, the FRANCHISOR will comply with Minn. Stat. Sec. 80C.14, subds. 3, 4 and 5 which require, except in certain specified cases, that a franchisee be given ninety (90) days notice of termination (with sixty (60) days to cure) and one hundred eighty (180) days notice for non-renewal of this Agreement.

The foregoing notwithstanding, nothing in this paragraph is intended to invoke the application of any franchise, business opportunity or similar law, rule or regulation of any state which would not otherwise apply.

The foregoing notwithstanding, to the extent that the provisions of this Franchise Agreement provide for periods of notice less than those required by applicable law, or provide for termination, cancellation, nonrenewal or the like other than in accordance with applicable law, such provision shall, to the extent such are not in accordance with applicable law, not be

effective, and FRANCHISOR shall comply with applicable law in connection with each of these matters.

XXVIII. INJUNCTIVE RELIEF

Nothing contained in this Agreement shall bar FRANCHISOR's right to obtain (1) injunctive relief against threatened conduct that will cause FRANCHISOR irreparable loss or damages under customary equity rules, including applicable rules for obtaining restraining orders and preliminary injunctions; or (2) in any dispute regarding possession of the Premises, the remedy of forcible detainer against FRANCHISEE for any breach of a sublease for the Premises under customary rules governing such actions. FRANCHISEE agrees that FRANCHISOR may seek such injunctive relief in addition to such other relief as may be available at equity or law, and FRANCHISEE's sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby).

XXIX. ARBITRATION

A. Except as specifically otherwise provided in this Agreement, the parties agree that any and all disputes between them, and any claim by either party that cannot be amicably settled, shall be determined solely and exclusively by arbitration in accordance with the United States Arbitration Act (9 U.S.C. Sections 1 et seq.) if applicable, and the rules of the American Arbitration Association at its office nearest the home office of FRANCHISOR.

B. Each party shall select one (1) arbitrator, and the two (2) so designated shall select a third arbitrator. If either party shall fail to designate an arbitrator within seven (7) days after arbitration is requested, or if the two (2) arbitrators shall fail to select a third arbitrator within fourteen (14) days after arbitration is requested, then an arbitrator shall be selected by the American Arbitration Association upon application of either party. Arbitration proceedings shall be conducted in accordance with the rules then prevailing of the American Arbitration Association. Judgment upon an award of the majority of the arbitrators shall be binding, and shall be entered in a court of competent jurisdiction.

XXX. WAIVER OF PUNITIVE DAMAGES

The parties waive to the fullest extent permitted by law any right or claim for any punitive or exemplary damages against the other and agree that, in the event of a dispute between them, the party making a claim shall be limited to recovery of any actual damages it sustains.

XXXI. LIMITATION OF CLAIMS

A. Any and all claims arising out of or relating to this Agreement or the relationship of the parties hereto shall be barred unless an action or legal arbitration proceeding is commenced within three (3) years after the cause of action accrues.

B. In no event shall FRANCHISEE be entitled to make, nor shall FRANCHISEE make, any claim, and FRANCHISEE hereby waives any claim for money damages, nor shall FRANCHISEE claim any money damages by way of setoff, counter-claim or defense, based upon any claim or assertion by FRANCHISEE that FRANCHISOR has unreasonably withheld or unreasonably delayed any consent or approval to a proposed act by FRANCHISEE under any of the terms of this Agreement. FRANCHISEE's sole remedy for any such claim shall be an action or proceeding to enforce any such provision, or for a specific performance, or declaratory judgment.

XXXII. DEFINITIONS

The term "FRANCHISEE" as used in this Agreement shall refer to each person executing this Agreement as FRANCHISEE whether such person is one of the spouses, partners, members, proprietors, shareholders, trustees, trustors or beneficiaries or persons named as included in FRANCHISEE, and shall apply to each such person as if he/she were the only named FRANCHISEE in this Agreement. If FRANCHISEE is a married couple, both husband and wife executing this Agreement shall be liable for all obligations and duties of FRANCHISEE hereunder as if such spouse were the sole FRANCHISEE hereunder. If FRANCHISEE is a partnership or proprietorship, or if more than one person executes this Agreement as FRANCHISEE, each partner, proprietor or person executing this Agreement shall be liable for all obligations and duties of FRANCHISEE hereunder. If FRANCHISEE is a limited liability company, all members executing this Agreement shall be liable for all obligations and duties of FRANCHISEE hereunder as if each such member were the sole FRANCHISEE hereunder. If FRANCHISEE is a trust, each trustee, grantor and beneficiary signing this Agreement shall be liable for all of the obligations and duties of FRANCHISEE hereunder. If FRANCHISEE is a corporation, all shareholders executing this Agreement shall be liable for all obligations and duties of FRANCHISEE hereunder as if each such shareholder were the sole FRANCHISEE hereunder. If FRANCHISEE is a partnership, limited liability company, trust, or corporation, each of its principals and/or owners shall concurrently with the execution of this Agreement, execute FRANCHISOR's Owner's Guarantee and Assumption of Franchisee's Obligations attached hereto as Rider "A", pursuant to which all obligations and duties of FRANCHISEE are guaranteed by such individuals. Should FRANCHISEE be in breach or default under this Agreement, FRANCHISOR may proceed directly against each such spouse, partner, member, proprietor, signatory to this Agreement, shareholder, trustee, trustor, owner, principal or beneficiary without first proceeding against FRANCHISEE and without proceeding against or

naming in such suit any other FRANCHISEE, partner, member, proprietor, signatory to this Agreement, shareholder, trustee, trustor or beneficiary. The obligations of FRANCHISEE and each such spouse, partner, member, proprietor, person executing this Agreement, shareholder, trustee, trustor and beneficiary shall be joint and several. Notice to or demand upon one spouse, partner, member, proprietor, person signing this Agreement, shareholder, trustee, trustor, owner, principal or beneficiary shall be deemed notice to or demand upon FRANCHISEE and all such spouses, partners, members, proprietors, persons signing this Agreement, shareholders, trustees, trustors, owners, principals and beneficiaries, and no notice or demand need be made to or upon all such FRANCHISEES, spouses, partners, members, proprietors, persons executing this Agreement, shareholders, trustees, trustors, owners, principals or beneficiaries. The cessation of or release from liability of FRANCHISEE or any such spouse, partner, member, proprietor, person executing this Agreement, shareholder, trustee, trustor, owners, principals or beneficiary shall not relieve any other FRANCHISEE, spouse, partner, member, proprietor, person executing this Agreement, shareholder, trustee, trustor, owner, principal or beneficiary from liability hereunder, except to the extent that the breach or default has been remedied or monies owed have been paid.

XXXIII. AFFILIATE

The term "affiliate" has used herein is applicable to any company directly or indirectly owned or controlled by, under common control with or owning or controlling FRANCHISOR that transacts business with FRANCHISEE.

XXXIV. CAVEAT

The success of the business venture contemplated to be undertaken by FRANCHISEE by virtue of this Agreement is speculative and depends, to a large extent, upon the ability of FRANCHISEE as an independent businessman, as well as other factors. FRANCHISOR does not make any representation or warranty as to the potential success of the business venture contemplated hereby.

XXXV. ESTOPPEL CERTIFICATES

At any time FRANCHISEE agrees, upon ten (10) calendar days prior written request from FRANCHISOR, to execute, acknowledge, and deliver to FRANCHISOR, or to any other party designated by FRANCHISOR, a statement in writing and in form and substance satisfactory to FRANCHISOR certifying to all or any part of the following information as FRANCHISOR shall request to the extent the same is then true and ascertainable: (1) that this Agreement constitutes the entire agreement between FRANCHISOR and FRANCHISEE and is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (2) the date to which fees due

hereunder have been paid; (3) that FRANCHISEE knows of no defaults or off-sets which FRANCHISEE has against the enforcement of this Agreement by FRANCHISOR; (4) the date of this Agreement and the expiration date of this Agreement; (5) any other matters relating to the status of this Agreement and the operation of FRANCHISEE's business as requested by FRANCHISOR.

XXXVI. ACKNOWLEDGEMENT

A. FRANCHISEE acknowledges that it has entered into this Agreement after making an independent investigation of FRANCHISOR's operations and not upon any representation as to profits which FRANCHISEE in particular might be expected to realize, nor has anyone made any other representation which is not expressly set forth herein, to induce FRANCHISEE to accept this franchise and execute this Agreement.

B. FRANCHISEE acknowledges that it has received, read, and understood this Agreement, including any exhibits hereto; that FRANCHISOR has fully and adequately explained the provisions of each to FRANCHISEE's satisfaction; and that FRANCHISOR has accorded FRANCHISEE ample time and opportunity to consult with advisors of FRANCHISEE's own choosing, including counsel, about the potential benefits and risks of entering into this Agreement.

C. FRANCHISEE acknowledges that FRANCHISEE received a copy of this Agreement, the attachments hereto, if any, and agreements relating thereto, if any, at least seven (7) calendar days prior to the date on which this Agreement was executed. FRANCHISEE further acknowledges that FRANCHISEE has received the Disclosure Document required by the Trade Regulation Rule of the Federal Trade Commission entitled Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, at least fourteen (14) calendar days prior to the date on which this Agreement was executed.

D. Prior to the execution of this Agreement, FRANCHISEE has had the opportunity to contact all existing franchisees of FRANCHISOR.

E. No representation or statement has been made by FRANCHISOR (or any employee, agent or salesperson thereof) and relied upon by FRANCHISEE regarding the anticipated income, earnings and growth of FRANCHISOR, or the viability of the business opportunity being offered hereunder.

F. FRANCHISEE affirms and agrees that FRANCHISOR may sell FRANCHISOR's assets, proprietary marks, or System outright to a third party; may go public; may engage in a private placement of some or all of FRANCHISOR's securities; may merge, acquire other corporations, or be acquired by another corporation; may undertake a refinancing,

recapitalization, leverage buy-out or other economic or financial restructuring; and with regard to any or all of the above sales, assignments or dispositions, FRANCHISEE expressly and specifically waives any claims, demands or damages arising from or related to the loss of said proprietary marks (or any variation thereof) and/or the loss of association with or identification of FRANCHISOR.

G. FRANCHISEE affirms that all information set forth in any and all applications, financial statements and submissions to FRANCHISOR is true, complete and accurate in all respects, with FRANCHISEE expressly acknowledging that FRANCHISOR is relying upon the truthfulness, completeness and accuracy of such information.

H. The covenants not to compete set forth in this Agreement are fair and reasonable, and will not impose any undue hardship on FRANCHISEE, since FRANCHISEE has other considerable skills, experience and education which afford FRANCHISEE the opportunity to derive income from other endeavors.

THIS AGREEMENT SHALL NOT BE BINDING ON FRANCHISOR UNLESS AND UNTIL IT SHALL HAVE BEEN ACCEPTED AND SIGNED BY AN AUTHORIZED OFFICER OF FRANCHISOR.

FRANCHISEE HAS READ ALL OF THE FOREGOING AGREEMENT AND HEREBY ACCEPTS AND AGREES TO EACH AND ALL OF THE PROVISIONS, COVENANTS AND CONDITIONS THEREOF.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed, sealed and delivered this Agreement in triplicate the day and year first above written.

ROCOCO FRANCHISE CORPORATION

ATTEST:

By _____

Title _____

ATTEST:

Witness

Franchisee

Witness

Franchisee

All individuals, partners, members, shareholders, officers and directors of the entity which signs this Agreement as FRANCHISEE acknowledge and accept the duties and obligations imposed upon each and every one of them, individually, by the terms contained in Paragraphs XIV.A. and XVI.D. of this Agreement.

RIDER A

OWNER'S GUARANTEE AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS

THIS GUARANTEE AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS is given this ____ day of _____, _____, by _____

_____.

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement of even date herewith (the "Agreement") by ROCOCO FRANCHISE CORPORATION ("Franchisor"), each of the undersigned hereby personally and unconditionally (1) guarantees to Franchisor, and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement, that _____

_____ ("Franchisee") shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement; and (2) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement, both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities, including without limitation the provisions of Paragraphs XIV.A. and XVI.D. Each of the undersigned waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or non-performance of any obligations hereby guaranteed; (3) protest and notice of default to any party with respect to indebtedness or non-performance of any obligations hereby guaranteed; (4) any right he may have to require that an action be brought against Franchisee or any other person as a condition of liability; and (5) any and all other notices and legal or equitable defenses to which he may be entitled.

Each of the undersigned consents and agrees that: (1) his direct and immediate liability under this guaranty shall be joint and several; (2) he shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (3) such liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Franchisee or any other person; and (4) such liability shall not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which Franchisor may grant to Franchisee or to any other person, including without limitation the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which shall in any way modify or amend this guaranty, which shall be continuing and irrevocable during the term of the Agreement.

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed his signature on the same day and year of the Agreement was executed.

GUARANTOR(S)

PERCENTAGE OF OWNERSHIP IN
FRANCHISEE

| | |
|------------|-----------|
| _____ | _____ % |
| Print Name | Signature |
| _____ | _____ % |
| Print Name | Signature |
| _____ | _____ % |
| Print Name | Signature |
| _____ | _____ % |
| Print Name | Signature |
| _____ | _____ % |
| Print Name | Signature |

**SMALL BUSINESS ADMINISTRATION
ADDENDUM TO FRANCHISE AGREEMENT**

THIS ADDENDUM (“Addendum”) is made and entered into on _____, 20__, by and between Rococo Franchise Corporation (“Franchisor”), located at 105 East Wisconsin Avenue, Oconomowoc, Wisconsin 53066, and _____ (“Franchisee”), located at _____.

Franchisor and Franchisee entered into a Franchise Agreement on _____ (such Agreement, together with any amendments, the “Franchise Agreement”). The Franchisee is applying for financing from a lender in which funding is provided with the assistance of the U.S. Small Business Administration (“SBA”). SBA requires the execution of this Addendum as a condition for obtaining SBA-assisted financing.

In consideration of the mutual promises below and for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge the parties agree that notwithstanding any other terms in the Franchise Agreement or any other document Franchisor requires Franchisee to sign:

CHANGE OF OWNERSHIP

- If Franchisee is proposing to transfer a partial interest in Franchisee and Franchisor has an option to purchase or a right of first refusal with respect to that partial interest, Franchisor may exercise such option or right only if the proposed transferee is not a current owner or family member of a current owner of Franchisee. If the Franchisor’s consent is required for any transfer (full or partial), Franchisor will not unreasonably withhold such consent. In the event of an approved transfer of the franchise interest or any portion thereof, the transferor will not be liable for the actions of the transferee Franchisee.

FORCED SALES OF ASSETS

- If Franchisor has the option to purchase the business personal assets upon default or termination of the Franchise Agreement and the parties are unable to agree on the value of the assets, the value will be determined by an appraiser chosen by both parties. If the Franchisee owns the real estate where the franchisee location is operating, Franchisee will not be required to sell the real estate upon default or termination, but Franchisee may be required to lease the real estate for the remainder of the franchise term (excluding additional renewals) for fair market value.

COVENANTS

- If the Franchisee owns the real estate where the franchisee location is operating, Franchisor has not and will not during the term of the Franchise Agreement record against the real estate any restrictions on the use of the property, including any restrictive covenants, branding covenants or environmental use restrictions. If any such restrictions are currently recorded against the Franchisee's real estate, they must be removed in order for the Franchisee to obtain SBA-assisted financing.

EMPLOYMENT

- Franchisor will not directly control (hire, fire or schedule) Franchisee's employees. For temporary personnel franchises, the temporary employees will be employed by the Franchisee not the Franchisor.

As to the Franchise Agreement, this Addendum automatically terminates when SBA no longer has any interest in any SBA-assisted financing provided to the Franchisee.

Except as amended by this Addendum, the Franchise Agreement remains in full force and effect according to its terms.

Franchisor and Franchisee acknowledge that submission of false information to SBA, or the withholding of material information from SBA, can result in criminal prosecution under 18 U.S.C. 1001 and other provisions, including liability for treble damages under the False Claims Act, 31 U.S.C. §§3729-3733.

Authorized Representative of Franchisor – Rococo Franchise Corporation:

By: _____

Print Name: _____

Title: _____

Authorized Representative of Franchisee:

By: _____

Print Name: _____

Title: _____

Note to Parties: This Addendum only address “affiliation” between the Franchisor and Franchisee. Additionally, the applicant Franchisee and the franchise system must meet all SBA eligibility requirements.

Minnesota Addendum:

- Minnesota Statute 80C.21 and Minnesota Rule 2860.4400(J) prohibit the Franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the Franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the Franchisee's rights as provided for in Minnesota Statute 80C or (2) Franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
- With respect to franchises governed by Minnesota law, the Franchisor will comply with Minnesota Statute 80C.14 Subd. 3-5, which require (except in certain specified cases)
 - that a Franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement and
 - that consent to the transfer of the franchise will not be unreasonably withheld.
- Minnesota considers it unfair to not protect the Franchisee's right to use the trademarks. Refer to Minnesota Statute 80C.12 Subd. 1(G). The Franchisor will protect the Franchisee's rights to use the trademarks, service marks, trade names, logotypes, or other commercial symbols or indemnify the Franchisee from any loss, costs, or expenses arising out of any claim, suit, or demand regarding the use of the name.
- Minnesota Rules 2860.4400(D) prohibits a Franchisor from requiring a Franchisee to assent to a general release
- The Franchisee cannot consent to the Franchisor obtaining injunctive relief. The Franchisor may seek injunctive relief. See Minnesota Rule 2860.4400(J) also, a court will determine if a bond is required.
- The Limitations of Claims section must comply with Minnesota Statute 80C.17 Subd. 5.
- NSF checks are governed by Minnesota Statute 604.113, which puts a cap of \$30 on service charges.
- No statement, questionnaire, or acknowledgement signed or agreed to by a Franchisee in connection with the commencement of the franchise relationship shall have the effect of

(i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any Franchisor, franchise seller, or other person acting on behalf of the Franchisor. This provision supersedes any other term of any document executed with the franchise.

FRANCHISE DEPOSIT AGREEMENT
ROCOCO FRANCHISE CORPORATION

EXHIBIT FDA

ROCOCO FRANCHISE CORPORATION
FRANCHISE DEPOSIT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20____, by and between Rococo Franchise Corporation, a corporation formed and operating under the laws of the State of Wisconsin, having its principal place of business at 105 East Wisconsin Avenue, Oconomowoc, Wisconsin 53066, (hereinafter referred to as "FRANCHISOR"), and _____, whose principal address is _____ (hereinafter referred to as "APPLICANT").

WHEREAS, FRANCHISOR franchises a restaurant concept specializing in pizza and offering and serving other food and beverage items. These restaurants are known as "ROCKY ROCOCO PIZZA AND PASTA" and operate under distinctive business formats, systems, methods, procedures, designs and specifications, all of which FRANCHISOR may improve, further develop or otherwise modify from time to time. FRANCHISOR uses and licenses certain trademarks and service marks, including "ROCKY ROCOCO" and associated logo, and may hereafter adopt, use and license additional trademarks and service marks in connection with ROCKY ROCOCO RESTAURANTS (collectively referred to as the "Marks"). Individuals who meet FRANCHISOR's qualifications and are willing to undertake the investment and effort to establish and develop a ROCKY ROCOCO RESTAURANT are granted franchises to own and operate ROCKY ROCOCO RESTAURANTS, selling the products and services FRANCHISOR authorizes and approves and utilizing FRANCHISOR's business formats, signs, furnishings, equipment, systems, methods, procedures, designs, specifications and the Marks (the "System"); and

WHEREAS, APPLICANT seeks to obtain a franchise for the operation of a ROCKY ROCOCO RESTAURANT ("Franchise").

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the parties hereby agree as follows:

1. APPLICANT has deposited with FRANCHISOR the sum of Twelve thousand five hundred Dollars (\$12,500.00) (the "Deposit"). This Deposit shall be credited toward the initial franchise fee payable by APPLICANT to FRANCHISOR in accordance with FRANCHISOR's standard Franchise Agreement ("Franchise Agreement"). If FRANCHISOR does not grant a Franchise to APPLICANT, the Deposit shall be refundable as provided herein. The Deposit shall not bear interest, and FRANCHISOR shall not be required to establish a separate account for such funds.

2. As a condition to the grant of a Franchise, APPLICANT or FRANCHISOR must, within one hundred eighty (180) days after the date of execution of this Agreement, find a suitable site and premises for the operation of a ROCKY ROCOCO RESTAURANT (the "RESTAURANT") within the following geographic area (the "Area"): _____

APPLICANT will diligently seek appropriate sites in the area in accordance with FRANCHISOR's site selection criteria. APPLICANT's right to find a suitable site and premises for the RESTAURANT within the Area is nonexclusive. In the event a suitable site for the RESTAURANT is located by FRANCHISOR, APPLICANT will be entitled to be presented with such proposed site as the site for a ROCKY ROCOCO RESTAURANT in the area, subject to similar rights granted to other APPLICANTS in an order of priority established by utilizing the date of FRANCHISOR's execution of each APPLICANT's respective Franchise Deposit Agreement, however, that if APPLICANT locates a suitable site APPLICANT will, during the term of this Agreement, have the exclusive right to such site until such time as APPLICANT releases its rights to such site, in which case FRANCHISOR shall have the right to offer such site to other APPLICANTS as further set forth in this Paragraph. APPLICANT will have ten (10) working days after the proposed site is presented to accept or reject the location as a site for a ROCKY ROCOCO RESTAURANT. Failure to accept a proposed site in writing within that time period will be considered a rejection of such site. If APPLICANT rejects or is considered to have rejected a proposed site, the site will then be offered to other applicants in an order of priority established by utilizing the date of FRANCHISOR's execution of each APPLICANT's respective Franchise Deposit Agreement. APPLICANT may then be offered other sites under the terms and conditions of this Agreement until APPLICANT accepts a site or until the expiration of the term of this Agreement, whichever shall occur first.

APPLICANT shall not execute a lease or other agreement for the premises for the RESTAURANT prior to FRANCHISOR's approval in writing of the proposed site and premises for the RESTAURANT. In determining whether to approve a proposed site or premises, FRANCHISOR shall evaluate whether such site or premises meets its standard site and premises selection criteria for demographic characteristics, traffic patterns, parking, character of neighborhood, competition from other restaurants within the Area, the proximity to other businesses and ROCKY ROCOCO RESTAURANTS, the nature of other businesses in proximity to the site and premises and other commercial characteristics, and the size, appearance

and other physical characteristics of the site and premises. FRANCHISOR agrees to expend such time and effort and incur such expense as FRANCHISOR deems appropriate to consider sites and premises APPLICANT proposes. FRANCHISOR will, by delivery of written notice to APPLICANT, approve or disapprove a site and premises APPLICANT proposes for the RESTAURANT within thirty (30) days after FRANCHISOR receives the complete site and premises report and other materials it requests.

APPLICANT ACKNOWLEDGES AND UNDERSTANDS THAT FRANCHISOR'S ENGAGING IN SITE SELECTION ACTIVITIES, FRANCHISOR'S SUGGESTIONS, AND/OR FRANCHISOR'S EXERCISE OF FRANCHISOR'S RIGHTS OF AND/OR APPROVAL OF LEASE, SHALL IN NO WAY GIVE RISE TO ANY LIABILITY OF FRANCHISOR WITH REGARD TO THE VIABILITY OF ANY SITE PROPOSED BY FRANCHISOR AND SELECTED BY APPLICANT, NOR SHALL SAME CONSTITUTE A REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE SUITABILITY OF THE PROPOSED SITE AND PREMISES FOR A ROCKY ROCOCO RESTAURANT OR FOR ANY OTHER PURPOSE. FRANCHISOR'S APPROVAL OF SUCH SITE AND PREMISES INDICATES ONLY THAT FRANCHISOR BELIEVES THAT THE PARTICULAR SITE AND PREMISES FALL WITHIN THE ACCEPTABLE CRITERIA ESTABLISHED BY FRANCHISOR AS OF THE TIME PERIOD ENCOMPASSING THE EVALUATION. BOTH APPLICANT AND FRANCHISOR ACKNOWLEDGE THAT APPLICATION OF SITE AND PREMISES CRITERIA THAT HAVE BEEN EFFECTIVE WITH RESPECT TO OTHER SITES AND PREMISES MAY NOT BE PREDICTIVE OF POTENTIAL FOR ALL SITES AND PREMISES AND THAT, SUBSEQUENT TO FRANCHISOR'S APPROVAL OF A SITE AND PREMISES, DEMOGRAPHIC AND/OR ECONOMIC FACTORS, INCLUDING COMPETITION FROM OTHER RESTAURANTS, INCLUDED IN OR EXCLUDED FROM FRANCHISOR'S SITE AND PREMISES CRITERIA COULD CHANGE, THEREBY ALTERING THE POTENTIAL OF A SITE AND PREMISES. THE UNCERTAINTY AND INSTABILITY OF SUCH CRITERIA ARE BEYOND FRANCHISOR'S CONTROL, AND FRANCHISOR SHALL NOT BE RESPONSIBLE FOR THE FAILURE OF A SITE AND PREMISES APPROVED BY FRANCHISOR TO MEET EXPECTATIONS AS TO POTENTIAL REVENUE OR OPERATIONAL CRITERIA.

If APPLICANT is unable to acquire a site and premises acceptable to FRANCHISOR within the time specified above, or during any extended period agreed to by FRANCHISOR and APPLICANT, FRANCHISOR may at any time thereafter terminate this Agreement. Upon such termination, FRANCHISOR shall refund (without interest) the Deposit as provided in Section 7 of this Agreement.

3. FRANCHISOR shall have the right to approve the terms of any lease for the premises prior to APPLICANT's execution thereof. APPLICANT agrees that APPLICANT will not execute a lease which FRANCHISOR has disapproved and shall deliver a copy of the signed

lease to FRANCHISOR within fifteen (15) days after its execution. APPLICANT further agrees that APPLICANT will, at FRANCHISOR's request, collaterally assign any Lease to FRANCHISOR as security for his timely performance of all obligations under this Agreement and secure the LESSOR's consent to such collateral assignment.

APPLICANT ACKNOWLEDGES THAT FRANCHISOR'S APPROVAL OF A LEASE FOR THE PREMISES SHALL NOT CONSTITUTE A GUARANTEE OR WARRANTY BY FRANCHISOR, EXPRESS OR IMPLIED, OF THE SUCCESSFUL OPERATION OR PROFITABILITY OF A ROCKY ROCOCO RESTAURANT OPERATED AT THE PREMISES. SUCH APPROVAL INDICATES ONLY THAT FRANCHISOR BELIEVES THAT THE PREMISES AND THE TERMS OF THE LEASE FALL WITHIN THE ACCEPTABLE CRITERIA ESTABLISHED BY FRANCHISOR AS OF THE TIME PERIOD ENCOMPASSING THE EVALUATION.

4. Upon APPLICANT's execution of the Landlord's approved Lease Agreement, APPLICANT will immediately sign FRANCHISOR's Franchise Agreement, a copy of which is attached hereto and incorporated by reference. Upon execution of the Franchise Agreement, the entire deposit shall be applied towards the franchise fee payable under FRANCHISOR's Franchise Agreement and APPLICANT will pay FRANCHISOR the balance of the Franchise Fee.

5. FRANCHISOR possesses certain confidential information (the "Confidential Information") relating to the operation of ROCKY ROCOCO RESTAURANTS, which includes: (1) site and premises selection criteria; (2) plans and specifications for the development of ROCKY ROCOCO RESTAURANTS; (3) methods, techniques, formats, specifications, systems, procedures, sales and marketing techniques and knowledge of and experience in the development and operation of ROCKY ROCOCO RESTAURANTS; (4) marketing and advertising programs for ROCKY ROCOCO RESTAURANTS; (5) knowledge of specifications for and suppliers of certain products, materials, supplies, equipment and furnishings; and (6) knowledge of operating results and financial performance of ROCKY ROCOCO RESTAURANTS other than the RESTAURANT.

APPLICANT acknowledges and agrees that APPLICANT will not acquire any interest in Confidential Information, other than the right to utilize Confidential Information disclosed to APPLICANT in the operation of the RESTAURANT during the term of the Franchise Agreement, and that the use or duplication of any Confidential Information in any other business would constitute an unfair method of competition. APPLICANT further acknowledges and agrees that Confidential Information is proprietary, includes trade secrets of FRANCHISOR and will be disclosed to APPLICANT solely on the condition that APPLICANT agrees, and APPLICANT does hereby agree, that APPLICANT: (1) will not use Confidential Information in any other business or capacity; (2) will maintain the absolute confidentiality of Confidential

Information during and after the term of this Agreement; (3) will not make unauthorized copies of any portion of Confidential Information disclosed in written or other tangible form; and (4) will adopt and implement all reasonable procedures that FRANCHISOR prescribes to prevent unauthorized use or disclosure of Confidential Information, including, without limitation, restrictions on disclosure thereof to APPLICANT's employees and the use of nondisclosure and noncompetition agreements with employees who have access to Confidential Information. Notwithstanding anything to the contrary contained in the Franchise Agreement and provided APPLICANT shall have obtained FRANCHISOR's prior written consent, which shall not be unreasonably withheld, the restrictions on APPLICANT's disclosure and use of Confidential Information shall not apply to the following: (1) information, processes or techniques which are or become generally known in the pizza restaurant industry other than through disclosure (whether deliberate or inadvertent) by APPLICANT; and (2) disclosure of Confidential Information in judicial or administrative proceedings to the extent that APPLICANT is legally compelled to disclose such information, provided APPLICANT shall have used its best efforts and afforded FRANCHISOR the opportunity to obtain an appropriate protective order or other assurance satisfactory to FRANCHISOR of confidential treatment for the information required to be disclosed.

6. FRANCHISOR may terminate this Agreement at its option if:

(a) Within one hundred eighty (180) days from the date hereof, a site and premises acceptable to FRANCHISOR have not been acquired by APPLICANT as described in Section 2 of this Agreement;

(b) APPLICANT has made any material misrepresentation or omission in APPLICANT's franchise application;

(c) APPLICANT is convicted by a trial court of or pleads no contest to a felony, or to any other crime or offense that is likely to affect adversely the goodwill associated with the Marks, or engages in any conduct which may adversely affect the reputation of a ROCKY ROCOCO RESTAURANT or the goodwill associated with the Marks; or

(d) APPLICANT makes any unauthorized use or disclosure of any Confidential Information.

7. Upon FRANCHISOR's termination of this Agreement pursuant to Section 6(a) above, FRANCHISOR shall refund APPLICANT's deposit in full, except if FRANCHISOR terminates this Agreement pursuant to Section 6(b), (c) or (d), then FRANCHISOR shall be entitled to retain the entire Deposit.

8. APPLICANT further agrees that in consideration for FRANCHISOR reserving the territory, APPLICANT agrees that APPLICANT will not directly or indirectly engage in any other type of pan style pizza and pasta restaurant during the term of this Agreement and for a period of one (1) year thereafter, within a fifty (50) mile radius of the area set forth in this Agreement, or within a fifty (50) mile radius of the location of any other business using FRANCHISOR's system, whether franchised, or owned by FRANCHISOR, or FRANCHISOR's affiliates.

9. All written notices and reports permitted or required to be delivered by the provisions of this Agreement shall be deemed so delivered at the time delivered by hand; one (1) business day after transmission by facsimiles, telecopy, telegraph or comparable electronic system; one (1) business day after being placed in the hands of a commercial carrier service for next business day delivery; or three (3) business days after placement in the mail by registered or certified mail, return receipt requested, postage prepaid, to the address set forth below. Any required payment or report which FRANCHISOR does not actually receive at the correct address during regular business hours on the due date (or postmarked by postal authorities at least two (2) days before it is due) will be deemed delinquent.

Notices to FRANCHISOR:

ROCOCO FRANCHISE CORPORATION

105 East Wisconsin Avenue
Oconomowoc, Wisconsin 53066

(262) 569-5580
(262) 569-5591 - Facsimile number

Notices to APPLICANT:

10. APPLICANT has submitted, or is submitting herewith, its financial statement and FRANCHISOR's confidential questionnaire. APPLICANT warrants that the information provided is complete and accurate. The FRANCHISOR shall have twenty-one (21) days from the receipt of the signed Franchise Deposit Agreement within which to perform a credit check on APPLICANT and/or the principal submitting this Franchise Deposit Agreement. In the event the

credit report is unacceptable to FRANCHISOR, the FRANCHISOR shall have the right to cancel this Agreement by returning all signed copies of this Agreement along with a full refund of all deposits paid to the FRANCHISOR by APPLICANT.

11. APPLICANT acknowledges receiving FRANCHISOR's Disclosure Document dated _____, _____, and all exhibits attached thereto, including this Franchise Deposit Agreement, more than ten (10) business days before the date of execution hereof.

12. APPLICANT's rights under this Agreement are personal in nature and are not transferable by assignment, will, operation of law or otherwise.

13. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page of this Agreement, by facsimile, or other electronic means, shall be effective as of the delivery of a manually executed counterpart of this Agreement. The parties agree that such electronically exchanged or stored copies will be enforceable as original documents.

APPLICANT ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT AND FRANCHISOR'S DISCLOSURE DOCUMENT, UNDERSTANDS AND ACCEPTS THE TERMS, CONDITIONS, COVENANTS AND OBLIGATIONS OF THIS AGREEMENT AS BEING REASONABLY NECESSARY TO MAINTAIN FRANCHISOR'S HIGH STANDARDS AND AGREES TO BE BOUND THEREBY.

ATTEST:

ROCOCO FRANCHISE CORPORATION,
a Wisconsin corporation

By _____

Title _____

Witness

ATTEST:

Witness

APPLICANT

Witness

APPLICANT

**COLLATERAL ASSIGNMENT OF LEASE
ROCOCO FRANCHISE CORPORATION**

EXHIBIT CAL

ROCOCO FRANCHISE CORPORATION
COLLATERAL ASSIGNMENT OF LEASE

FOR VALUE RECEIVED, the undersigned ("Assignor") hereby assigns, transfers and sets over unto Rococo Franchise Corporation, a Wisconsin corporation ("Assignee"), all of Assignor's right, title and interest as tenant in, to and under that certain lease (including any renewals thereunder), a copy of which is attached hereto as Exhibit "A" (the "Lease"), respecting premises commonly known as _____

_____. This Assignment is for collateral purposes only and, except as specified herein, Assignee shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment or the Lease unless Assignee shall take possession of the premises demised by the Lease pursuant to the terms hereof and shall assume the obligations of Assignor thereunder.

Assignor represents and warrants to Assignee that it has full power and authority to assign the Lease and its interest therein and that Assignor has not previously assigned or transferred, and is not otherwise obligated to assign or transfer, any of its interest in the Lease or the premises demised thereby.

Upon a default by Assignor under the Lease or under the Franchise Agreement for a ROCKY ROCOCO RESTAURANT between Assignee and Assignor (the "Franchise Agreement"), Assignee shall have the right and is hereby empowered to take possession of the premises demised by the Lease, expel Assignor therefrom, and, in such event, Assignor shall have no further right, title or interest in the Lease and shall remain liable to Assignee for all past due rents Assignee shall be required to pay to Lessor to effectuate the assignment contemplated hereunder.

Assignor agrees that it will not suffer or permit any surrender, termination, amendment or modification of the Lease without Assignee's prior written consent. Throughout the term of the Franchise Agreement, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that said option must be exercised, unless Assignee otherwise agrees in writing. Upon Assignee's failure otherwise to agree in writing, and upon failure of Assignor to elect to extend or renew the Lease as aforesaid, Assignor hereby appoints Assignee as its true and lawful attorney-in-fact to exercise such extension or renewal options in the name, place and stead of Assignor for the sole purpose of effecting such extension or renewal.

This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page of this Agreement, by facsimile, or other electronic means, shall be effective as of the delivery of a manually executed counterpart of this Agreement. The parties agree that such electronically exchanged or stored copies will be enforceable as original documents.

ASSIGNOR:

CORPORATE SIGNATURE:

ATTEST:

_____,
a _____ corporation

Witness

By _____

Witness

Its: _____

INDIVIDUAL SIGNATURE(S):

CONSENT TO COLLATERAL ASSIGNMENT AND AGREEMENT OF LESSOR

The undersigned Lessor under the aforescribed Lease hereby:

(a) Agrees to notify Assignee in writing of and upon the failure of Assignor to cure any default by Assignor under the Lease;

(b) Agrees that Assignee shall have the right, but shall not be obligated, to cure any default by Assignor under the Lease within thirty (30) days after delivery by Lessor of notice thereof in accordance with Section (a) above;

(c) Consents to the foregoing Collateral Assignment and agrees that, if Assignee shall take possession of the premises demised by the Lease and confirms to Lessor the assumption of the Lease by Assignee as tenant thereunder, Lessor shall recognize Assignee as tenant under the Lease, provided that Assignee cures within said thirty (30) days period the defaults of Assignor under the Lease; and

(d) Agrees that Assignee may further assign the Lease to or enter into a sublease with a person, firm or corporation who shall agree to assume the tenant's obligations under the Lease and who is reasonably acceptable to Lessor and, upon such assignment, Assignee shall have no further liability or obligation under the Lease as assignee, tenant or otherwise, other than to certify that such additional assignee or sublessee operates the premises demised by the Lease as a ROCKY ROCOCO RESTAURANT.

Dated: _____

_____, Lessor

MINNESOTA ADDENDUM
ROCOCO FRANCHISE CORPORATION

EXHIBIT MA

Minnesota Addendum:

- Minnesota Statute 80C.21 and Minnesota Rule 2860.4400(J) prohibit the Franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the Franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the Franchisee's rights as provided for in Minnesota Statute 80C.21 or (2) Franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
- With respect to franchises governed by Minnesota law, the Franchisor will comply with Minnesota Statute 80C.14 Subd. 3-5, which require (except in certain specified cases)
 - that a Franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement and
 - that consent to the transfer of the franchise will not be unreasonably withheld.
- Minnesota considers it unfair to not protect the Franchisee's right to use the trademarks. Refer to Minnesota Statute 80C.12 Subd. 1(G). The Franchisor will protect the Franchisee's rights to use the trademarks, service marks, trade names, logotypes, or other commercial symbols or indemnify the Franchisee from any loss, costs, or expenses arising out of any claim, suit, or demand regarding the use of the name.
- Minnesota Rules 2860.4400(D) prohibits a Franchisor from requiring a Franchisee to assent to a general release
- The Franchisee cannot consent to the Franchisor obtaining injunctive relief. The Franchisor may seek injunctive relief. See Minnesota Rule 2860.4400(J) also, a court will determine if a bond is required.
- The Limitations of Claims section must comply with Minnesota Statute 80C.17 Subd. 5.
- NSF checks are governed by Minnesota Statute 60A.113, which puts a cap of \$30 on service charges.
- No statement, questionnaire, or acknowledgement signed or agreed to by a Franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any Franchisor, franchise seller, or other person acting on behalf of the Franchisor. This provision supersedes any other term of any document executed with the franchise.

STATE AGENCY INFORMATION
ROCOCO FRANCHISE CORPORATION

EXHIBIT ST

STATE AGENCY INFORMATION

ILLINOIS:

Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706

INDIANA:

Secretary of State
Indianan Securities Division
302 West Washington Street, Room E-11
Indianapolis, Indiana 46204

MICHIGAN:

State of Michigan
Department of Attorney General
P.O. Box 30213
Lansing, Michigan 48909

MINNESOTA:

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

WASHINGTON:

Director
Department of Financial Institutions
150 Israel Road SW
Tumwater, Washington 98501

WISCONSIN:

The Commissioner of Securities
101 East Wilson Street
P.O. Box 178
Madison, Wisconsin 53701-1768

Item 23
RECEIPT

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Disclosure Document and all Agreements carefully.

If Rococo Franchise Corporation offers you a franchise, it must provide this Disclosure Document to you fourteen (14) calendar days before you sign a binding agreement with, or make a payment to, the Franchisor or an affiliate in connection with the proposed franchise sale.

If Rococo Franchise Corporation does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of Federal and State law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580, and the State agency listed on Exhibit ST.

The franchisor is:

Rococo Franchise Corporation
105 East Wisconsin Avenue
Oconomowoc, Wisconsin 53066
(262) 569-5580

The issuance date of this Disclosure Document is April 24, 2025.

Rococo Franchise Corporation authorizes the respective state agencies identified on Exhibit ST to receive service of process for it in the particular state.

I have received the Disclosure Document dated April 24, 2025, that included the following Exhibits:

| | |
|-------------|--------------------------------|
| Exhibit FIN | Financial Statements |
| Exhibit FA | Franchise Agreement |
| Exhibit FDA | Franchise Deposit Agreement |
| Exhibit CAL | Collateral Assignment of Lease |

Dated: _____

Signature of Prospective Franchisee

(Address)

(City, State, Zip Code)

(Area Code and Telephone Number)

RFC'S COPY

Item 23
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Dated: _____

Signature of Prospective Franchisee

(Address)

(City, State, Zip Code)

(Area Code and Telephone Number)

YOUR COPY