

FRANCHISE DISCLOSURE DOCUMENT



THE *original* COOKIE BOUQUET® COMPANY

COOKIES FRANCHISE HOLDINGS LLC

a Delaware limited liability company

110 Hillside Avenue, Suite 304

Springfield, New Jersey 07081

(972) 746-2681

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www.cookiesbydesign.com

You will operate a retail “shop” under the tradename COOKIES BY DESIGN that produces decorated cookies, gourmet cookies, fanciful cookie arrangements, and related products for retail sale to the general public.

The total initial investment necessary to begin operation of a COOKIES BY DESIGN franchise business ranges from \$160,000 to \$345,000. This includes the \$30,000 that must be paid to the franchisor or affiliate.

If you are acquiring development rights under the area development program, the total initial investment necessary to begin operation of a COOKIES BY DESIGN Area Development franchise business ranges from \$205,000 to \$405,000. This includes the \$45,000 to \$60,000 that must be paid to the franchisor or affiliate. This includes 1 additional franchise on the low end and 5 additional franchises on the high end of the range under the Area Development. You must open at least one additional COOKIES BY DESIGN Franchised Business under an Area Development Agreement. There is no maximum number of additional COOKIES BY DESIGN Franchised Businesses under an Area Development Agreement.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar-days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no government agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient to you. To disclose the availability of disclosures in different formats, contact Clay Keeter at 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081, ckeeter@cookiesbydesign.com.

The terms of your contract will govern your franchise relationship. Don’t rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “A Consumer’s Guide to Buying a Franchise”, which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC’s home page at www.ftc.gov for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: January 2, 2025

How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit G.
How much will I need to invest?	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit E includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only COOKIES BY DESIGN business in my area?	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What’s it like to be a COOKIES BY DESIGN franchisee?	Item 20 or Exhibit G lists current and former franchisees. You can contact them to ask about their experiences.
What else should I know?	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

What You Need To Know About Franchising *Generally*

Continuing responsibility to pay fees. You may have to pay royalties and other fees even if you are losing money.

Business model can change. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

Supplier restrictions. You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

Operating restrictions. The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

Competition from franchisor. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

Renewal. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

When your franchise ends. The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit F.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

Special Risks to Consider About *This Franchise*

Certain states require the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in the State of New Jersey. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in the State of New Jersey than in your own state.

Certain states may require other risks to be highlighted. Check the “State Specific Addenda” (if any) to see whether your state requires other risks to be highlighted.

MICHIGAN NOTICE

The State of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in these franchise documents, the provisions are void and cannot be enforced against you:

- (a) A prohibition against you joining an association of franchisees.
- (b) A requirement that you assent to a release, assignment, novation, waiver or estoppel which would deprive you of rights and protections provided under the Michigan Franchise Investment Law. This does not preclude you, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits the franchisor to terminate your franchise prior to the expiration of its term except for good cause. Good cause includes your failure to comply with any lawful provision of the Franchise Agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits the franchisor to refuse to renew your franchise without fairly compensating you by repurchase or other means for the fair market value at the time of expiration, of your inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This provision applies only if:
 - (i) The term of the franchise is less than five years; and
 - (ii) You are prohibited by the Franchise Agreement or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising or other commercial symbol in the same area subsequent to the expiration of the franchise or if you do not receive at least six months advance notice of the franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew the franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This provision does not require a renewal provision in the Franchise Agreement or other agreement.
- (f) A provision requiring that arbitration or litigation be conducted outside of Michigan. This does not preclude you from entering into an agreement, at the time of the arbitration, to conduct arbitration at a location outside of Michigan.
- (g) A provision that permits the franchisor to refuse to permit a transfer of ownership of the franchise, except for good cause. This provision does not prevent the franchisor from exercising a right of first refusal to purchase the franchise. Good cause includes, but is not limited to:
 - (i) The failure of the proposed transferee to meet the franchisor's then-current reasonably qualifications or standards.
 - (ii) The fact that the proposed transferee is a competitor of the franchisor.
 - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
 - (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the Franchise Agreement existing at the time of the proposed transfer.
- (h) A provision that requires you to resell to the franchisor items that are not uniquely identified with the franchisor. This does not prohibit a provision that grants the franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a *bona fide* third party willing and able to purchase those assets, nor does it prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if you have breached the lawful provisions of the Franchise Agreement and have failed to cure the breach in the manner provided in (c),

above.

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to you unless provision has been made for providing the required contractual services.

The fact that there is a notice of this offering on file with the Attorney General does not constitute approval, recommendation, or endorsement by the Attorney General.

Any questions concerning this notice should be directed to the Michigan Department of Attorney General, Consumer Protection Division, Franchise Unit, 525 W. Ottawa Street, G. Mennen Williams Building, 1st Floor, Lansing, Michigan 48913, (517) 373-7117.

**FRANCHISE DISCLOSURE DOCUMENT
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ITEM 1
THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

To simplify the language in this disclosure document, we refer to Cookies Franchise Holdings LLC, the franchisor, as “we” or “us”. We refer to the person or business entity buying the franchise, the franchisee, as “you”. The term “you” includes the owners of a franchisee that is a business entity.

The Franchisor, and Any Parents, Predecessors, and Affiliates

We are a Delaware limited liability company formed on July 27, 2023, as a wholly-owned subsidiary of our parent company, Cookies USA LLC. We only do business under our corporate name and the trademark “COOKIES BY DESIGN” and related trademarks, logos, and service marks. Our principal business address is 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081. We have offered franchises of the kind described in this disclosure document since July 2023. We have never offered franchises in any other line of business. We have never operated a shop of the type you will operate. We do not conduct any other business activities other than offering and supporting Shops. Exhibit A to this disclosure document lists our agents for service of process.

Our parent company, Cookies USA LLC (“Cookies USA”), is a Florida limited liability company, formed on May 22, 2023, and shares our principal place of business.

Designed Cookies, Inc., a Texas limited liability company, (“Designed Cookies”), our predecessor franchisor, offered franchises of the kind described in this disclosure document for 16 years from December 2007 through June 1, 2023. From 2008 through June 2023, Designed Cookies operated a shop of the type offered in this disclosure document. Designed Cookies never offered franchises in any other line of business. Nor did Designed Cookies conduct any business activities other than offering and supporting Shops.

The COOKIES BY DESIGN Franchise

We franchise the right to develop and open and operate a business that produces decorated cookies, gourmet cookies, fanciful cookie arrangements, and related products for retail sale to the general public (the “Shop”) under the trademarks “COOKIES BY DESIGN,” “CUPCAKE BY DESIGN,” “CANDIES BY DESIGN,” and other trademarks, service marks, logos and catch phrases (“Marks”).

Our proprietary business format and system (the “System”) includes business practices and policies, operations manuals, methods of operation, merchandising, advertising, sales and promotional techniques, training, copyrighted cookie and arrangement designs, recipes, distinctive interior and exterior design, décor, color scheme, graphics, fixtures and furnishings, and other standards, specifications, techniques, and procedures that we designate for developing, operating, and managing a COOKIES BY DESIGN Shop, all of which we may change, improve, and further develop (collectively, our “Standards”).

A typical Shop is located in or adjacent to a major shopping mall, outlet mall, retail strip mall, or shopping center, or, in the alternative, in an urban storefront, and ranges between 1,200 to 1,400 square feet. You will operate the Shop according to our standard Franchise Agreement (see Exhibit B) and our Standards, specifications, policies, and procedures, which will be communicated to you via our confidential operations manuals and other written directives (collectively, our “Manuals”). Under our standard Franchise Agreement, you may be granted, at our sole discretion and upon our written approval, the right to operate a smaller scale Shop within the Designated Territory granted to you (“Satellite”) and/or a small non-baking retail sales location such as a booth, cart, or display table within the Designated Territory granted to you (“Kiosk”). Also, we may grant you the right to hand deliver or ship goods within an additional geographic area outside your Designated Territory. If we do, and you would like to provide extended hand delivery and shipping services, you will sign our standard Extended Delivery Area Agreement attached to the Franchise Agreement as Attachment F.

If we grant you development rights, you will sign our standard Area Development Agreement (see Exhibit C), for the development of multiple Shops within a defined development area. The development area and timetable for opening Shops will be determined by us and memorialized in a development schedule. The number of Shops to be developed under each Area Development Agreement will depend on such factors as the size, affluence and population density of the development area. For each Shop developed under the Area Development Agreement, you must enter into our then-current form of Franchise Agreement.

In addition, if you are an existing franchisee who desires to fulfill orders in an extended delivery area assigned by us (an “Extended Delivery Area”), we may, in our sole discretion, elect to enter into an Extended Delivery Area Agreement, our current form of which is as Attachment F to the form Franchise Agreement attached to this disclosure document. The Extended Delivery Area Agreement allows you to fulfill orders received by the Shop or by us or our affiliate via telephone, facsimile, mail order, catalog sales, and/or the Internet, and to hand deliver and ship the orders to residential and business locations within an additional geographic area outside your Designated Territory. If we enter into an Extended Delivery Area Agreement with you, either of us may terminate the Extended Delivery Area Agreement at any time for any or no reason 30 days after delivery of written notice of termination to the other. Additionally, we may immediately suspend or terminate the Extended Delivery Agreement if you are in default of your obligations under the Extended Delivery Area Agreement. We also have the immediate right to unilaterally modify the Extended Delivery Area.

Market and Competition

You will offer and sell services to customers who use the services of florists and/or bakeries. We believe that the market for our products is developing. You will compete with other local and nationally franchised businesses providing similar services. Your ability to compete in this market depends in large part on geographical area, specific site location, general economic conditions and your capabilities.

Industry Specific Laws and Regulations

In addition to laws and regulations that apply to businesses generally, the U.S. Food and Drug Administration, the U.S. Department of Agriculture, and state and local health departments administer and enforce laws and regulations that govern food preparation and service and sanitation conditions. State and local agencies inspect restaurants to ensure that they comply with these laws and regulations.

In addition, the Menu Labeling Provisions of the Patient Protection and Affordable Health Care Act require certain retail food establishments to post caloric information on menus and menu boards and to make available to consumers additional written nutrition information upon request. State and local governments may have their own regulations

ITEM 2 BUSINESS EXPERIENCE

Owner, Chairman, and Chief Executive Officer: Andrew Berger

Andrew Berger is our Owner and Chairman of the Board and has served as our Chief Executive Officer since June 2023. He is also a director and beneficial owner of Cookies USA and has held this position since May 2023. Mr. Berger has served as the chairman of the board of Cosi Restaurant Holdings LLC and its affiliated entities since August 2022. Prior to that, Mr. Berger served as the Chief Executive Officer and as chairman of the board of Cosi, Inc. from May 2017 to August 2022. Mr. Berger has served as the President of Tuesday Morning USA LLC since February 2024. Since January 2008, Mr. Berger has served as the Managing Member of AB Value Management LLC, which is the General Partner of AB Value Partners LP. Since February 2002, Mr. Berger has served as President of Walker’s Manual, Inc. Mr. Berger has also been a director of Autoscope Technologies Corporation (located in Minneapolis, Minnesota) since

October 8, 2015, as well as a member of their Audit Committee and Nominating and Corporate Governance Committee.

President and Director: David Polonitza

David Polonitza is a member of the Board and has served as our President since June 2023. He is also a director and the Executive Vice President of Cookies USA LLC and held the position since May 2023. Mr. Polonitza has served as the Executive Vice President and as a director of the board of Cosi Restaurant Holdings LLC and its affiliated entities since August 2022. Mr. Polonitza has served as the Executive Vice President of Tuesday Morning USA LLC since February 2024. From May 2017 to August 2022, Mr. Polonitza served as the Executive Vice President of Cosi, Inc. and its affiliated entities, and from December 2018 to August 2022, he served as a director of the board of Cosi, Inc. and its affiliated entities. Mr. Polonitza has been the Chief Operating Officer of AB Value Management LLC since 2010.

The above is a list of our directors, officers, executives and personnel with responsibility for the franchise program. Unless otherwise stated, the location of each company or employer is Mountainside, New Jersey.

**ITEM 3
LITIGATION**

Pending Action of Predecessor, Designed Cookies, Inc.

Cakes By Design Inc. (Plaintiff) v. Cookies By Design, Inc., Snickerdoodle Inc., Dharminder Bhullar and Kathleen R. Bhullar (Defendants), as amended Court File No. T-718-24, Federal Court, Toronto, Ontario, Canada, dated April 3, 2024. Plaintiff is a third-party that operates a shop under the trade name CAKES BY DESIGN in Toronto, Ontario, and Defendants include the predecessor franchisor, Cookies By Design, Inc. (“CBD”), a former franchisee in Toronto, Ontario, Snickerdoodle (“Snickerdoodle”), which operated a COOKIES BY DESIGN shop near the Plaintiff’s CAKES BY DESIGN shop, and the principals of Snickerdoodle. Plaintiffs claim that the Defendants are infringing on Plaintiff’s intellectual property rights. Plaintiff is seeking monetary relief of over \$50,000, nonmonetary relief, and awarding of attorneys’ fees and costs. To the knowledge of Cookies USA Franchisor Holdings LLC, Defendants have denied all allegations in response to the filings. Cookies Franchise Holdings LLC, Cookies USA LLC, and their respective officers are not parties to the amended complaint. Neither Cookies Franchise Holdings LLC nor Cookies USA LLC were parties to, and neither acquired the rights to, the Snickerdoodle Franchise Agreements or the Canadian trademarks, which remain in the name of Cookies By Design, Inc. or its affiliates.

The Cookie Bouquet of Houston, Inc., Champions Cookie Bouquet, Inc., and Cookie Bouquet Development Corporation v. Designed Cookies, Inc., Cookies by Design, Inc., Defendant Cookie Bouquet Franchising Corporation f/k/a Cookie Bouquet Inc., MGW Group, Inc., Mary Gwen Willhite-Gilliam, Richard J. Long and Clay Keeter, Cause No. 2023-40765 / Court: 269 filed in the District Court of Harris County, Texas on July 2, 2023. Plaintiffs are former franchisees of three Shops and Defendants include the predecessor franchisor, DCI, and certain officers and affiliates of DCI. Plaintiffs filed a Request for Declaratory Judgment and Original Petition claiming 1) violations of the Federal Trade Commission (“FTC”) Franchise Rule and the Texas Business Opportunity Act; 2) breach of contract; 3) fraud by non-disclosure; 4) negligent misrepresentation; 5) fraud and fraudulent inducement; 6) violations of the Texas Deceptive Trade Practices Act; 7) money had received; 8) Promissory estoppel; 9) breach of the covenant of duty of good faith and fair dealing; 10) wrongful conversion; and 11) alter ego/piercing the corporate veils. Plaintiffs are seeking monetary relief of over \$1,000,000, nonmonetary relief, and awarding of attorneys’ fees and costs. Defendants have denied all allegations in response filings and filed a Motion for Summary Judgement on which the Court has not yet ruled.

Other than the above matter, no litigation is required to be disclosed in this Item.

ITEM 4 BANKRUPTCY

Andrew Berger and David Polonitza were officers and directors of Cosi, Inc. and its subsidiaries in February 2020. On February 24, 2020, Cosi, Inc., for itself and on behalf of its subsidiaries, including Cosi Restaurant Holdings LLC, (collectively, the “Debtors”) filed voluntary petitions for relief (Case No. 20-10417 (BLS) (Jointly Administered) (the “Bankruptcy Cases”) under chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). On May 11, 2021, at the Debtors’ request (for strategic reasons), the Bankruptcy Court entered an order dismissing the Bankruptcy Cases without prejudice and providing, among other things, that the Bankruptcy Cases could be reinstated by the Debtors on an expedited basis. On July 11, 2022, at the Debtors’ request, the Bankruptcy Court entered an order reinstating the Bankruptcy Cases. On July 27, 2022, at the Debtors’ request, the Debtors’ Second Amended Joint Prepackaged Plan of Reorganization (the “Plan” or the “Plan of Reorganization”) was confirmed and became effective August 9, 2022 (the “Plan Effective Date”). Pursuant to the Plan, on the Plan Effective Date, the Cosi restaurant operating assets and related assets of the Cosi restaurant operations were transferred and assigned by Cosi, Inc. to, and assumed by, reorganized Cosi Restaurant Holdings LLC. On and after the Plan Effective Date, reorganized Cosi Restaurant Holdings LLC became the operating company for the Cosi restaurants and related operations, with the restaurants continuing to operate under the COSI tradename. On and after the Plan Effective Date, Cosi, Inc. and certain subsidiaries owned certain assets (unrelated to the COSI restaurant operations) and those entities are no longer affiliated with Cosi Restaurant Holdings LLC and its affiliates and the Cosi restaurants.

Andrew Berger and David Polonitza were officers of entities that were investors in Cosi, Inc., and Andrew Berger was the beneficial owner of shares of stock of Cosi, Inc., in September 2016. On September 28, 2016, Cosi, Inc., for itself and certain of its subsidiaries, commenced a case under chapter 11 of the United States Code, 11 U.S.C. §§101 – 1330 (the “Bankruptcy Code”), by filing a voluntary petition for relief in the United States Bankruptcy Court for the District of Massachusetts (the “Bankruptcy Court”), Case No. 16-13704 (MSH) (jointly administered). As a result of the bankruptcy, the stock of Cosi, Inc. was delisted in October 2016 and deregistered from the Nasdaq Stock Exchange in January 2017, at which time Cosi, Inc. became a private company. The Amended and Restated Joint Plan of Reorganization (the “Plan”) was approved by the Bankruptcy Court on April 25, 2017. The Plan became effective on May 10, 2017 (“Plan Effective Date”), at which time Cosi, Inc., and its subsidiaries emerged as reorganized entities. Pursuant to the Plan, all of the previously existing equity interests in Cosi, Inc. were cancelled and extinguished, and a portion of the secured debt of the secured lenders was converted to equity, resulting in a change in ownership on the Plan Effective Date.

Other than the above matters, no bankruptcy information is required to be disclosed in this Item.

ITEM 5 INITIAL FEES

Initial Franchise Fee

When you sign the Franchise Agreement, you will pay us a \$30,000 Initial Franchise Fee. The Initial Franchise Fee is uniform for all franchisees and is considered fully earned and nonrefundable upon payment.

Development Fee

If we grant you development rights, you will pay us a Development Fee when you sign the Area Development Agreement. The Development Fee is calculated as 100% of the Initial Franchise Fee payable under the Franchise Agreement for the first Shop (i.e., \$30,000), plus 25% of the Initial Franchise Fee (i.e.,

\$7,500) multiplied by the number of additional Shops you commit to develop. When you sign the Area Development Agreement, you will also sign a Franchise Agreement for the first Shop, and \$30,000 of your Development Fee payment will be credited toward satisfaction of the Initial Franchise Fee. When you sign each additional Franchise Agreement, \$7,500 of your Development Fee payment will be credited to satisfy the Initial Franchise Fee due, and you will pay the balance at that time. The Development Fee is uniform for all franchises and is considered fully earned and nonrefundable upon payment.

**ITEM 6
OTHER FEES**

Type of Fee¹	Amount	Due Date	Remarks
Royalty	Months one through six: 6% of Gross Sales Months six through the end of the Term: the greater of 6% of Gross Sales or \$500	Monthly	See Note 2 for the definition of “Gross Sales”.
Advertising Fund	Up to 3% of Gross Sales	Monthly	We collect Advertising Fund contributions.
Minimum Local Advertising	3% of Gross Sales, may be increased to 3.5% of Gross Sales upon 90 days’ prior notice	Quarterly	You will deliver to us a quarterly report describing the preceding quarter’s local advertising activities and the amount you spent on each of those activities.
Sublicensed Materials	Set by licensor; currently, none	Monthly	We or our designee collects and pays the licensor.
Extended Delivery Area Fee	10% of Gross Sales in the Extended Delivery Area, of which 6% is a Royalty and 4% is an Extended Delivery Area fee.	Monthly	If you enter into an Extended Delivery Area Agreement to fulfill orders within an Extended Delivery Area (outside your Designated Territory), you will pay us a Royalty equal to 6% of Gross Sales on orders fulfilled or delivered in the Extended Delivery Area (outside your Designated Territory), plus a 4% Extended Delivery Area fee.
National Account Order Fee	Additional 5% of Gross Sales from National Account orders	Monthly	Additional fee of 5% of Gross Sales on National Account orders you fulfill. This fee covers our cost of identifying leads, securing and closing orders, collecting amounts due, and administering National Accounts.
CBD POS Maintenance Fee	Currently, \$500 per year, subject to increase upon 30 days’ notice	Annually each January 1st	No limitation on our ability to increase this fee.
Satellite/Kiosk Fee	\$500 per year per Satellite or Kiosk	Annually each January 1st	Payable only if a Satellite or Kiosk is established.

Type of Fee ¹	Amount	Due Date	Remarks
Internet Site/Online Order Fee	Currently \$3 per online order placed through our Internet site	Monthly	Fee is added and charged to the purchaser at the time order is placed through the internet site. This fee may be increased with a 30-day notice.
Late Payment Fee	Lesser of 1.5% per month or the highest amount allowed by law	Upon demand	Payable only if any sums due us are not paid promptly when due.
Additional On-Site Assistance	Reimbursement for travel expenses, per diem, and other related expenses	Upon demand	Payable only for additional opening assistance and supervision which we may require or you may request.
Additional Training	A reasonable fee ranging from \$100 to approximately \$1,500	Upon demand	Other than the initial training for you or your Shop's original General Manager, we may charge a reasonable fee for training, seminars and materials, whether required or optional.
Site Approval Extension Fee	\$1,000 per extension	With your request for an extension	Payable if you request, and we permit, a 30-day extension of the period for approval of a proposed site.
Construction Extension Fee	\$1,000 per extension	With your request for an extension	Payable if you request, and we permit, a 30-day extension of your obligation to begin construction.
Insurance Fee	Reimbursement	Upon demand	Payable only if you fail to obtain the required insurance and we do so on your behalf.
Renewal Fee	\$5,000	Before renewal	See Item 17 for more information regarding renewal.
Administrative Fee	\$250 per enforcement effort (i.e., written or verbal notification and follow up), and \$250 per week for each week that the issue remains unresolved	Upon demand	We may assess an administrative fee to compensate us for our time.
Transfer Fee	\$5,000 if the transfer results in a change in control, a transfer of the Franchise Agreement or assets not in the ordinary course of business; the greater of the costs that we incur or \$1,000 if the transfer does not result in a change in control	Upon demand	

Type of Fee ¹	Amount	Due Date	Remarks
Relocation Fee	The lesser of \$5,000 or amount necessary to reimburse Franchisor for its reasonable costs and expenses	Upon demand	
Nonsufficient funds Fee	The greater of the actual cost of the fee, or \$25	Upon demand	If any payment submission is returned by you as nonsufficient funds, or similar fee, then you agree to pay us \$25, or the actual cost of the fee, if greater, as a resubmittal accounting fee.
Tax Payment	Reimbursement	Upon demand	You must reimburse us for any sales taxes, gross receipts tax or similar tax imposed on us for any payments to us required by the Franchise Agreement.
Audit Fee	Reimbursement of our audit expenses	Upon demand	Payable only if an audit reveals an understatement of 2% or more.
Inspection and Testing Fee	Reimbursement	Upon demand	Payable only if you request our approval of a new product or supplier.
Indemnification	Varies	Upon demand	You must indemnify us and certain related parties from certain losses and expenses.

Notes:

- (1) Unless otherwise noted, all fees are payable directly to us and are uniformly imposed and nonrefundable.
- (2) “Gross Sales” means all revenue from the sale of all products and services related to the Shop and any Satellites and/or Kiosks, whether for cash or credit (and, if for credit, whether or not payment is received therefor), and all other income of every kind and nature related to the Shop and any Satellites and/or Kiosks including, without limitation, proceeds of business interruption insurance and gross revenues received by the franchisee from any other business (including, but not limited to, all revenues from any mechanical or other device, such as vending machines) operated from the Shop, less: (i) any sales taxes or other taxes collected by you from your customers for transmittal to the appropriate taxing authority, (ii) valid credits deducted from revenues initially recorded as Gross Sales, and (iii) revenues from delivery fees collected on delivery orders.

**ITEM 7
ESTIMATED INITIAL INVESTMENT
YOUR ESTIMATED INITIAL INVESTMENT**

Franchise Agreement

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Initial Franchise Fee ¹	\$30,000	Lump sum	At signing of Franchise Agreement	Us

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Pre-Opening Travel, Lodging, and Meals for Initial Training ²	\$3,000 to \$6,000 (per person)	As arranged	As arranged	Suppliers
Real Estate ³	\$6,000 to \$20,000	As arranged	As arranged	Landlord
Furniture, Fixtures and Leasehold Improvements	\$35,000 to \$120,000	As arranged	As arranged	Suppliers
Kitchen Equipment, Computer Hardware and Software ⁴	\$30,000 to \$65,000	As arranged	Pre-Opening	Suppliers and Us
Initial Inventory and Supplies (Food, Paper and Merchandise) (three months)	\$10,000 to \$18,000	As arranged	As arranged	Suppliers
Business Licenses, Permits, etc. (first year)	\$1,000 to \$2,000	Lump sum	As arranged	Licensing Authorities
Signage ⁵	\$7,000 to \$20,000	As arranged	As arranged	Suppliers
Insurance Premiums (for the first year) and Utility Deposits ⁶	\$3,000 to \$7,000	Lump sum	Pre-Opening	Insurers and Utility Companies
Architect, Engineer and Other Professional Fees ⁷	\$5,000 to \$12,000	As arranged	As arranged	Architect, Engineer Accountant, Attorney, etc.
Advertising and Promotion (three months)	\$5,000 to \$10,000	As arranged	As arranged	Suppliers, Media, etc.
Additional Funds ⁸ (three months which include working capital)	\$25,000 to \$35,000	As incurred	As incurred	Employees, Suppliers, etc.
TOTAL ⁹	\$160,000 to \$345,000			

Area Development Agreement

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Development Fee ¹	\$45,000 to \$60,000	Lump sum	When you sign the Area Development Agreement	Us
Estimated Initial Investment Range ¹⁰	\$160,000 to \$345,000	As incurred	As incurred	Individual suppliers
TOTAL ⁹	\$205,000 - \$405,000			

Notes:

- (1) Our standard Initial Franchise Fee for your first Shop is \$30,000. See Item 5 for a description of the Initial Franchise Fee and the Development Fee. The Development Fee itemized in the above table assumes the development of three Shops on the low end of the Development Fee amount and the development of five Shops on the high end of the Development Fee amount.
- (2) You or, if Franchisee is a business entity, one of your equity owners, must attend our initial training program and complete it to our satisfaction. We may also admit, at our discretion, your spouse if the franchisee is an individual, any additional equity owners, if the franchisee is a business entity, and/or your General Manager. You are responsible for all training-related expenses including travel, lodging, meals, and wages. We reserve the right to charge a reasonable per person tuition fee (currently \$1,000) for the third and additional attendees if more than two individuals are permitted to attend the initial training program.
- (3) You may purchase or lease commercial real estate for the Shop premises or enter into a lease-purchase agreement for the land and building. Also, the building may be either newly constructed or renovated and either free-standing or located in a mall or shopping center. In certain instances, you may be able to get the landlord to contribute toward renovation or improvement of the real estate and also may be able to arrange to pay a lesser amount for rent in exchange for paying the landlord a percentage of sales from the Shop. Real estate expenses (including, but not limited to, construction costs, impact fees, and broker commissions) will vary widely, depending on the geographic region, the site location, the size of the building, and other factors.
- (4) This range includes the cost of kitchen and other equipment required for the Shop as well as all required computer systems. The kitchen equipment consists of items such as ovens, mixers, refrigerators, freezers, trays and utensils. The estimated cost of our required computer systems includes hardware and software and, with respect to software, includes the CBD POS Maintenance Fee (currently, free of cost for the first year and then \$500 per year).
- (5) Required signage includes, in most cases, one building sign and interior signage.
- (6) The insurance requirements are described in Item 8.
- (7) You must hire an architect approved by us to adapt our standard plans and specifications to the site and to local and state laws, regulations and ordinances. An engineer ordinarily will be required only for new construction, surveying, soil tests and electrical and mechanical engineering. An architect or engineer also may be required to supervise the construction and improvements of the Shop premises. You probably will also need accounting and legal services (e.g., franchise review, lease negotiation, financing and tax planning). The accounting and legal fees will vary, depending

on your needs, your choice of professional service providers and other local circumstances (e.g., zoning applications, health permits).

- (8) These amounts are the minimum recommended levels to cover operating expenses, including your employees' salaries for three months. They do not include managerial salaries or any payment to you. They also do not take into account finance payments, charges, interest, and related costs you may incur if any portion of the initial investment is financed. These are just estimates, and we cannot guarantee that they will be sufficient for your needs.
- (9) Additional working capital may be required if sales are low or fixed costs are high. We relied on our franchisees' operating experiences in compiling these working capital estimates.
- (10) This Estimated Initial Investment range is identical to the single-unit Estimated Initial Investment table total, except that the Initial Franchise Fee has been removed as an expense from both the low end and high end of the range. Instead, you will pay to us the Area Development Fee itemized in the table.

ITEM 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Purchases from Designated or Approved Suppliers

You must purchase all products that bear any of our trademarks from us or from a producer, manufacturer, distributor or supplier we designate or approve. In addition, we can require you to purchase from us or from suppliers or distributors we designate other goods and services as we identify periodically, including: (a) fixtures, furniture, equipment, interior and exterior signage, graphics, décor, and Shop design consulting services; (b) your requirements of icing and baking mixes and ingredients, and all other food products and ingredients; (c) cookie and baking molds, cutters, and images; (d) containers, packaging materials, and shipping materials; (e) uniforms, shirts, memorabilia, and all merchandise and items intended for retail sale (whether or not bearing the Marks); (f) advertising, point-of-purchase materials, and other printed or digital promotional materials; (g) gift certificates and stored value cards; (h) stationery, business cards, and other templates and forms; and (i) paper goods, packaging, and supplies. You must purchase the POS computer system from our approved third-party vendor. See Item 11 for more information about computer hardware and software requirements.

Currently, we are the designated supplier for the CBD POS Software. Neither we nor our affiliates are approved suppliers or the only approved suppliers for any other goods or services. None of our officers owns an interest in any privately-held suppliers, or a material interest in any publicly-held suppliers of the franchise system. Occasionally, our officers may own non-material interests in publicly-held companies that may be suppliers to our franchise system.

Supplier Approval

We will provide you with our Operations Manual and various supplemental bulletins and notices that will contain the specifications, standards and restrictions on your purchase of products and services. Upon request, we will furnish to you an approved list of suppliers which we may update periodically.

You must purchase all equipment, supplies and other products and materials used in the operation of the Shop solely from designated or approved suppliers. If you desire to purchase any items from an unapproved supplier, you must submit to us a written request for approval or must request the supplier itself do so. We will have the right to require that our representatives be permitted to inspect the supplier's facilities and that samples from the supplier be delivered, at our option, either to us or to an independent, certified laboratory designated by us for testing. You or the supplier must pay a charge not to exceed the reasonable cost of the inspection and the actual cost of the test. We may, at our option, re-inspect the facilities and products of any approved supplier and revoke our approval upon the supplier's failure to continue to meet

any of our criteria. We will notify you of our approval or disapproval within 30 to 180 days depending upon, among other factors, the type of products involved.

In addition, you must permit us or our agents, at any reasonable time, to remove from the Shop premises reasonable samples of inventory items without payment, for testing by us or an independent, certified laboratory to determine whether the samples meet our then-current standards and specifications. We may require you to bear the cost of the testing if we have not previously approved the supplier of the item or if the sample fails to conform to our specifications.

You may purchase from any supplier of your choice items (including certain equipment and ingredients) and services for which we have not identified designated or approved suppliers, as long as the supplier possesses adequate quality controls and is able to meet your needs and the items or services meet our specifications. These specifications may include brand requirements (“Approved Brands”). If Approved Brands have been identified, you may purchase and use only the Approved Brands.

Franchise Location

Before you begin construction, you must engage a qualified architect or engineer, that we approve, (based on the architect or engineer having required certifications and training), to prepare construction documents and possibly supervise the construction of the Shop. You must purchase or lease and maintain at the Shop the equipment that we specify. You must obtain our written approval before installing any previously unapproved equipment or other furniture. If any of the equipment to be installed at the Shop is leased, the lease must permit you to substitute equipment subject to the lease. You are prohibited from leasing any equipment on a “shared-revenue” basis.

Insurance

You must procure and maintain an insurance policy or policies protecting you, us, our affiliates, and your, our and our affiliates’ respective officers, directors, members, partners, agents, and employees, against any demand or claim with respect to personal injury, death, property damage or any loss, liability, or expense whatsoever arising or occurring upon or in connection with the Shop, including: (a) comprehensive general liability insurance of not less than \$1,000,000 including product liability and blanket contracts/liability insurance, fire and extended casualty insurance insuring the replacement value of the Shop and its contents against fire, flood, tornadoes and other hazards designated in the Operations Manuals, (b) statutory workers’ compensation insurance; (c) employer’s liability insurance, as required by law; (d) automobile liability insurance, providing coverage for owned, hired and non-owned automobiles used in the Shop both by you, your Principals, your employees and independent contractors (except independently owned and operated delivery services), with combined single limit coverage of not less than \$1,000,000.00; and (e) business interruption insurance, in a sufficient amount to cover 12 months of royalties, continuing fees to the Advertising Fund, and any other payments to us, based upon the average fees paid by you to us during the 12 months preceding the event of the business interruption; rent and other direct site costs for the Shop; and insurance premiums and other fixed expenses.

The policy or policies must be written by a responsible carrier or carriers acceptable to us, must name us and our affiliates as additional insureds as we specify (with the exception of workers’ compensation insurance), and must provide at least the types and minimum amounts of coverage as we may specify from time to time. If applicable law does not require workers’ compensation insurance, you must procure and maintain as provided above, a legally appropriate alternative providing substantially similar compensation for injured workers satisfactory to us, provided that you (i) maintain an excess indemnity or “umbrella” policy covering employer’s liability and/or a medical/disability policy covering medical expenses for on-the-job accidents, which policy or policies contain the coverage amounts you and we mutually agree upon and (ii) conduct and maintain a risk management and safety program for your employees. These policies must also include a waiver of subrogation in favor of us and our affiliates, and us and our affiliates’

respective partners, and the officers, directors, shareholders, partners, agents, representatives, independent contractors, servants, and employees of each of them.

No later than 15 days before the date construction begins and on each policy renewal date, you must submit evidence of satisfactory insurance and proof of payment to us, together with, upon request, original or duplicate copies of all policies and policy amendments. The evidence of insurance must include a statement by the insurer that the policy or policies will not be canceled or materially altered without at least 30 days' prior written notice to us.

Your obligations to obtain and maintain the policy or policies in the amounts specified will not be limited in any way by reason of any insurance which we may maintain, nor will your performance of that obligation relieve you of liability under the indemnity provisions set forth in the Franchise Agreement. If you fail to procure or maintain the required insurance, we may obtain the insurance on your behalf and charge you the amount of the premium plus a reasonable administrative fee.

Revenue Derived from Franchisee Purchases and Leases

We and our affiliates may derive revenue from franchisee purchases and leases to the extent that franchisees purchase products or services from us or our affiliates, and we also may receive payments or material benefits from suppliers based on your purchases or leases. Currently, we do not receive rebates from system suppliers.

During our fiscal year ending May 31, 2024, we derived \$0 in revenue on account of franchisee purchases or leases, accounting for 0% of our total revenues of \$220,495.60.

Estimated Proportion of Required Purchases and Leases to all Purchases and Leases

We estimate that approximately 30% of your expenditures for leases and purchases in establishing your Shop and approximately 15% to 30% of your total annual operating expenses on an ongoing basis will be for goods and services which are subject to sourcing restrictions (that is, for which suppliers must be approved by us, or which must meet our standards or specifications).

Description of Purchasing Cooperatives; Purchasing Arrangements

We may negotiate purchase arrangements with primary suppliers for the benefit of franchisees. If we negotiate a purchase agreement for the region where your Shop is located, you must participate in the purchasing program. We do not provide material benefits to you (for example, renewal or granting additional franchises) based on your purchase of particular products or services or use of particular suppliers. We do not provide you any material benefits (for example, additional renewal rights or rights to acquire additional franchises) based on your purchase of particular products or services or use of particular suppliers. Presently there are no purchasing or distribution cooperatives in existence for the franchise system.

**ITEM 9
FRANCHISEE'S OBLIGATIONS**

This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.

Obligation	Article in Agreements	Disclosure Document Item
a. Site selection and acquisition/lease	Article 5 of the Franchise Agreement	Items 11 and 12
b. Pre-opening purchase/leases	Article 6 of the Franchise Agreement	Items 7, 8, 11, and 12

Obligation	Article in Agreements	Disclosure Document Item
c. Site development and other pre-opening requirements	Articles 5 and 6 of the Franchise Agreement, Article 5 of the Area Development Agreement	Items 5, 6, 7, and 11
d. Initial and ongoing training	Article 7 of the Franchise Agreement	Items 6 and 11
e. Opening	Article 6 of the Franchise Agreement	Item 11
f. Fees	Article 4 of the Franchise Agreement, Article 4 of the Area Development Agreement	Items 5, 6, and 7
g. Compliance with standards and policies/operating manual	Article 8 of the Franchise Agreement	Item 11
h. Trademarks and proprietary information	Article 9 of the Franchise Agreement, Articles 6 and 7 of the Area Development Agreement	Items 13 and 14
i. Restrictions on products/services offered	Article 8 of the Franchise Agreement	Item 16
j. Warranty and customer service requirements	Not Applicable	Not Applicable
k. Territorial development and sales quotas	Article 5 of the Area Development Agreement	Item 12
l. Ongoing product/service purchases	Article 8 of the Franchise Agreement	Item 8
m. Maintenance, appearance, and remodeling requirements	Articles 6 and 8 of the Franchise Agreement	Items 6 and 11
n. Insurance	Article 19 of the Franchise Agreement, Article 10 of the Area Development Agreement	Items 6 and 8
o. Advertising	Article 10 of the Franchise Agreement	Items 6 and 11
p. Indemnification	Article 18 of the Franchise Agreement, Articles 9 and 14 of the Area Development Agreement	Item 6
q. Owner's participation/management/staffing	Article 8 of the Franchise Agreement	Items 11 and 15
r. Records and reports	Article 14 of the Franchise Agreement	Item 6
s. Inspections and audits	Articles 8 and 14 of the Franchise Agreement	Items 6 and 17
t. Transfer	Article 20 of the Franchise Agreement, Article 11 of the Area Development Agreement	Items 6 and 17
u. Renewal (or Extension of Rights)	Article 3 of the Franchise Agreement, Article 5 of the Area Development Agreement	Items 6 and 17
v. Post-termination obligations	Article 22 of the Franchise Agreement	Item 17
w. Non-competition covenants	Article 17 of the Franchise Agreement, Article 8 of the Area Development Agreement	Items 12, 15, and 17

Obligation	Article in Agreements	Disclosure Document Item
x. Dispute resolution	Article 23 of the Franchise Agreement, Article 15 of the Area Development Agreement	Item 17

**ITEM 10
FINANCING**

We do not offer direct or indirect financing. We do not guaranty your note, lease, or obligation.

**ITEM 11
FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

Except as listed below, Cookies Franchise Holdings LLC is not required to provide you with any assistance.

Pre-Opening Obligations. Before you open your Shop for business:

1. We will approve or refuse to approve your site within 30 days of receiving all required information (Franchise Agreement, Section 5(b)).
2. If we deem necessary, we will provide you one on-site evaluation of a proposed Shop location at no charge to you (Franchise Agreement, Section 5(c)).
3. We will admit two individuals to our initial training program, described below (Franchise Agreement, Section 7(a)).
4. After your successful completion of our initial training program, we provide you access to our Operations Manuals (Franchise Agreement, Section 7(a)).
5. We will make available one individual to provide you with up to three days of on-site Shop opening and operating assistance at no cost to you (Franchise Agreement, Section 7(b)).

Continuing Obligations. During the operation of the Shop:

1. We will provide continuing advisory assistance, as we deem advisable, to you in the operation of the Shop (Franchise Agreement, Section 8(i)).
2. We may offer, from time to time, to provide, upon your request and at your expense, approved local advertising and promotional plans and materials, including newspaper slicks, promotional leaflets, and coupons. All such advertising must be placed in or distributed through such media or channel of communication as approved by us (Franchise Agreement, Section 10(b)).

Advertising

Our advertising program for the products and services offered by COOKIES BY DESIGN Shops currently consists of online advertising and marketing campaigns. Our advertising materials currently are created in-house and with the help of an outside advertising agency or independent contractors. You may develop your own advertising and marketing materials, at your own expense, subject to our prior approval. To obtain approval, you must submit to us samples of the proposed materials and notify us of the intended media. We will use good faith efforts to approve or disapprove your materials within 15 days from the date we receive them. You may not use the materials until they are approved, and we have the right to disapprove materials that we have previously approved.

We may elect to utilize various local, regional and/or national media campaigns in the future which may, in addition to the Internet, include television, magazine, and newspaper advertising campaigns.

Advertising Fund

You must contribute to our Advertising Fund an amount we designate, but not to exceed 3% of Gross Sales per month. The current contribution rate is 3% of Gross Sales.

The Advertising Fund is intended to maximize general public recognition and acceptance of the Marks, to enhance the collective success of all System Businesses and to further develop and maintain the System. We and/or our designees will direct all advertising and other programs produced using the Advertising Fund, and we will have sole discretion to approve or disapprove the creative concepts, materials and media used in those programs, the placement of advertisements, and the allocation of the money in the Advertising Fund to production, placement or other costs. In administering the Advertising Fund, we and our designees undertake no obligation to make expenditures for you which are equivalent or proportionate to your contribution, or to ensure that you or any particular System Business benefits directly or pro rata from the placement of advertising or the expenditure of Advertising Fund monies.

The Advertising Fund may be used to satisfy any and all costs for maintaining, administering, directing, preparing, purchasing and placing advertising (including the cost of preparing and conducting national, regional or local television, radio, magazine and newspaper advertising campaigns; direct mail and outdoor billboard advertising; email marketing (including the cost of preparing and conducting email advertising campaigns, email platform, and management of the email platforms), public relations activities; marketing and promotional programs; and employing advertising agencies and marketing consultants to assist in those activities); the operation of one or more sites on the Internet; to pay for creative development services (including creation and modification of Shop design and trade dress, logos, menu design, graphics and vehicle wraps, and advertising and promotional items, including the cost of photography services and design software); preparing and procuring market studies, providing or obtaining marketing services (including, without limitation, conducting customer surveys, focus groups, and marketing and compliance-related mystery shops and customer interviews); employing advertising and/or public relations agencies and marketing consultants; developing, producing, distributing and placing advertising (including, without limitation, preparing and conducting media advertising campaigns in various media, local store advertising and promotion in a particular area or market, or for the benefit of a particular Shop or Shops in connection with opening promotion or otherwise, conducting and administering in-store promotions; preparing and executing direct mail advertising, and developing, producing and purchasing point-of-sale advertising, menus and menu boards, and other sales aids and promotional items and materials); new product development and development of product packaging; developing, updating and hosting our web site (including development of locator programs) and/or an intranet or extranet system; obtaining sponsorships and endorsements; preparing and conducting sweepstakes and other promotions; developing, administering, and distributing coupons, gift certificates, stored value card and loyalty card programs, and customized promotions, and the cost of product associated with the redemption of free coupons, gift certificates, stored value cards, loyalty cards and/or other customized promotions; developing and administering other customer loyalty programs; providing and procuring public relations services; conducting public relations activities; charitable donations; membership fees in international, national, regional, and/or local trade or other associations or organizations. We also may use Fund monies to reimburse ourselves for our costs of personnel and other administrative and overhead costs associated with providing the services described in this paragraph.

To the extent permitted by law, you must participate in any regional and/or national marketing and advertising and promotional programs that we develop or authorize to be developed that we determine will benefit the COOKIES BY DESIGN franchise system. These programs may include but are not limited to strategic marketing partnerships, affinity marketing partnerships and other advertising or marketing programs developed to enhance the well-being of the COOKIES BY DESIGN franchise system.

Although the Advertising Fund is intended to be of perpetual duration, we may terminate the Advertising Fund. The Advertising Fund will not be terminated, however, until all monies in the Advertising Fund have

been expended or returned to contributing System Businesses (whether franchised or operated by us or our affiliates), without interest, on the basis of their respective contributions

Currently, we administer the Advertising Fund. We collect Advertising Fund monies directly from you. We will not use Advertising Fund monies for creating or placing any advertisement that is principally a solicitation for new franchisees, but may include in all advertising prepared using Advertising Fund monies (including Internet advertising) information concerning franchise opportunities, and a portion of Fund monies may be used to create and maintain one or more pages on our web site devoted to advertising franchise opportunities and identifying and screening inquiries and applications submitted by franchise candidates. Any amounts contributed to the Advertising Fund that are not spent in the year they are collected will remain in the Advertising Fund for use during the next year.

Although not contractually required to do so, we anticipate that each COOKIES BY DESIGN System Business owned by us or an affiliate of ours will contribute to the Advertising Fund on the same basis as our franchisees. Upon your reasonable request, we will provide you an annual unaudited statement of Fund contributions and expenditures. While Fund monies will be accounted for in separate financial statements, they may be combined in accounts with general operating funds. During our fiscal year ended May 31, 2024, Advertising Fund contributions were spent as follows: Total National Advertising Fund expenditures last fiscal years were \$585,686, and of that total expenditure, it fully spent as follows: 0% Marketing literature (brochures, flyers, mailers, etc.); 0% Promotional merchandise (coffee mugs, candy jars, shirts, or other items bearing your trademarks); 0 % Promotional programs; 13.1% Tradeshows; 29.9% website creation, development, management, and upgrading; 4.7% online marketing and advertising; 27.3% social media; 12.5% SEO; 0.6%.

Local Advertising

You must spend during each calendar quarter a minimum of 3% of the Gross Sales of the Shop for local advertising and promotion in your designated market area. You must attempt to spend such amount equally throughout each calendar month. We may, upon 90 days' prior notice to you, increase this minimum local advertising expenditure amount up to 3.5% of Gross Sales of the Shop. Within 30 days of the end of each calendar quarter (i.e., calendar quarters are the 3-month periods ending at the end of March, June, September, and December annually), you must submit a quarterly report describing the preceding quarter's local advertising activities and the amount you spent on each of those activities. Should you fail to meet the Local Advertising requirements, we reserve the right to collect the Minimum Local Advertising amount in the same manner as the Royalty and to spend the collected amount in order to advertise and promote your Shop.

Advisory Council

We have established an Advisory Council which serves to advise on advertising, training, research and development and other matters relating to the operation of a System Business. All franchisees in good standing are selected to participate in the Advisory Council. The Advisory Council serves in an advisory capacity and does not have operational or decision-making authority. We may form, change, or dissolve the Advisory Council in our discretion.

Advertising Cooperatives

We do not retain the right to establish or require that you participate in any local or geographically specific advertising cooperatives.

Computer Systems

You must purchase, install, and maintain, at your expense, an electronic point of sale cash register system to record sales and transaction data (such as item ordered, price and date of sale) as prescribed by us in the Operational Manuals. You must also purchase, install, maintain, and upgrade as necessary, any software designated by us, and enter into any associated license agreement.

You must grant us access, and there are no contractual limitations on our right to poll (i.e., take copies of information from) your point-of-sale system at any time we choose and use it for any purpose. To permit the polling, you shall configure your point-of-sale system so that we have complete, continuous, and unfettered access to all information the point-of-sale system generates and collects.

The current point-of-sale system approved is our proprietary CBD POS Software. You must obtain the CBD POS Software from us and must pay us a CBD POS Maintenance Fee which is currently \$500 per year, beginning after the first year of use. You must connect the CBD POS Software system to an approved internet service provider or other communications device which is capable of accessing the internet via a third-party network.

The approximate cost to purchase the CBD POS Software, computer system, computer software and hardware is \$2,000.

Except as described above, neither we nor our affiliates, nor any third parties, must provide ongoing maintenance, repairs, upgrades, or updates to your CBD POS Software, computer systems, or other computer equipment. Except as described above, there are currently no optional or required maintenance/upgrade contracts for the CBD POS Software or other computer equipment.

You must install any other hardware or software for the operation of the Shop, Satellite, or Kiosk that we may require in the future, including any enhancements, additions, substitutions, modifications, and upgrades. There is no contractual limitation on the frequency or cost of these obligations. We may also require you to license from us, or others we designate, any computer software we develop or acquire for use by COOKIES BY DESIGN System Businesses.

Operations Manual

Our Operations Manuals contain a total of 607pages. The table of contents of our current Operational Manuals contains the following subject areas:

I.	The Franchise Business	18 pages
II.	Brand Standards	35 pages
III.	Personnel	14 pages
IV.	Accounting and Financial Control	21 pages
V.	Marketing	26 pages
VI.	Standard Forms	27 pages
VII.	IT – POS Systems	48 pages
VIII.	Customer Service	68 pages
IX.	Mixing and Baking Manual	152 pages
X.	Product Design Manual	136 pages
XI.	Assembly Manual	62 pages

Training Program

You or, if Franchisee is a business entity, one of your equity owners, must attend our initial training program and complete it to our satisfaction, typically at least 30 days prior to opening the Shop. We may also admit, at our discretion, your spouse if Franchisee is an individual, any additional equity owners of Franchisee, if Franchisee is a business entity, and/or your General Manager. You will be responsible for all expenses related to training attendance including travel, lodging, meals, and wages. We reserve the right to charge a reasonable per person tuition fee (currently \$1,000) for the third and additional attendees if more than two individuals are permitted to attend the initial training program.

The initial training program for a new franchise, will consist of a two-week program at our corporate Shop in Plano, Texas, or such other location as we may designate and will be conducted as needed throughout the year. The initial training program will be overseen by Clay Keeter, Franchise Business Consultant, who has been with us since January 2009, and has 40 years' experience in the industry. The initial training

program will also be led by the following individuals: Jodie George, Chief Operating Officer, who has been with us since June 2023 and has 35 years' experience in retail operations, and Damaris Mejia, Corporate Shop Manager, who has been with us since 2016 and has 8 years' experience in baking and cookie design. Training may also be conducted by any of our approved trainers.

The subjects in the initial two-week training program are described below:

TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-the-Job Training	Location
Introduction to Cookies by Design	1	0	Plano, Texas or other approved location
Decorating	8	16	Plano, Texas or other approved location
Mixing and Baking	6	16	Plano, Texas or other approved location
Operations and Shop Management	20	8	Plano, Texas or other approved location
Computer Operations	6	1	Plano, Texas or other approved location
Total Hours	41	41	

We may periodically make other required or optional training available to you, your equity owners and General Manager, as well as other programs, seminars and materials, and you must ensure that all equity owners and General Managers, as we may direct, satisfactorily complete any required training within the time specified. All training will be provided at a location we designate and you will be responsible for your trainees' travel expenses and room, board, and wages during the training. We reserve the right to charge a reasonable fee to you for any additional training, seminars, and materials provided, whether required or optional. We may require that, as a condition of providing training, attendees sign confidentiality and non-competition agreements prepared by us. Training for transferred locations may vary in term and content as determined by the Franchisor. We may control the frequency of any optional training.

Site Selection and Opening

Before or within 120 days after signing of the Franchise Agreement, you must locate and obtain our approval for a site within an area designated in the Franchise Agreement. For each proposed site you identify, you must: (i) complete the site review form that we designate, which will include, among other things, demographic information, a site plan and traffic-related information; (ii) if the premises for the proposed site is to be leased, satisfactory evidence that the lessor will agree to the requirements contained in the lease rider attached to the Franchise Agreement; and (iii) any other information or materials we reasonably require, such as a letter of intent or other document which confirms your favorable prospects for obtaining the proposed site. If we and you cannot agree on a site within the time limit contained in the Franchise Agreement, we may terminate the Franchise Agreement.

We will notify you of our acceptance or objection of the proposed site in writing within a period of 30 days after our receipt of the complete information requested. Among the factors we consider when accepting a proposed site are demographics, the general location and neighborhood, traffic patterns, visibility to traffic, parking availability, size, and layout of the building and lease characteristics.

You must sign a lease for the premises or enter into a binding commitment to purchase such premises, within 60 days after receipt of site acceptance from us. You must provide us with a fully signed copy of the lease or purchase agreement with respect to the approved site within 10 days after signing of the lease or purchase agreement.

A COOKIES BY DESIGN Shop usually opens for business eight to 12 months after the Franchise Agreement is signed or a franchisee pays consideration for the franchise. Factors which may affect the length of time between signing of the Franchise Agreement and opening for business include the time necessary to locate a location which we will accept; to obtain any financing you need; to obtain required permits and governmental agency approvals; to fulfill local ordinance requirements; to complete construction, remodeling, alteration, and improvement of the site, including the installation of fixtures, equipment, and signs; to complete our initial training program and to complete the hiring and training of personnel. Delay in construction may be caused by inclement weather, material or labor shortages, labor actions, slow deliveries, equipment shortages and similar factors.

Once the site is selected, the lease is signed, and our approval for construction has been obtained, you will have six months within which to complete construction and open the Shop for business. If you fail to open the Shop by the end of this six-month period, we may either grant you a 30-day extension for \$1,000 or we may terminate the Franchise Agreement.

ITEM 12 TERRITORY

Franchise Agreement

You will operate the Shop only at the approved location (“Site”). When a location is identified, we will determine your “Designated Territory,” as defined below. The determination will be based on several factors, including but not limited to, demographics of the surrounding area, consumer trading patterns, and distance between other Shops in the designated market area as defined by Nielsen Company. We will grant you a Designated Territory containing a minimum population of 100,000 individuals. The Designated Territory will be defined by Zip Codes. If there is a change to boundaries of the ZIP Codes granted to you, then the Designated Territory shall mean only the area highlighted in the map attached to the Franchise Agreement.

You may relocate the Shop to another location in the Designated Territory only with our prior written consent, which we will not unreasonably withhold. We may condition our consent, however, on your having provided us at least 90 days’ prior written notice of your intent to relocate and having satisfied other conditions, including satisfaction of your contractual obligations under the Franchise Agreement and any other agreement with us or our affiliates, payment of relocation fee equal to the lesser of \$5,000 or the amount necessary to reimburse us for our reasonable costs and expenses associated with reviewing and processing the proposed relocation, your agreement to sign our then-current form of Franchise Agreement (which may be materially different from the current form) for a term equal to the unexpired portion of the initial term and all unexpired renewal terms of the Franchise Agreement and any other ancillary agreements as we may require, and their respective officers, directors, shareholders, members, partners, successors, assigns, employees, and agents, and you have provided for the removal of all signs and other materials containing Marks from the previous Shop location. You will receive written notification of our decision regarding relocation of the Shop. Upon our approval, you must relocate the Shop within 180 days.

During the franchise term, so long as you are in full compliance with the Franchise Agreement, we will not, without your prior written consent, establish or operate, or license any other person to establish or operate, a System Business which is physically located within the area designated in the Franchise Agreement (the “Designated Territory”).

Although you will have a Designated Territory, you will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. Specifically, we, our affiliates, and our affiliates’ respective franchisees and licensees, and any third party to whom we grant such rights, may, among other things:

(a) own, operate, or grant others the right to own or operate, any business other than a System Business within or outside of your Designated Territory, regardless of whether this other business is identified by the Marks;

(b) own, operate, or grant others the right to own or operate, businesses offering and selling products and services that are different than those offered and sold by System Business as defined in this disclosure document, within or outside of the Designated Territory, including businesses that are identified by the Marks;

(c) advertise and promote sales of a System Business's products and services, anywhere and through any medium, including within the Designated Territory, and through any channel or medium;

(d) own or operate, or grant anyone else the right to own or operate, a System Business anywhere outside of the Designated Territory, regardless of proximity or financial impact to the Shop, Satellite, or Kiosks;

(e) own or operate, or grant anyone else the right to own or operate, any type of business not identified by the Marks;

(f) sell or distribute products and services identified by the Marks anywhere inside or outside of the Designated Territory, through other channels of distribution including grocery stores, supermarkets, convenience stores, and restaurants;

(g) offer and sell products and services identified by the Marks via mail order catalog and/or the Internet (either directly or under arrangement with other retailers) and the sole right to fulfill such orders, regardless of where the customer or shipping destination is located;

(h) operate one or more sites on the Internet that advertises a System Business, allows customers and potential customers to place orders at a System Business (including the Shop), sells any product or service, or permits other activities (whether or not similar), even though the Internet site is accessible to or viewable by persons in the Designated Territory;

(i) negotiate and contract for National Accounts for the benefit of the System inside or outside of the Designated Territory;

(j) sell and license others to sell a Shop's products and services in Special Venues and at Special Events inside or outside of the Designated Territory;

(k) fulfill any National Account order or sales through corporate Shops, other System franchisees, third party suppliers, or any other fulfillment method available to u. and complete any sales under the Internet Site, ~~(l)~~ (m) solicit, accept orders for, and selling, products and services to customers within the Designated Territory, if such products and/or services are to be delivered to customers outside of the Designated Territory; and

~~(m)~~ (n) acquire any business or be acquired or sell its assets to any business which sells products and/or services similar to the Products and Services in the Designated Territory.

We are not required to compensate you if we exercise any of the rights specified above inside your Designated Territory.

You are not granted any options, rights of first-refusal or similar rights to acquire additional franchises within the Designated Territory or contiguous territories. Your rights within the Designated Territory do not depend upon achieving a certain sales volume, market penetration, or contingency, other than compliance with the Franchise Agreement. We retain all rights not expressly granted to you under the Franchise Agreement.

Extended Delivery Area Agreement

If we grant you extended delivery rights through our Extended Delivery Area Agreement, we will designate

a geographic area outside of your Designated Territory as your Extended Delivery Area. You agree to fulfill orders and provide delivery services on order received by the Shop or by us or our affiliates via telephone, facsimile, mail order, catalog sales, and/or the Internet, and to hand deliver and ship products to residential and business customers located in the extended delivery area assigned by us (referred to as the “Extended Delivery Area”) per our standards. The Extended Delivery Area Agreement and your Extended Delivery Area rights may be terminated by either you or us on 30 days’ notice to the other party. We may also immediately terminate or suspend your rights under the Extended Delivery Area Agreement if you are in default.

We and our affiliates retain the right to fulfill, and hand deliver or ship orders anywhere inside the Extended Delivery Area. We also have the right to grant a franchise for the operation of a COOKIES BY DESIGN business in the Extended Area (but outside of your Protected Territory, as defined in your Franchise Agreement). If we grant a franchise in the Extended Delivery Area, we will have the right to terminate the rights granted by the Extended Delivery Area Agreement, or to reduce or modify the Extended Delivery Area, in our sole discretion.

Area Development Agreement

The Area Development Agreement grants you the right to establish and operate multiple Shops under separate Franchise Agreements within a Development Area.

During the term of the Area Development Agreement, and so long as you comply with the Area Development Agreement, we will not, without your prior written consent, establish or operate nor grant anyone other than you the right to establish or operate a System Business which is physically located in the Development Area. Your rights within the Development Area do not depend upon achieving a certain sales volume, market penetration, or contingency other than compliance with the Area Development Agreement. We retain all other rights not expressly granted under the Area Development Agreement. We, our affiliates, their respective franchisees and licensees, and any other third party to whom we grant such rights, may, among other things:

- (a) operate other types of facilities besides System Businesses in the Development Area, including facilities that are identified by some or all of the Marks;
- (b) advertise and promote sales of a Shop’s products and services or a System Business, at any location, including within the Development Area;
- (c) offer and sell collateral and ancillary products and services, such as pre-packaged food products, clothing, and memorabilia, in the Development Area under the Marks, even though those products and services may be similar to items offered by the Shops;
- (d) offer and sell any products and services (regardless of similarity to a Shop’s products and services sold in the Shops) under any names and marks other than the Marks; at any location, including within the Development Area;
- (e) establish, promote and operate a System Business anywhere outside of the Development Area, regardless of proximity or financial impact to Shops within the Development Area;
- (f) establish, promote and operate any business other than a System Business within or outside of your Development Area, regardless of whether this other business is identified by the Marks;
- (g) sell or distribute products and services identified by the Marks anywhere inside or outside of the Designated Territory, through other channels of distribution including grocery stores, supermarkets, convenience stores, restaurants, and via mail order, catalog sales, and/or the Internet; and
- (h) operate one or more sites on the Internet that advertises a System Business, allows customers and potential customers to place orders at a System Business (including the Shop), sells any

product or Service, or permits other activities (whether or not similar), even though the Internet site is accessible to or viewable by persons in the Development Area.

If you fail to comply with the Development Schedule, we may, among other things, terminate the Area Development Agreement or, alternatively, reduce the number of Shops that you were given the right to develop, or terminate or reduce the territorial exclusivity granted to you.

For a period of two years after the successful and timely completion of the Development Schedule, if we propose to establish any additional System Businesses which are physically located in the Development Area, you will have the right to enter into a new Area Development Agreement and/or Franchise Agreement to establish such additional Shops under the terms and conditions of the then-current form of development and/or franchise agreements. If you and we have not signed a new development and/or franchise agreement within a period of 30 days after we provide written notice to you of our desire to further develop the Development Area, we will have the right to further develop or establish such additional Shops in the Development Area on our own or with others.

ITEM 13 TRADEMARKS

Currently, we own and have registered, or received an assignment and assumed the registrations of, the following trademarks (“Marks”) on the Principal Register of the United States Patent and Trademark Office (“USPTO”):

Mark	International Class	Serial No. or Reg. Number	Registration Date
 COOKIES BY DESIGN (stylized design)	030, 035	7117679	July 25, 2023
COOKIES BY DESIGN (standard characters)	030	1892289	May 2, 1995
ORIGINAL COOKIE BOUQUET (standard characters)	042	1992297	August 13, 1996
ORIGINAL COOKIE BOUQUET (standard characters)	030	1882398	March 7, 1995
COOKIEMAIL (standard characters)	041	3825636	July 27, 2010
CUPCAKE BY DESIGN (standard characters)	030, 035	4679066	January 27, 2015
COOKIES BY DESIGN (standard characters)	035	4675003	January 20, 2015
COOKIE BOUQUET	030	1992298	August 13, 1996
COOKIE BOUQUET	042	1994339	August 20, 1996
COOKIES BY DESIGN	035	3236240	May 1, 2007

We claim common law rights to the above trademarks and service marks. All required affidavits and renewals have been filed. There are no currently effective determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, the Trademark Administrator of any state, or any court, and no pending interference, opposition or cancellation proceedings or litigation of a material nature involving the listed trademarks or service marks relevant to their use in any state. We have not registered any of the trademarks or service marks in any state.

To settle a prior use dispute with Cookie Bouquets, Inc. of Columbus, Ohio (“CBI”), DCI agreed not to use the COOKIE BOUQUET mark in Ohio except as part of the COOKIES BY DESIGN Logo. CBI agreed to use its COOKIE BOUQUETS mark only in connection with its logo design, which includes a stylized font and depicts a long stem rose (the “CBI Logo”), and not to use the CBI Logo in connection with decorated cookies. CBI also agreed to use the CBI Logo outside of Ohio only in connection with its Internet site and a mail order business for the sale of its own products and not as the name of a retail store. On September 1, 2004, CBI and DCI modified the agreement to notify CBI of DCI’s current logo design and to allow both parties to use “cookie bouquet” freely in lower case letters to describe their products in all geographical areas. Except as described in this and the preceding paragraph, no other agreements significantly limit our right to use any of our trademarks, service marks, or trade names in any manner material to a Shop operator.

Except as described above, there are no agreements currently in effect that significantly limit our rights to use or license the above trademarks or service marks in any manner material to the Shop.

You must promptly notify us of any known or suspected use of the Marks by a third party, and must also notify us if you become aware of any litigation action or claim involving your use or our use of the Marks. We are not obligated to protect your rights to use the Marks or to protect you against claims of infringement or unfair competition. We are not obligated to participate in your defense and/or indemnify you for expenses or damages if you are party to an administrative or judicial proceeding based on your use of the Marks, or if the proceeding is resolved unfavorably to you. But if we choose to provide a defense, you must assist us in the litigation. You must sign all documents and provide such assistance as we may reasonably request to carry out such defense or prosecution. You must sign all documents requested by us or our counsel that are necessary to obtain protection for the Marks or to maintain their continued validity or enforceability and you must take no action that would jeopardize the validity or enforceability of them.

You may use only the Marks that we designate, must use them only in the manner that we authorize and permit, and must use them with the symbols, “®,” “™,” or “SM,” as appropriate. You may use the Marks only in connection with the operation and promotion of the System Business, and only in the manner we prescribe. You may not contest ownership or validity of the Marks or any registration of the Marks, or our right to use or to sublicense the use of the Marks. You must sign all documents that we require in order to protect the Marks and to maintain their validity and enforceability.

You may not use the Marks or any part of the Marks in your corporate name, and may not use them to incur any obligation or indebtedness on our behalf. You may not use the Marks or any part or derivative of the Marks on the Internet, except as expressly permitted in writing. This prohibition includes use of the Marks or any derivative of the Marks as part of any URL or domain name, as well as their registration as part of any username on any gaming website or social networking website (such as FACEBOOK, INSTAGRAM, PINTEREST, or TWITTER), whether or not such social media platform is used for commercial gain, or as part of any unauthorized email address.

Sublicensed Materials

We are not currently a party to any license agreements with third parties in which we are granted the right to sublicense to you certain trademarked and copyrighted characters, designs, and/or images to use in connection with the products offered and sold through the Shop. The descriptions of the license and your rights and obligations under any Master Sublicense Agreement will be negotiated and set between us and the licensor and communicated to you via written communications. You may be required to sign a sublicense agreement in connection with the arrangement and, typically, Royalty Fees paid to us in connection with revenues from sublicensed materials will be higher as we, in turn, have an obligation to remit a license fee to the licensor. There may also be inspection and training requirements, and you agree to abide by all sublicense programs terms should any be designated for the COOKIES BY DESIGN System.

We have the right, upon reasonable notice, to change, discontinue, or substitute any of the Marks and to adopt new Marks for use with the System without any liability to you. You must implement any of these changes at your own expense within the time we reasonably specify.

ITEM 14 PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION

Patents

Currently there are no registered patents material to the franchise. We do not know of any third-party patents that could materially affect your Shop.

The basket display assembly and cup display assembly each provide a display for edible and non-edible objects, which includes a base, a container, multiple holders integrally mounted in the interior bottom surface of the container, and rods of varying lengths for insertion into the holders.

We do not have to protect any of your rights to use the patents, or to protect you against any claim of infringement. But if we determine that it is in our best interest to do so, and we take any protective action, you must provide any assistance in the litigation that our counsel requires. You and your Principals must promptly notify us of any use by any third party of the patents of which you and your Principals know or have reason to know is unauthorized and of any litigation action or claim instituted by any person or legal entity against us, you or your Principals involving the patents. Furthermore, you agree to sign any and all documents, and to render such assistance as may, in the opinion of our counsel, be reasonably requested to carry out such defense or prosecution.

You must sign all documents requested by us or our counsel that are necessary to obtain protection for the patents or to maintain their continued validity or enforceability and you must take no action that would jeopardize the validity or enforceability of them.

Copyrights

We claim copyright protection in our cookie and mold designs, cookie arrangements, the Operations Manuals, training materials, the design elements of our Marks, proprietary software, our product packaging and advertising and promotional materials, the content and design of our web site, and any other original materials created by us or on our behalf, whether or not we have registered such copyrighted materials with the Copyright Office of the Library of Congress (collectively, the “**Copyrighted Materials**”). The following is a list of Copyrighted Materials the predecessor franchisor filed for registration with the U.S. Copyright Office and assigned to us as of June 2, 2023:

Title of Work	Registration Number	Registration Date	Term Expires
A147 Cookie Bouquet/Cookies By Design Happy Birthday With Balloons, Cake, Candles and Gift.	VA 1-171-375	December 9, 2002	December 9, 2097
A5 Smiley Face Daisies	TX0005036248	August 25, 1998	August 25, 2093
A121 Cookie Bouquet/Cookies By Design Speedy Recovery With Turtles	VA 1-171-369	December 9, 2002	December 9, 2097
A148 Cookie Bouquet/Cookies By Design Happy Birthday with Balloons, Cake, Candles, Gift and Stars	VA 1-171-371	December 9, 2002	December 9, 2097

There are no currently effective determinations of the United States Patent and Trademark Office, the Copyright Office of the Library of Congress, or any court; any pending infringement, opposition or

cancellation proceeding; or pending material litigation involving the Copyrights. No agreements are in effect that limit our right to use or license the Copyrighted Materials in connection with the System Businesses.

You and your Principals must promptly notify us of any use by any third party of the Copyrighted Materials of which you and your Principals know or have reason to know is unauthorized. You and your Principals must also promptly notify us of any litigation action or claim instituted by any person or legal entity against us, you, or your Principals involving the Copyrighted Materials and, if necessary, must sign any and all documents, and to render such assistance as may, in the opinion of our counsel, be reasonably requested to carry out such defense or prosecution. We are not obligated to defend or indemnify your right to use the Copyrighted Materials, or to protect you against any claim of infringement or unfair competition with respect to them, but if we determine that it is in our best interest to do so, and we take any protective action, you must provide any assistance in the litigation that our counsel requires.

You must sign all documents requested by us or our counsel that are necessary to obtain protection for the Copyrights or to maintain their continued validity or enforceability and you must take no action that would jeopardize the validity or enforceability of them.

Proprietary and Confidential Information

You and your employees must maintain the confidentiality of all information contained in the Operations Manuals and other information that we consider confidential, proprietary or trade secret information. Confidential Information means all trade secrets and other elements of the System; all information contained in the Operations Manuals; our proprietary recipes and standards and specifications for product preparation, packaging, and service; drawings; methods; processes; formulae; systems; techniques; inventions; proprietary computer programs; research projects; business information; customer and supplier lists; pricing data; sources of supply; financial information; marketing, production, or merchandising data, systems and plans; and all other information, data, know-how, materials and data imparted or made available by us or our affiliates to you, however learned or received, either in writing, orally or in electronic format, which relates to the operation of a System Business or the System, or is (i) designated as confidential, (ii) known by you to be considered confidential by us, or (iii) by its nature is inherently or reasonably to be considered confidential (collectively, "Confidential Information"). You must implement any reasonable procedures we may adopt to protect our Confidential Information including restrictions on disclosures to your employees and requiring employees who will have access to our Confidential Information to sign employment agreements containing non-disclosure and non-competition provisions.

If you or your employees or owners develop any new concept, process or improvement in the operation or promotion of your COOKIES BY DESIGN Shop, you must promptly notify us and give us all necessary information about the new process or improvement, without compensation. You and your owners agree that any of these concepts, processes or improvements will become our property, and we may use or disclose them to other franchisees, as we determine appropriate. You may not contest our exclusive ownership of the patents, copyrights, trade secrets, recipes, processes, methods, procedures, formulae, techniques and other proprietary information to which we claim exclusive rights.

ITEM 15 OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

Your Shop must be supervised by a fully trained General Manager, who devotes his or her full-time best efforts to the operation of the Shop. Your General Manager need not have an equity interest in the franchisee, but must satisfy our qualification and experience requirements, and must have either satisfactorily completed the required initial training program or been trained by the individual who attended our initial training program.

Any individual who attends our initial training program, including your General Manager, and any individual who has access to our Confidential Information, must sign our form of Confidentiality Agreement substantially in the form enclosed as Attachment C to the Franchise Agreement. If the franchisee or developer is a business entity, each Principal must guarantee the franchisee's or developer's performance of the agreement by signing the Guaranty of Franchisee's Principals agreement substantially in the form enclosed as Attachment E to the Franchise Agreement or by signing the Guaranty of Developer's Principals agreement substantially in the form enclosed as Attachment B to the Area Development Agreement. If the franchisee or developer is a married individual, the franchisee's or developer's spouse must sign the respective Guaranty.

ITEM 16 RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must offer and sell all products and services that we require, and only the products and services that we have approved. We may add, eliminate, and change such products and services periodically, and you must comply with all directives (which may require purchasing and installing additional equipment). There are no limits on our right to make changes. We may, on occasion, require you to test market products and/or services at your Shop. You must cooperate with us in conducting these test marketing programs and must comply with all rules and regulations that we establish. The products we require you to offer and sell may include new products that are not cookie-related and that may be fulfilled by us, our affiliates or third-party vendors.

All sales must be for retail consumption only and you may not engage in wholesale sales of any kind through any channels of distribution without our prior written consent. You may not sell the approved products and services through any means of distribution other than from the Shop at the Site unless we expressly authorize in writing. (See Item 12.) We have the right to establish maximum, minimum or other retail pricing requirements to the extent permitted by law.

We may periodically enter into agreements with clients that we consider to be "National Accounts." You agree to provide services to National Accounts under the terms and conditions we have negotiated with the National Account. To the extent that we receive payment directly for the services provided for a National Account, we have the option to deduct from the payment the amount of all fees and other payments that you owe to us, and remit to you the balance within a reasonable period of time. You are required to participate in the fulfillment of National Account orders, however, if you do decline or fail to fulfill an order directed to your Shop, we may fulfill the order through another franchisee, a third party, or any other method. If you decline or fail to fulfill more than one National Account order during the term of your franchise, we do reserve the right to temporarily suspend or revoke your ability to participate in any or all National Accounts and to allow fulfillment of the revoked National Account(s) through other franchisees, third party suppliers, or through any other method. We collect an additional fee of 5% of Gross Sales you derive from National Account orders to offset our expenses incurred in identifying leads, securing and closing orders, collecting amounts due, and administering National Accounts. We reserve the right to modify any terms and procedures for fulfilling National Account orders.

You may not operate any co-branding marketing system without our prior written consent, which may be withheld in our sole discretion. No vending, gaming machines, payphones, automatic teller machines, Internet kiosks or other mechanical or electrical devices are permitted in your Shop without our prior written consent.

ITEM 17
RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.

Franchise Agreement

Provision	Section in Franchise Agreement	Summary
a. Length of the franchise term	Section 3(a)	Five years.
b. Renewal or extension of the term	Section 3(b)	Two successive periods of five years each.
c. Requirements for franchisee to renew or extend	Section 3(b)	Provide written notice of renewal, be in compliance with your Franchise Agreement and any other agreements with us or our affiliates, have the right to occupy the Shop for the new term, have completed all maintenance and remodeling requirements, sign our then-current form of Franchise Agreement which may contain materially different terms from your original Franchise Agreement, pay the renewal fee.
d. Termination by franchisee	No Provision	Not Applicable.
e. Termination by franchisor without cause	No Provision	Not Applicable.
f. Termination by franchisor with cause	Section 21	We can terminate in the event of material default.
g. "Cause" defined – curable defaults	Sections 21(c) and 21(d)	You have 10 days to cure defaults related to a failure to pay monies due, your failure to submit financial information and other reports, failure to connect to the required Internet or Intranet Sites, or unauthorized sale of products or services outside of the Designated Territory. You have 30 days to cure all other curable defaults.
h. "Cause" defined – non-curable defaults	Sections 21(a) and 21(b)	We may terminate the franchise immediately without notice upon the happening of certain insolvency, foreclosure, or bankruptcy-related events, or upon the dissolution of the franchisee entity. We may terminate the franchise immediately upon notice to you if you: cease operations; fail to comply with applicable law for 30 days following notification; cause a threat or danger to the public health or safety; are convicted of, or plead, to a felony or any other crime we

Provision	Section in Franchise Agreement	Summary
		believe would adversely affect the System or our other interests; breach the confidentiality, transfer, or in-term covenants of non-compete, underreport Gross Sales by 2% or more on two or more occasions, maintain false books or submits false reports, fail to maintain required insurance, fail to construct or refurbish the Shop, fail to open the Shop by the opening date, fail to complete training; sell unauthorized products or services; purchase products from unapproved sources; cease to operate or otherwise abandon or lose the right to possess the Shop premises (except for Force Majeure), misuse the Marks, engage in deceptive trade practices, or breach any of your representations to us. We may also terminate the Franchise Agreement if we send you three or more notices of default (regardless of cure), or you fail to cure any default for which you have been given prior notices on two occasions.
i. Franchisee’s obligations on termination /non-renewal	Section 22	Obligations include payment of amounts due us and related parties, cease operations, return all materials containing confidential information and copyrighted materials, remove proprietary or customized computer software, assign to us your numbers, lists, etc., cease using any Marks, cancel any assumed business name, comply with post term confidentiality and non-competition covenants.
j. Assignment of contract by franchisor	Section 20(a)	There are no limitations on our right to transfer and assign.
k. “Transfer” by franchisee - defined	Section 20(b)	Includes the assignment, transfer, sale, gift or other disposition of any interest in the franchise entity, Franchise Agreement, the Shop, or a substantial portion of the assets of the Shop.
l. Franchisor approval of transfer by franchisee	Section 20(b)	You must obtain our consent before transferring any interest.
m. Conditions for franchisor approval of transfer	Section 20(b)	Pay monies owed, compliance with the Franchise Agreement and any other agreement with us or our Affiliates, pay a transfer fee, transferee meets our current franchisee qualifications, transferee signs the then-current form of Franchise Agreement, and successfully completes training.
n. Franchisor’s right of first refusal to acquire franchisee’s business	Section 20(b)(ii)	We can match the terms of any bona fide offer.

Provision	Section in Franchise Agreement	Summary
o. Franchisor's option to purchase franchisee's business	Section 22(c)	We have an option to assume your lease and purchase assets when the franchise terminates or expires.
p. Death or disability of franchisee	Section 20(b)(iii)	Franchise interest must be assigned to an approved buyer within six months following the permanent disability of you or your owner(s) and within 12 months following the death of you or your owner(s).
q. Non-competition covenants during the term of the franchise	Section 17(a)	You must not be associated with a competing business located within the United States.
r. Non-competition covenants after the franchise is terminated or expires	Section 17(b)	For a period of two years following expiration or termination, neither you nor your owners may own, manage, financially or operationally participate in, invest in, consult with, maintain, operate, engage in, be employed by, provide any assistance to, or have any interest in any competing business within 20 miles of the perimeter of the Designated Territory or within the designated territory of any other system business. Also, you may not compete electronically (i.e., website or internet sales) in any competing business. You also may not divert business to any competitor.
s. Modification of the agreement	Section 24(l)	The Franchise Agreement can only be modified or amended by written agreement executed by all of the parties; but the Manuals, various policies, required purchases and services and the Marks are subject to change.
t. Integration/merger clause	Section 24(l)	Only the terms of the Franchise Agreement are binding (subject to state law). Any representations or promises made outside the disclosure document and Franchise Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Section 23	The parties must generally mediate and arbitrate any dispute, except disputes over the Marks and monies owed, in Mountainside, New Jersey (subject to state law); we can seek injunctive relief in court.
v. Choice of forum	Sections 23(a) and 23(e)	Arbitration in Mountainside, New Jersey; Union County courts; Federal District Court for the District of New Jersey (subject to state law). (See also Appendix and State Addendum to the Franchise Agreement).
w. Choice of law	Section 24(a)	State of New Jersey (subject to state law). (See also Appendix and State Addendum to the Franchise Agreement).

Area Development Agreement

Provision	Section in Area Development Agreement	Summary
a. Length of the franchise term	Section 3	Generally, five years.
b. Renewal or extension of the term	No Provision	Not Applicable.
c. Requirements for franchisee to renew or extend	No Provision	Not Applicable.
d. Termination by franchisee	No Provision	Not Applicable.
e. Termination by franchisor without cause	No Provision	Not Applicable.
f. Termination by franchisor with cause	Section 12	We can terminate if you materially default under your Area Development Agreement, or any other agreement between you and us.
g. "Cause" defined – curable defaults	Sections 12(c) and 12(d)	You have 15 days to cure defaults related to your failure, refusal, or neglect to comply with your obligations under the Area Development Schedule. You have 30 days to cure all other defaults which can be cured under the Area Development Agreement.
h. "Cause" defined – non-curable defaults	Sections 12(a) and 12(b)	We may terminate the agreement immediately without notice upon the happening of certain insolvency, foreclosure, or bankruptcy-related events, or upon the dissolution of the developer entity. We may terminate the agreement immediately upon notice to you if you, and if applicable, your owners: (a) are convicted of, or plead, to a felony or any other crime we believe would adversely affect the System, the Intellectual Property, goodwill, or our interest; (b) breach the confidentiality provisions; (c) breach the transfer provisions; (d) breach the in-term covenants of non-compete; (e) fail to maintain required insurance coverage; (f) engage in any act, conduct, or practice which we deem deceptive, misleading, unethical, or contrary with the reputation and image of the System; or (g) fail to cure any default for which you have been given prior notices on two occasions; (h) fail to comply with representations and warranties; or (i) receive three or more

Provision	Section in Area Development Agreement	Summary
		default notices.
i. Franchisee’s obligations on termination/non-renewal	Section 13	Obligations include (1) payment of all amounts due us or our Affiliates; (2) immediately return all confidential information to us; (3) cancellation of any assumed name; and (4) you and your owners’ immediate compliance with the confidentiality and non-competition covenants and restrictions.
j. Assignment of contract by franchisor	Section 11(a)	There are no limitations on our right to transfer and assign.
k. “Transfer” by franchisee - defined	Section 11(b)	Includes the assignment, transfer, sale, gift or other disposition of any interest in the Developer’s entity, or Area Development Agreement.
l. Franchisor approval of transfer by franchisee	Section 11(b)	You must obtain our consent before transferring any interest.
m. Conditions for franchisor approval of transfer	Section 11(b)	Includes payment of money owed to us, you are not in default of the Area Development Agreement or any other agreement with us or our Affiliates, and pay the applicable transfer fee to us, transferee meets our current Developer qualifications, and transferee signs the then-current form of the Area Development Agreement.
n. Franchisor’s right of first refusal to acquire franchisee’s business	Section 11(b)(ii)	We have the right of first refusal to purchase the interest proposed to be transferred.
o. Franchisor’s option to purchase franchisee’s business	No Provision	Not Applicable.
p. Death or disability of franchisee	Section 11(b)(iii)	Developer’s interest must be assigned to an approved buyer within six months following the permanent disability of you or your owner(s) and within 12 months following the death of you or your owner(s).
q. Non-competition covenants during the term of the franchise	Section 8(e)	You must not be associated with a competing business located within the United States.

Provision	Section in Area Development Agreement	Summary
r. Non-competition covenants after the franchise is terminated or expires	Section 8(f)	For a period of two years following expiration or termination, neither you nor your owners may own, manage, financially or operationally participate in, invest in, consult with, maintain, operate, engage in, be employed by, provide any assistance to, or have any interest in any competing business within 20 miles of the perimeter of the Designated Territory or within the designated territory of any other system business. Also, you may not compete electronically (i.e. website or internet sales) in any competing business. You also may not divert business to any competitor.
s. Modification of the agreement	Section 16(l)	The Area Development Agreement can only be modified or amended by written agreement executed by all of the parties.
t. Integration/merger clause	Section 16(l)	Only the terms of the Area Development Agreement are binding (subject to state law). Any representations or promises made outside the disclosure document and Area Development Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Section 15	The parties must generally mediate and arbitrate any dispute, except disputes over the Marks and money owed, in Mountainside, New Jersey; we can seek injunctive relief in court.
v. Choice of forum	Sections 15(a) and 15(c)	Arbitration in Mountainside, New Jersey; Union County courts; Federal District Court for the District of New Jersey. (See also Appendix and State Addendum to the Franchise Agreement).
w. Choice of law	Section 16(a)	State of New Jersey. (See also Appendix and State Addendum to the Franchise Agreement).

**ITEM 18
PUBLIC FIGURES**

We do not currently use any public figure to promote the franchise.

**ITEM 19
FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the

information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor’s management by contacting David Polonitza, Executive Vice President, 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081, dpolonitza@cookiesbydesign.com, (972) 746-2681, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20
OUTLETS AND FRANCHISEE INFORMATION**

**TABLE NO. 1
Systemwide Outlet Summary
For fiscal years ending May 31, 2022, 2023, and 2024**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2022	50	46	-4
	2023	46	42	-4
	2024	42	37	-5
Company Owned	2022	2	1	-1
	2023	1	1	0
	2024	1	1	0
Total Outlets	2022	52	47	-5
	2023	47	43	-4
	2024	43	37	-6

**TABLE NO. 2
Transfers of Outlets from Franchisees
to New Owners (Other Than the Franchisor)
For fiscal years ending May 31, 2022, 2023, and 2024**

State	Year	Number of Transfers
Florida	2022	1
	2023	0
	2024	0
Illinois	2022	0
	2023	1
	2024	0
Indiana	2022	0

State	Year	Number of Transfers
	2023	0
	2024	0
Kansas	2022	0
	2023	0
	2024	1
Massachusetts	2022	0
	2023	1
	2024	0
Michigan	2022	1
	2023	0
	2024	1
Minnesota	2022	0
	2023	0
	2024	1
New Mexico	2022	0
	2023	0
	2024	1
Pennsylvania	2022	0
	2023	1
	2024	0
Texas	2022	0
	2023	0
	2024	1
Wisconsin	2022	0
	2023	1
	2024	0
Totals	2022	2
	2023	4
	2024	5

TABLE NO. 3
Status of Franchised Outlets
For Fiscal Years Ending May 31, 2022, 2023, and 2024

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations - Other Reasons	Outlets at End of Year
Arizona	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
California	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
	2024	2	0	0	0	0	0	2
Colorado	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	1	0	0	0	0
Florida	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
	2024	4	0	0	0	0	0	4
Georgia	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Illinois	2022	8	0	0	0	0	0	8
	2023	8	0	0	0	0	0	8
	2024	8	0	0	0	0	2	6
Indiana	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Iowa	2022	2	0	0	0	0	0	2
	2023	2	0	1	0	0	0	1
	2024	1	0	0	0	0	0	1
Kansas	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Louisiana	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
	2024	2	0	0	0	0	0	2
Maryland	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Massachusetts	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Michigan	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
	2024	3	0	0	0	0	0	3
Minnesota	2022	1	0	0	0	0	0	1

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations - Other Reasons	Outlets at End of Year
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Missouri	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Nebraska	2022	1	0	0	0	0	0	1
	2023	1	0	0	1	0	0	0
Nevada	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
New Jersey	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
New Mexico	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
New York	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Ohio	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Oklahoma	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Pennsylvania	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Texas	2022	7	1	2	0	0	1	5
	2023	5	0	1	0	0	0	4
Utah	2022	1	0	1	0	0	0	0
	2023	0	0	0	0	0	0	0
Virginia	2022	1	0	0	1	0	0	0
	2023	0	0	0	0	0	0	0
Wisconsin	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
TOTALS	2022	50	1	3	1	0	1	46
	2023	46	0	3	1	0	0	42
	2024	42	0	1	0	0	4	37

TABLE NO. 4
Status of Company-Owned Outlets
For Fiscal Years Ending May 31, 2022, 2023, and 2024

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
Texas	2022	2	0	0	0	1	1
	2023	1	0	0	0	0	1
	2024	1	0	0	0	0	1
Total	2022	2	0	0	0	1	1
	2023	1	0	0	0	0	1
	2024	1	0	0	0	0	1

TABLE NO. 5
Projected Openings
As of May 31, 2024

State	Franchise Agreements Signed But Outlets Not Opened	Projected New Franchised Outlets In the Next Fiscal Year	Projected New Company-Owned Outlets In the Next Fiscal Year
North Carolina	0	1	0
Texas	0	1	0
Washington	0	1	0
Total	0	3	0

Exhibit G contains a list of all current franchisees and their respective names, addresses and telephone numbers as of May 31, 2024. Exhibit G also contains the names, cities and states, and current business telephone numbers, or if unknown, the last known home telephone numbers, of every franchisee who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year, May 31, 2024, or who has not communicated with the franchisor within 10 weeks of the disclosure document issuance date. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the COOKIES BY DESIGN franchise system. You may wish to speak with current and former franchisees, but beware that not all such franchisees will be able to communicate with you.

There are no franchisee organizations sponsored or endorsed by us and no independent franchisee organizations have asked to be included in this disclosure document.

The information in the Tables above in this Item 20 for the period prior to June 2, 2022, is based on information previously presented by DCI, as the predecessor franchisor, since we became the franchisor as of June 2, 2023.

ITEM 21
FINANCIAL STATEMENTS

Attached to this disclosure document as Exhibit E are our parent company, Cookies USA LLC's unaudited financials as of December 31, 2024, and our parent company, Cookies USA LLC's audited financial statements as of May 31, 2024, along with our parent company, Cookies USA LLC guarantee of performance.

Our fiscal year ends on May 31.

As described in Item 1, Cookies Franchise Holdings LLC was formed on July 27, 2023. We began offering and selling franchises as of November 2023, and we had not previously prepared audited financial statements. Therefore, we have no audited statements to provide for prior periods.

ITEM 22
CONTRACTS

The following agreements are attached to this disclosure document:

- Exhibit B - Franchise Agreement (with Guaranty and all Attachments)
- Exhibit C – Area Development Agreement (with Guaranty and all Attachments)
- Exhibit D – [Reserved]

ITEM 23
RECEIPTS

The last two pages of this disclosure document include two detachable receipts acknowledging your receipt of this disclosure document. Please sign and date both receipts, keep one signed copy for your own records, and return the other signed copy to us via e-mail, delivery, or first-class mail.

EXHIBIT A

AGENTS FOR SERVICE OF PROCESS

AGENTS FOR SERVICE OF PROCESS

MICHIGAN

Michigan Department of Attorney General
Consumer Protection Division
Attn: Franchise Section
525 W. Ottawa St. G. Mennen Williams Bldg., 1st Floor
Lansing, Michigan 48913

TEXAS

Northwest Registered Agent
5900 Balcones Drive, Suite 100
Austin, Texas 78731

EXHIBIT B

FRANCHISE AGREEMENT

Shop No: _____
City/State: _____



THE *original* COOKIE BOUQUET[®] COMPANY

FRANCHISE AGREEMENT

BETWEEN
COOKIES FRANCHISE HOLDINGS LLC

AND

(Name of Franchisee)

**FRANCHISE AGREEMENT
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Schedules:

- 1A Statement of Ownership Interests and Franchisee’s Principals
- 1B Designated Territory Map

Attachments:

- A. Automatic Funds Transfer Agreement
- B. Lease Rider
- C. Employee’s Confidentiality and Non-Competition Agreement
- D. Guaranty of Franchisee’s Principals
- E. Limited Power of Attorney for Telephone Numbers and Assumed Names
- F. Extended Delivery Area Agreement

Shop No. _____

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“**Agreement**”) is executed and entered into on this ____ day of _____, 202____ (“**Effective Date**”) by and between Cookies Franchise Holdings LLC, a Delaware limited liability company, with its principal place of business at 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081 (“**Franchisor**”), and _____, a _____ (insert State), _____ (insert type of entity) with its principal place of business at _____ (“**Franchisee**”).

RECITALS

WHEREAS, Franchisor franchises businesses which offer decorated cookies, gourmet cookies, fanciful cookie arrangements, and related products for retail sale to the general public (the “**Shop**”);

WHEREAS, Franchisor has developed and is the owner of a proprietary business format and system (the “**System**”) which includes business practices and policies, operations manuals, methods of operation, merchandising, advertising, sales and promotional techniques, copyrighted cookie and arrangement designs, recipes, distinctive interior and exterior design, décor, color scheme, graphics, fixtures and furnishings, and other standards, specifications, techniques, and procedures designated for developing, operating, and managing a COOKIES BY DESIGN Shop, all of which Franchisor may change, improve, and further develop (collectively, “**Standards**”).

WHEREAS, the System is identified by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including, but not limited, to the marks “COOKIES BY DESIGN,” “CUPCAKE BY DESIGN,” “CANDIES BY DESIGN,” and such other trade names, service marks, and trademarks as are now designated and may hereafter be designated by Franchisor in writing for use in connection with the System (the “**Marks**”).

WHEREAS, Franchisee desires to obtain from Franchisor, and Franchisor desires to grant to Franchisee, the right to open and operate a Shop at an approved location (“**Site**”) pursuant to Franchisor’s System, and in connection with the Marks.

NOW THEREFORE, Franchisor and Franchisee, in consideration of the undertakings and commitments set forth herein, agree as follows:

1. DEFINITIONS.

“**Action**” means any cause of action, suit, proceeding, claim, demand, investigation or inquiry (whether a formal proceeding or otherwise) with respect to which Franchisee’s indemnity applies.

“**Advertising Fund**” means the fund established by Franchisor for the maintenance, administration, direction, preparation, purchasing and placement of advertising for the System, Intellectual Property, and the operation of one or more sites on the Internet.

“**Affiliate(s)**” means any person or Entity that, directly or indirectly, Controls, or is under the Control of such person or Entity (as those terms are defined below).

“**AFT Agreement**” has the meaning given to such term in Section 4(l).

“**Ancillary Agreements**” means any agreement between Franchisee or Franchisee’s Principals and Franchisor or its Affiliates entered into in connection with this Agreement and the operation of any System Business.

“**Approved Vendors**” has the meaning given to such term in Section 8(d)(ii).

“**Association**” means the entity organized to administer the Advertising Fund described in Section 10(d).

“**Call Center**” has the meaning given to such term in Section 13(a).

“**CBD POS Maintenance Fee**” means the fee for technical services, updates and modifications of the CBD POS Software described in Section 4(g).

“**CBD POS Program**” means sales and marketing point-of-sale computer hardware and software control systems, including the CBD POS Software, and telephone modems installed in the Shop, Satellite and/or Kiosk, as reasonably prescribed by Franchisor.

“**CBD POS Software**” means the Sales and Marketing Software described in Section 15(b)(i).

“**Cease to Operate**” means refraining from offering or selling any goods or services described in Section 22(f).

“**Cease to Use**” means refraining from deriving any economic benefit or displaying described in Section 22(f).

“**Competing Business**” has the meaning given to such term in Section 17(a).

“**Confidential Information**” means all trade secrets and other elements of the System; all information contained in the Operations Manuals; our proprietary recipes and standards and specifications for product preparation, packaging, and service; drawings; methods; processes; formulae; systems; techniques; inventions; proprietary computer programs; research projects; business information; customer and supplier lists; pricing data; sources of supply; financial information; marketing, production, or merchandising data, systems and plans; and all other information, data, know-how, materials and data imparted or made available by Franchisor or its Affiliates to Franchisee, however learned or received, either in writing, orally or in electronic format, which relates to the operation of a System Business or the System, or is (i) designated as confidential, (ii) known by Franchisee to be considered confidential by Franchisor, or (iii) by its nature is inherently or reasonably to be considered confidential.

“**Control(s)**” means the direct or indirect ownership of more than fifty percent (50%) of the voting Equity Interest in Franchisee, or if there is no one voting Equity Interest of more than fifty percent (50%), then it means the largest undivided voting Equity Interest in Franchisee, having the right to elect a majority of the members of the board of directors or other governing body of Franchisee, or otherwise having the power to direct the management and policies of Franchisee, whether through the ownership of voting securities, by contract or otherwise.

“**Copyrighted Materials**” means Franchisor’s cookie and mold designs, cookie arrangements, the Operations Manuals, training materials, the design elements of Franchisor’s Marks, proprietary software, Franchisor’s product packaging and advertising and promotional materials, the content and design of Franchisor’s web site (including Internet Site and Intranet Site), and any other original materials created by or on behalf of Franchisor, whether or not the Copyrighted Materials are registered.

“**Designated Distributors**” has the meaning given to such term in Section 8(d)(i).

“**Designated Territory**” means the area highlighted in the map (attached hereto on Schedule 1B) and encompassed by the following U.S. Postal Zip Codes as of the Effective Date: _____; specifically excluding all Special Venues and sites of Special Events. In the event that there is a change to the U.S. Postal Zip Codes during the Term of this Agreement, Franchisee shall notify Franchisor in writing of such change. Upon receipt of such notice, the Designated Territory shall mean only the area highlighted in the map in attached Schedule 1B.

“**Designated Vendors**” has the meaning given to such term in Section 8(d)(i).

“**Entity**” means a corporation, partnership, limited liability company or trust.

“Equity Interest” means a direct or indirect ownership interest in the capital stock of, partnership or membership interest in, or other equity or ownership interest in (including the right to vote) any type of legal entity.

“Extended Delivery Area Agreement” means the Extended Area Agreement attached to this Agreement as **Attachment F**. **“Extended Delivery Area”** means an area outside of Franchisee’s Designated Territory where Franchisee desires to provide order fulfillment and delivery services, and Franchisor desires to grant to Franchisee the right to provide order fulfillment and delivery services, pursuant to the terms and conditions contained in the Extended Delivery Area Agreement. **“Extended Delivery Area Fee”** means the fee paid by Franchisee on order fulfillment and delivery services in the Extended Delivery Area. See the Extended Area Agreement for further details.

“Force Majeure” has the meaning given to such term in Section 21(b).

“Franchise Fee” means the fee paid to Franchisor prior to or upon the execution of this Agreement described in Section 4(a).

“Franchisee’s Principals” means Franchisee and Franchisee’s spouse, if Franchisee is an individual, or, if Franchisee is an Entity, all officers and directors of Franchisee and all holders of an Equity Interest in Franchisee and of any entity directly or indirectly controlling Franchisee, as listed on Schedule 1A.

“Franchisor Software” has the meaning given to such term in Section 22(a)(v).

“Franchisor Websites” means the Internet Site and the Intranet Site.

“General Manager” means a full-time employee responsible for Franchisee’s obligations under this Agreement and who has met the qualifications for managerial personnel defined in the Operations Manuals, which qualifications will include completion of training provided by Franchisor in its methods, systems and procedures for the development and operation of Shops.

“Gross Sales” means all revenue from the sale of all products and services related to the Shop and any Satellites and/or Kiosks, whether for cash or credit (and, if for credit, whether or not payment is received therefore), and all other income of every kind and nature related to the Shop and any Satellites and/or Kiosks including, without limitation, proceeds of business interruption insurance and gross revenues received by Franchisee from any other business (including, but not limited to, all revenues from any mechanical or other device, such as vending machines) operated from the Shop, less: (i) any sales taxes or other taxes collected by Franchisee from Franchisee’s customers for transmittal to the appropriate taxing authority, (ii) valid credits deducted from revenues initially recorded as Gross Sales, and (iii) revenues from delivery fees collected on delivery orders.

“Indemnified Parties” means Franchisor, its parent and Affiliates, and each of their respective directors, owners, shareholders, officers, agents, employees, attorneys, and representatives.

“Initial Term” means the period of time described in Section 3(a).

“In-Shop Order Program” has the meaning given to such term in Section 13(b).

“Intellectual Property” means all of the elements and components of the Copyrighted Materials, Marks, trademarks, copyrights, trade dress, trade secrets, Patents, and proprietary technology, programs, appliances and materials, some of which also constitutes Confidential Information, that have been or may later be developed or created by or on behalf of Franchisor, or which is or may be based on materials relating to the System that Franchisee or any other franchisee creates, develops, modifies, improves, or otherwise changes.

“Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and software, which comprise the interconnected worldwide network of networks that employ the TCP/IP (Transmission Control Protocol/Internet Protocol), or any predecessor or successor protocols to such protocol, to communicate information of all kinds by fiber optics, wire, radio, or other methods of electronic transmission.

“Internet Site” means the Internet website located at www.cookieorder.com, or some other location, maintained by Franchisor for the purposes of facilitating online orders for franchisee through the Internet Site, and of providing email services, customer order information, employment opportunities in Shops, online ordering reports and such other matters as Franchisor may determine.

“Intranet” means a private online communications system for Franchisor’s personnel, authorized franchisees and Affiliates on the Internet.

“Intranet Site” means an Internet website through which Franchisor, its franchisees, and their respective employees may communicate with each other and/or through which Franchisor may disseminate updates to the Intellectual Property and Confidential Information.

“Kiosk” means a non-baking retail sales location, booth, cart or display table operating within the Designated Territory and meeting the specifications determined by Franchisor in its sole discretion. A Kiosk cannot be opened or operated unless Franchisee has first opened and is operating a Shop in accordance with this Agreement.

“Lease Rider” has the meaning given to such term in [Section 5\(a\)](#).

“Licensor” means a party that grants a license to Franchisor for Intellectual Property, with a right to sublicense the Intellectual Property to Franchisor’s franchisees for use in connection with the System.

“Locator” means either the third party or Franchisor providing the Locator Service in [Section 12\(a\)](#).

“Locator Agreement” means the agreement executed in connection with the Locator Service described in [Section 12](#).

“Locator Service” means a telephone location service provided by or through Franchisor, or by Franchisor’s designated supplier, that identifies System Business locations for any zip code in the United States or postal code in Canada via a dedicated toll-free phone number and/or the Internet.

“Losses and Expenses” means all losses, compensatory, exemplary or punitive damages, fines, penalties, charges, costs, expenses, lost profits, assessments and fees (including reasonable attorneys’, experts’, accountants’ and consultants’ fees), interest, court costs, settlement or judgment amounts, compensation for damages to Franchisor’s reputation and goodwill, costs of or resulting from delays, financing costs, 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 similar amounts incurred, charged against or suffered by the Indemnified Parties in connection with any Action.

“Marks” means the trade names, trademarks, service marks, trade dress, logos, symbols, jingles, phrases, proprietary marks and other indicia of origin that are now or later designated by Franchisor for Franchisee’s use in the operation of the Shop. Unless otherwise noted, the term “Marks” also includes Sublicensed Materials.

“Minimum Local Advertising” means the amount Franchisee will spend during each calendar quarter for local advertising and promotion in Franchisee’s Designated Territory described in [Section 4\(d\)](#).

“Minority Interest” has the meaning given to such term in [Section 17\(a\)\(iii\)](#).

“National Account” means an arrangement between Franchisor and a company that does business in more than one Designated Territory and orders products for delivery both inside and outside of the Designated Territory described in [Section 8\(e\)](#).

“National Programs” has the meaning given to such term in [Section 8\(e\)](#).

“Operational” means, when used in reference to the Shop, that it is fully constructed and finished out as approved by Franchisor and is legally permitted to render its services to, and is open to, the general public pursuant to this Agreement.

“Operations Manuals” means the confidential written or electronic instructions and manuals and the proprietary technology, programs, appliances and materials including, but not limited to: (i) written standards, procedures, rules, regulations and policies for the operation of a System Business; (ii) any other written or electronic instructions; and (iii) other materials or information provided for use with a Sublicense.

“Patents” means all inventions, improvements, processes, ideas, designs, and discoveries whatsoever that are discovered, made, invented, conceived, produced, developed, designed or owned by Franchisor, its Affiliates or any other franchisee, solely or jointly with others, that relate to the Shop, the System Business, or the System, including, without limitation, U.S. Patent Nos. 5,755,325 and 6,561,363, or any future patent applications filed by or on behalf of Franchisor or its Affiliates or predecessors, together with any continuation, continuation-in-part, divisional, reissue, reexamination, extension, follow-on, and substitution patents and patent applications relating to such patents and patent applications, including foreign counterparts and equivalents thereof.

“Permanent Disability” has the meaning given to such term in Section 20(b)(iii).

“Products and Services” means those products and services authorized by Franchisor to be sold at a System Business. Such products and services may include new products and services that are not cookie-related and that may be fulfilled by us, our affiliates or third-party vendors.

“Public Image” means the identity and reputation of the System, and its ability to distinguish itself in the marketplace from competitors and other businesses.

“Renewal Term” means the period of time described in Section 3(b).

“Required Equipment” has the meaning given to such term in Section 12(c).

“Royalty” means the continuing monthly franchise fee described in Section 4(b).

“Satellite” means a version of a Shop on a smaller scale operating within the Designated Territory and meeting the specifications determined by Franchisor in its sole discretion. A Satellite cannot be opened or operated unless Franchisee has first opened and is operating a Shop in accordance with this Agreement.

“Select Products” means those products that must be purchased directly from Franchisor or from Franchisor’s designated vendors, including cookie cutters, plastic bossed containers, baking mixes and dough, frosting, and certain other items, appliances, and materials that are used in connection with the System Business.

“Shop” means the full-scale retail outlet that is established and operated by Franchisee at the Site utilizing the System Business in accordance with the terms and conditions of this Agreement.

“Site” means the approved location for the establishment and operation of the Shop at _____, or the location which is approved in accordance with Section 5 of this Agreement if the location is not approved as of the Effective Date.

“Special Event” means a notable event of worldwide, regional or national proportion regardless of frequency, such as the Olympics, World’s Fair, a State Fair, a political convention, the Super Bowl, World Series, etc. Franchisor will determine, in its sole discretion, whether a particular event qualifies as a Special Event.

“Special Venue” means the food court of an enclosed shopping mall, an airport terminal, sports arena, college or university campus, theme or amusement park, United States military bases, the location of a Special Event or other facilities in which the rent structure is inflated to a significant degree. Franchisor will determine, in its sole discretion, whether a particular facility qualifies as a Special Venue.

“Sublicense” means a sublicense from Franchisor to Franchisee granting Franchisee the right to use a Licensor’s intellectual property, including the Sublicensed Material, in connection with the Shop, as authorized by a license between Franchisor and a Licensor.

“Sublicense Agreement” means an agreement between Franchisor and Franchisee evidencing the grant by Franchisor to Franchisee of a Sublicense.

“Sublicensed Material” means such intellectual property of various Licensors that Franchisor and/or its Affiliate sublicenses to its franchisees pursuant to this Agreement or any applicable Sublicense Agreement, and may include trademarks, service marks, trade secrets and other confidential information, know-how, trade dress, and material protected by copyright law and as designated by Franchisor.

“System” means the distinctive system developed and owned by Franchisor for the establishment, development, and operation of retail establishments that decorated cookies, gourmet cookies, fanciful cookie arrangements, and related products for retail sale to the general public, the distinguishing characteristics of which include without limitation, business practices and policies, operations manuals, methods of operation, merchandising, advertising, sales and promotional techniques, personnel training, copyrighted cookie and arrangement designs, recipes, distinctive interior and exterior design, décor, color scheme, graphics, fixtures and furnishings, and other standards, specifications, techniques, and procedures, all of which may be changed, improved or further developed by Franchisor from time to time.

“System Business” means a Shop (including the Shop and any Satellites and/or Kiosks) that is established and operated by either the Franchisor, or a franchisee in accordance with the Intellectual Property, the Confidential Information and the System pursuant to the terms of a franchise agreement.

“Telephone Locator Program” means the Vanity Number and the Locator Service.

“Term” means the Initial Term and each applicable Renewal Term.

“Transfer” means the sale, assignment, conveyance, pledge, gift, mortgage or other encumbrance, whether direct or indirect, in whole or in part, or in one or a series of related transactions or occurrences, of (i) this Agreement or of any or all rights or obligations of herein, (ii) any Equity Interest in Franchisee, or (iii) any assets of Franchisee beyond transfers necessary in the ordinary course of business.

“Vanity License” means license to use the Vanity Number described in Section 12(b).

“Vanity Number” means a toll-free number(s) provided through Franchisor.

2. GRANT OF LICENSE

(a) Grant. Subject to the terms, conditions and limitations of this Agreement, Franchisor hereby grants to Franchisee the right, and Franchisee undertakes the obligation, to establish and operate the Shop at the Site in the Designated Territory. Franchisee’s use of the Marks or any element of the System in the operation of a business at any other location or in any other channel of distribution or Franchisee’s sale of Products and Services outside the Designated Territory without Franchisor’s express written authorization will constitute willful infringement of this Agreement. All revenues received by Franchisee from such unauthorized activities (including, without limitation, from the sale of Products and Services and other related fees) must be immediately paid either to Franchisor or the franchisee whose designated territory was encroached, as applicable.

(b) Satellite and Kiosk Operations. Notwithstanding Section 2(a), after the Shop opens for business, Franchisee may open and continue to operate one or more Satellite and Kiosk locations, if Franchisee is in compliance with the terms and conditions of this Agreement, and:

(i) Franchisee submits a request to Franchisor at least sixty (60) days prior to the proposed opening date of the Satellite or Kiosk, as applicable, and obtains the written approval of Franchisor;

(ii) Franchisee provides Franchisor written notice of the actual opening date of the Satellite or Kiosk, as applicable, at least ten (10) business days before the opening date, accompanied by the required fee set forth in Section 4; and

(iii) the Satellite or Kiosk, as applicable, opens in compliance with and maintains the standards outlined in this Agreement and the Operations Manuals, subject to any variations from this Agreement or the standards of the System, which Franchisor may waive, defer or permit from time to time, in its sole discretion or judgment.

(c) Territorial Protection. During the Term of this Agreement, and as long as Franchisee is in full compliance with this Agreement, Franchisor will not, without Franchisee's prior written consent, establish or operate, or grant anyone other than Franchisee the right to establish or operate, a System Business which is physically located in the Designated Territory.

(d) Limitation of Rights. Franchisor retains all rights not expressly granted hereunder. Franchisor, its Affiliates, and their respective franchisees and licensees may, among other things, operate other types of businesses besides a System Business in the Designated Territory, including businesses that are identified by some or all of the Marks. The license granted by this Agreement is only for the operation of a single System Business at the Site and any Satellite or Kiosk operations related thereto. Franchisor therefore may (or may authorize an Affiliate or other third party to) conduct, among other things, the following activities:

(i) own, operate, or grant others the right to own or operate, businesses offering and selling products and services different from those offered and sold by System Businesses, within or outside of the Designated Territory, including businesses identified by the Marks.

(ii) advertise and promote sales of a System Business' Products and Services anywhere and through any medium, including within the Designated Territory;

(iii) own or operate, or grant anyone else the right to own or operate, a System Business anywhere outside of the Designated Territory, regardless of proximity or financial impact to the Shop;

(iv) own or operate, or grant anyone else the right to own or operate, any type of business not identified by the Marks;

(v) sell or distribute Products and Services identified by the Marks anywhere inside or outside of the Designated Territory through other channels of distribution, including grocery stores, supermarkets, convenience stores, and restaurants;

(vi) offer and sell Products and Services identified by the Marks via mail order catalog and/or the Internet (either directly or under arrangement with catalog or e-commerce retailers) and the sole right to fulfill such orders, regardless of where the customer or shipping destination is located;

(vii) operate one or more sites on the Internet that advertises a System Business, allows customers and potential customers to place orders at a System Business (including the Shop), sells any product or Service, or permits other activities (whether or not similar), even though the Internet site is accessible to or viewable by persons in the Designated Territory;

(viii) negotiate and contract for National Accounts for the benefit of the System inside or outside of the Designated Territory, which terms Franchisee agrees to honor;

(ix) sell and license others to sell the Products and Services in Special Venues and at Special Events inside or outside of the Designated Territory;

(x) fulfill any National Account order or sales through corporate Shops, other System franchisees, third-party suppliers, or any other fulfillment method available to Franchisor, and modify the fulfillment terms of any National Account order; (xi) complete any sales under the Internet Site, where Franchisee fails to respond to the order within twenty-four (24) hours after the order is submitted by the customer (excluding Sundays and national holidays)

(xii) solicit, accept orders for, and sell, Products and Services to customers within the Designated Territory, if such Products and/or Services are to be delivered to customers outside of the Designated Territory; and

(xiii) acquire any business or be acquired or sell its assets to any business which sells products and/or services similar to the Products and Services in the Designated Territory.

Franchisee has no right under this Agreement to: (i) sell, dispense, give away or otherwise provide goods or merchandise to the public except through retail sales in the Shop without Franchisor's prior written consent; (ii) deliver Products and Services of the Shop outside the Designated Territory without Franchisor's prior written consent; (iii) sell goods for wholesale or resale without Franchisor's prior written consent; (iv) market or sell Sublicensed Material if Franchisee has not signed the Sublicense Agreement required by Franchisor; (v) market the Products and Services of the Shop or Products and Services using Sublicensed Material through the Internet; or (vi) sub-license others to use or grant any rights in the Marks, or the System.

3. INITIAL TERM AND RENEWAL TERMS

(a) Initial Term. Unless terminated as provided for herein, the term of this Agreement will commence upon the Effective Date and will expire five years thereafter (“**Initial Term**”).

(b) Renewal Term. Franchisee may, at Franchisee's option, renew this Agreement for two additional periods of five years each (each a “**Renewal Term**”), provided that at the end of each Term:

(i) Franchisee has given Franchisor written notice of election to renew not less than six (6) months nor more than twelve (12) months prior to the end of the present Term;

(ii) Franchisee is in compliance with all of the terms of this Agreement and any other agreement between Franchisee and Franchisor or its Affiliates, and has not failed on two (2) or more separate occasions during any twelve (12) consecutive month period during the Initial Term or any Renewal Term or more than three (3) times during the Initial Term or any Renewal Term, as applicable, to comply with its obligations under this Agreement, whether or not Franchisee has cured any such default after Franchisor has delivered written notice to Franchisee;

(iii) Franchisee has satisfied all monetary obligations owed to Franchisor, its Affiliates and third-party suppliers;

(iv) Franchisee has provided satisfactory evidence to Franchisor that Franchisee has the right to occupy the Shop for the Renewal Term, or has secured an alternate site with Franchisor's prior approval;

(v) Franchisee will have completed to Franchisor's satisfaction all maintenance, refurbishing, renovating and remodeling of the premises and equipment of the Shop as Franchisor will require in order to meet Franchisor's then-current standards for a System Business;

(vi) Franchisee will have executed upon renewal hereunder Franchisor's then-current form of franchise agreement, which agreement may have different terms from this Agreement including, without limitation, increased Royalty fees, Advertising Fund contributions, and System assessments, for a term equal to the remaining Renewal Terms hereof (unless otherwise agreed to by Franchisor), and any other Ancillary Agreements as Franchisor may then require; provided, however, Franchisee will be required to pay, in lieu of the then-current initial Franchise Fee, a renewal fee which will be Five Thousand Dollars (\$5,000.00); and

(vii) .

(c) Term of Sublicense Agreement. The terms and conditions of a Sublicense Agreement will govern the term and renewal of such Sublicense; provided, however, the term of a Sublicense will not extend beyond the Term, or the termination, of this Agreement.

(d) Satellite and Kiosk Term. The term and renewal for a Satellite or Kiosk will be governed by and subject to the terms of this Agreement and will not extend beyond the Term, or the termination, of this Agreement.

4. FEES

(a) Initial Franchise Fee. Prior to or upon the execution of this Agreement, Franchisee will pay to Franchisor an Initial Franchise Fee of Thirty Thousand Dollars (\$30,000.00) in readily available funds. The Initial Franchise Fee will be fully earned by Franchisor and non-refundable upon receipt.

(b) Royalty. Beginning the month in which the Shop is Operational, on or before the tenth (10th) day of each month during the Term, Franchisee will pay to Franchisor by automatic transfer of funds, or other method of payment Franchisor designates, a monthly Royalty equal to six percent (6%) of Gross Sales during the preceding calendar month; provided, however, beginning in the sixth month after the Shop is Operational the Royalty will not be less than Five Hundred Dollars (\$500.00) per month. If any taxes, fees, or assessments are imposed on Franchisee's payment of the Royalty fee (except taxes imposed on Franchisor's net taxable income) Franchisee must also pay or reimburse Franchisor the amount of the taxes, fees, or assessments within fifteen (15) days after receipt of Franchisor's written notice. (c)

Advertising Fund. Beginning the month in which the Shop is Operational, on or before the tenth (10th) day of each month during the Term, Franchisee will pay to Franchisor its contribution to the Advertising Fund in the amount set by Franchisor in its discretion, not to exceed three percent (3%) of Gross Sales during the preceding calendar month.

(d) Minimum Local Advertising. Franchisee will spend during each calendar quarter of the Term a minimum of three percent (3%) of Gross Sales during the preceding calendar quarter for local advertising and promotion in Franchisee's Designated Territory ("**Minimum Local Advertising**"). Within 30 days of the end of each calendar quarter (i.e., calendar quarters are the 3-month periods ending at the end of March, June, September, and December annually), you must submit a quarterly report describing the preceding quarter's local advertising activities and the amount spent on each activity. Franchisee will use its best efforts to spend such amount equally throughout each month of the calendar quarter. If Franchisee fails to meet the Local Advertising requirements, Franchisor has the right to collect the Minimum Local Advertising amount from Franchisee in the same manner as the Royalty and to spend the collected amount in order to advertise and promote Franchisee's Shop. During the Term of this Agreement, Franchisor may, upon ninety (90) days prior notice to Franchisee, increase the Minimum Local Advertising to an amount not to exceed three and one-half percent (3.5%) of Gross Sales during the preceding calendar quarter.

(e) Sublicense Fee. Franchisee's payment obligations under any applicable Sublicense Agreement will be governed by the terms and conditions of the Sublicense Agreement.

(f) Telephone Locator Program Fee. Currently, Franchisor pays the initial set up fee for the Telephone Locator Program and costs associated with the telephone hardware and toll-free number access and other costs incurred by Franchisee for its participation in the Telephone Locator Program. However, Franchisor may change the Telephone Locator Program in the future and may require Franchisee to pay for Franchisee's costs associated with the telephone hardware and toll-free number access or other costs incurred by Franchisee for its participation in the Telephone Locator Program. Franchisor has no obligation to maintain the Telephone Locator Program or to continue paying for Franchisee's costs associated with the telephone hardware and toll-free number access or other costs incurred by Franchisee for its participation in the Telephone Locator Program, and in that case Franchisee's payment obligations in the Telephone Locator Program will be governed by the terms and conditions of the Locator Agreement.

(g) CBD POS Maintenance Fee. As of the Effective Date of this Agreement, the CBD POS Maintenance Fee Franchisee will pay to Franchisor is an annual non-refundable fee of Five Hundred Dollars (\$500.00) beginning after the first year of Franchisee's use of the CBD POS for technical services, updates, and modifications of the CBD POS Software ("**CBD POS Maintenance Fee**") for each Shop, Satellite and

Kiosk. Franchisor reserves the right to increase the CBD POS Maintenance Fee, in its sole discretion, upon thirty (30) days prior notice to Franchisee. Franchisee will pay the CBD POS Maintenance Fee for the first year prior to or upon the execution of this Agreement. Thereafter, Franchisee will pay the CBD POS Maintenance Fee on January 1st of each succeeding year throughout the Term.

(h) Satellite and Kiosk Fee. Commencing with the month in which Franchisor receives Franchisee's notice of opening date for each Satellite or Kiosk, and continuing annually thereafter during the Term, on the 1st day of January of each succeeding year or portion thereof that each such Satellite or Kiosk is in operation, Franchisee will pay Franchisor a non-refundable fee of Five Hundred Dollars (\$500.00) per Satellite or Kiosk. This fee is in addition to any Royalty fee and Advertising Fund contributions due.

(i) Internet Site/Online Orders Fee. Franchisee will pay to Franchisor Three Dollars (\$3.00) per order for each online order placed for Franchisee through the Internet Site. In addition, Franchisee will pay any other fee, for other optional goods and services, which Franchisor may make available to Franchisee in the future through the Internet Site. Franchisor may make reasonable adjustments, from time to time, to this fee effective upon thirty (30) days prior written notice to Franchisee. Franchisee will pay this fee on a monthly basis in the same manner as provided for Royalties under this Agreement.

(j) National Account Fee. Franchisor will collect an additional fee of 5% of Gross Sales on National Account orders Franchisee fulfills. This fee covers Franchisor's cost of identifying leads, securing and closing orders, collecting amounts due, and administering National Accounts. Franchisor reserves the right to modify any terms and procedures for fulfilling National Account orders.

(k) Method of Payment; Automatic Funds Transfer Agreement. Franchisee will execute an agreement authorizing payment of amounts due under this Agreement by means of automatic fund transfer from Franchisee's bank account to Franchisor's bank account ("**AFT Agreement**") in the form attached hereto as Attachment A. After the AFT Agreement is approved by Franchisee's bank and Franchisor's bank, Franchisee will provide a voided check for use in the implementation of the AFT Agreement and any other documentation that may be required to initiate and maintain the AFT Agreement. Franchisee agrees to pay any costs and expenses incurred by Franchisor and any charges assessed by the banks related to these automatic funds transfer arrangement, as well as any costs and expenses associated with any modification of the accounts involved, failure to provide required notices or failure to maintain sufficient account balances. Franchisee further agrees that Franchisor may, in its discretion, change the method of payment of amounts due under this Agreement and Franchisee agrees to implement and abide by such amended payment method and to execute any related and necessary agreements to effectuate the change in payment method. Franchisee's failure to have sufficient funds in its account is a material breach of this Agreement.

(l) Due Date for Fees and Royalties. Unless otherwise provided, Franchisee must pay all fees and other amounts due to Franchisor under this Agreement no later than the 10th day of the month following the month in which they were incurred.

(m) Application of Payments. If Franchisee pays less than the amount due, its payment will be considered a partial payment on account. Franchisor will apply all payments by Franchisee pursuant to this Article 4 in the order Franchisor may designate, notwithstanding any instructions from Franchisee. Franchisee agrees that Franchisor may accept fees paid pursuant to different instructions without any obligation to follow those instructions, even if the payment is made by its terms conditional on those instructions being followed. No deposit or other acceptance by Franchisor of payment will bind Franchisor to any determination by Franchisee of the character of such payment, such as "paid in full." Any overpayment will be credited against future payments due under this Agreement.

(n) Payments and Taxes. All fees and payments due under this Agreement will be paid directly to Franchisor or its designee. All fees and payments will be made free and clear of any tax, deduction, offset, or withholding of any kind. All taxes and penalties on any payment made by Franchisee pursuant to this Agreement now or in the future will be fully borne by Franchisee and payable upon Franchisor's demand.

In the event of any bona fide dispute as to liability for taxes assessed or other indebtedness, Franchisee may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law; however, in no event will Franchisee permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the premises of the Shop or any improvements thereon.

(o) Overdue Payments; NSF Charge. Any payment not actually received by Franchisor or its designee when due will accrue late charges equal to one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, from the date it was due until paid. A payment will be considered late if not paid by the due date, or if there are insufficient funds in Franchisee's account to collect payment on the due date (pursuant to subsection (j), above). Such interest charges will be in addition to any other remedies that may be available to Franchisor. In addition, if Franchisor is charged a nonsufficient funds or similar fee on account of a failed collection attempt, Franchisee shall be responsible for and shall reimburse Franchisor the amount of the charge. In addition, if any payment submission is returned to Franchisor as nonsufficient funds, or similar fee, Franchisee will incur a minimum Twenty-Five Dollar (\$25.00) fee, or the actual cost of the fee, if greater, as a resubmittal accounting fee.

(p) Franchisor's Lien. The obligations to make monthly payments required in this Article 4 will give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of the personal property, machinery, fixtures, equipment and inventory owned by Franchisee at the Shop, and against the proceeds and replacements thereof. Franchisee hereby irrevocably appoints Franchisor as its attorney-in-fact (surviving any termination or expiration hereof) to execute and file in the name of Franchisee as debtor such instruments, including Uniform Commercial Code financing statements, as may be required by Franchisor from time to time to evidence such lien. Franchisee will, immediately upon Franchisor's request, execute such documents as Franchisor may, from time to time, deem necessary to effectuate the above.

(q) No Set-off Rights. Franchisee may not set-off, deduct, or otherwise withhold any fees or other amounts due Franchisor under this Agreement on grounds of alleged nonperformance by Franchisor of any of its obligations or for any other reason. Withholding payment of Royalty fees, or any other amounts due Franchisor is a material breach of this Agreement.

(r) Administrative Fee. If at any time Franchisee's Shop fails to conform to System Standards, Franchisor shall have the right to impose and collect from Franchisee an administrative fee as described in this paragraph ("**Administrative Fee**"). Specifically, (i) Franchisor may impose and collect from Franchisee a \$250 Administrative Fee for each "enforcement effort" that Franchisor undertakes on account of Franchisee's noncompliance with System (e.g., a letter, email, or telephone communication notifying Franchisee of noncompliance or continued noncompliance), and (ii) if Franchisor has notified Franchisee of noncompliance and Franchisee has failed to correct the issue within seven days, Franchisor may impose and collect from Franchisee a \$250 Administrative Fee per week until the issue has been corrected to Franchisor's satisfaction. Franchisor also may impose and collect a \$250 Administrative Fee if Franchisee fails to acknowledge receipt of Franchisor's communications to Franchisee, or to respond to Franchisor's communications within 24 hours of delivery. This fee is not a penalty but is intended to compensate Franchisor for the additional costs that Franchisor incurs in enforcing Franchisee's compliance with the System and is in addition to and not in lieu of any other rights or remedies that Franchisor may have based on Franchisee's noncompliance with the System. Franchisor may impose and collect the Administrative Fee whether or not the noncompliance at issue is of the type or degree that constitutes a material default of Franchisee's obligations under this Agreement and, if it is, whether or not a cure period applies. At Franchisor's option, Franchisor may require Franchisee to demonstrate full compliance with its obligations by submitting to Franchisor a comprehensive walk-through video of Franchisee's Shop premises in accordance with the Standards.

(s) Extended Delivery Area Fee. If Franchisee and Franchisor enter into an Extended Delivery Area Agreement (attached to this Agreement as **Attachment F**) pursuant to which Franchisee provides order fulfillment and delivery services in the Extended Delivery Area (outside Franchisee's Designated Territory), Franchisee will pay to Franchisor an Extended Delivery Area Fee on sales from Franchisee's order fulfillment and delivery services in the Extended Delivery Area, on the terms and conditions described in the Extended Delivery Area Agreement.

5. SITE SELECTION

(a) Criteria for Site Approval. Franchisee agrees that prior to or within one hundred twenty (120) days after the execution of this Agreement, it will locate and obtain the approval of Franchisor for a Site within the Designated Territory for the establishment and operation of the Shop.

Within such time period, Franchisee must submit to Franchisor:

(i) a completed site review form designated by Franchisor, which will include, among other things, demographic information, a site plan, and parking and traffic-related information;

(ii) if the premises for the proposed Site are to be leased, satisfactory evidence that the lessor will agree to the requirements contained in the Lease Rider. For purposes of this Article 5, "Lease Rider" means the form of rider to Shop's lease attached to this Agreement as Attachment B; and

(iii) any other information or materials Franchisor may reasonably require, such as proximity to and nature of surrounding businesses, other commercial and physical characteristics of the proposed site, and a letter of intent or other document which confirms Franchisee's favorable prospects for obtaining the proposed Site.

(b) Acceptance by Franchisor. Upon receipt of all requested documentation as required in Section 5(a), Franchisor will evaluate whether the proposed Site meet's Franchisor's minimum requirements for a Shop site and thereafter notify Franchisee of its acceptance or rejection of the proposed site in writing within a period of thirty (30) days. Franchisor shall act in a commercially reasonable manner when accepting or rejecting any proposed Site. Franchisee understands and agrees that Franchisor's decision will be made at Franchisor's sole discretion and that Franchisor's decisions as final. **Franchisee hereby acknowledges and agrees that Franchisor's acceptance of a Site does not constitute an assurance, representation or warranty of any kind, express or implied, as to the suitability of the Site for the Shop or for any other purpose or of the financial success of the Shop at such Site; it means only that the proposed Site meets Franchisor's minimum criteria.**

(c) Costs of On-Site Evaluation. If Franchisor deems necessary, Franchisor will undertake one (1) on-site evaluation of a proposed Site free of charge. For all subsequent on-site evaluations requested by Franchisee or required by Franchisor, Franchisee agrees to reimburse Franchisor for its reasonable expenses, including, without limitation, travel expenses, and a per diem charge for room and board.

(d) Executed Lease or Purchase Agreement. Franchisee shall execute a lease and Lease Rider for the premises, or shall enter into a binding commitment to purchase the premises, within sixty (60) days after receipt of Site approval from Franchisor. Franchisee will provide Franchisor with a fully executed copy of the lease, and Lease Rider, or purchase agreement with respect to the approved Site within ten (10) days after execution thereof.

(e) Extensions. Upon Franchisee's written request, Franchisor, in its sole discretion and without obligation, may grant a written extension or extensions to the period for approval of a proposed Site. In the event Franchisor grants such extension, Franchisee agrees to pay the Franchisor a non-refundable extension fee of One Thousand Dollars (\$1,000.00) for every thirty (30) day period of the agreed extension.

(f) **Relocation.** Once the Shop is established at the proposed Site in accordance with this Agreement, Franchisee shall not relocate the Shop without the prior written consent of Franchisor. Franchisor will not unreasonably withhold its consent of such relocation and may require, among other things, that:

(i) Franchisee has provided Franchisor with at least ninety (90) days prior written notice of its intent to relocate;

(ii) Franchisee is not in default under this Agreement and all of Franchisee's accrued monetary obligations to Franchisor have been paid in full;

(iii) Franchisee has paid a relocation fee in an amount equal to the lesser of: (A) Five Thousand Dollars (\$5,000.00); or (B) the amount necessary to reimburse Franchisor for its reasonable actual costs and expenses associated with reviewing and processing the proposed relocation;

(iv) the new location is within the Designated Territory;

(v)

(vi) Franchisee agrees to execute the then-current form of franchise agreement, which agreement may contain materially different terms from this Agreement, including, without limitation, higher Royalty fees, Advertising Fund contributions, System assessments and a different Designated Territory, for a term equal to the unexpired portion of the Initial Term, and all unexpired Renewal Terms hereunder and any other Ancillary Agreements as Franchisor may require; provided, however, that Franchisee shall not be required to pay the initial franchise fee contained in Franchisor's then-current form of franchise agreement; and

(vii) Franchisee has made provisions acceptable to Franchisor for the de-identification of the existing site, including the removal of all signs and other materials containing Intellectual Property. Franchisee will receive written notification of Franchisor's decision regarding relocation of the Shop. Upon approval by Franchisor, Franchisee must relocate the Shop within one hundred and eighty (180) days.

6. CONSTRUCTION AND REFURBISHMENT

(a) **Pre-Construction/Refurbishment Approval Criteria.** Prior to commencing any construction or refurbishment of the Site, Franchisee, at its own cost, shall submit to Franchisor for its prior written approval:

(i) Complete plans and specifications for the Shop in accordance with all applicable local and state laws, regulations and ordinances, and which conform to Franchisor's general design and specifications. Once approved by Franchisor pursuant to [Section 6\(b\)](#) below, such plans and specifications shall not be modified without the prior written consent of Franchisor;

(ii) A statement in the form prescribed by Franchisor and signed by Franchisee, certifying that Franchisee has:

(A) complied with all applicable local and state laws, regulations and ordinances in preparing its plans and specifications;

(B) employed a qualified architect or engineer, approved by Franchisor, to prepare construction/refurbishment documents and supervise the construction/refurbishment of the Shop and completion of all improvements (such statement shall also identify the architect or engineer and describe his or her qualifications in detail);

(C) obtained all such permits and certifications required for lawful construction/refurbishment and operation of the Shop, including, without limitation, zoning, access, sign and fire requirements; and

(D) obtained required licenses to operate the Shop; and

- (iii) A construction/refurbishment schedule acceptable to Franchisor.
- (b) Pre-Construction/Refurbishment Approval. Upon receipt of the above documents, Franchisor will notify Franchisee of its approval or disapproval of the construction/refurbishment plans in writing within a period of twenty-one (21) days. Franchisee agrees that Franchisor will have absolute discretion in making such decision and Franchisee agrees to accept any of Franchisor's decisions as final.
- (c) Commencement of Construction/Refurbishment. Once the pre-construction/refurbishment approval has been obtained, Franchisee will commence construction and provide Franchisor with written notice of such commencement within ten (10) days of such commencement of construction/refurbishment.
- (d) Construction/Refurbishment Completion Deadlines. The initial construction and build-out of the Shop will take no longer than six (6) months from the date Franchisee receives approval of construction plans from Franchisor. Franchisor will designate a deadline by which any subsequent refurbishment must be completed. If the parties cannot agree on a deadline, any refurbishment must be completed within three months from the date Franchisee receives Franchisor's approval of its refurbishment plans.
- (e) Construction/Refurbishment Extensions. Upon Franchisee's written request, Franchisor, in its sole discretion and without obligation, may grant to Franchisee written extensions of construction or refurbishment deadline, with the understanding that, if granted, Franchisee shall pay to Franchisor a non-refundable extension fee of One Thousand Dollars (\$1,000.00) for each thirty (30) day period of extension.
- (f) Inspection. Franchisee agrees that Franchisor and its agents shall have the right to inspect the construction/refurbishment at all reasonable times. Franchisee shall cooperate fully with Franchisor and provide Franchisor and its representatives with full access to the Site in connection therewith.
- (g) Continuing Statements. Beginning with the month after the pre-construction/ refurbishment approval is issued by Franchisor and each month thereafter during the Term until one (1) month after the construction/refurbishment is completed, Franchisee shall provide Franchisor, on or before the first Monday of each such month, with a statement in the form prescribed by Franchisor and signed by Franchisee, certifying Franchisee's continued compliance with and maintenance of the requirements of Section 6(a)(ii).
- (h) Approval for Opening. Once construction/refurbishment is completed and within seven (7) days after obtaining Franchisor's written approval for opening/reopening, Franchisee shall open/reopen the Shop to the public. Franchisee shall not open/reopen the Shop to the public unless Franchisor has granted its written approval to do so.

7. TRAINING.

- (a) Initial Training. At least one equity owner in Franchisee must attend and successfully complete, to Franchisor's satisfaction, Franchisor's initial training program. Franchisor may also admit, at Franchisor's discretion, Franchisee's spouse if Franchisee is an individual, any additional equity owners of Franchisee, if Franchisee is an Entity, and/or Franchisee's General Manager. Franchisee will be responsible for all expenses related to initial training program attendance including travel, lodging, meals, and wages. Franchisor reserves the right to charge a reasonable per person tuition fee for the third and additional attendees if more than two individuals are permitted to attend the initial training program. As part of this initial training, Franchisor shall provide Franchisee with access to the Operations Manuals, which may be in electronic format and which must be returned to Franchisor upon termination of this Agreement.
- (b) Opening Assistance. If this Agreement relates to the opening of a new COOKIES BY DESIGN Shop (as opposed to renewal of an existing agreement or the transfer of an existing business), Franchisor shall send one (1) representative to Franchisee to provide up to four days of on-site opening assistance and supervision at no charge to Franchisee. If Franchisor determines, in its sole discretion, that Franchisee requires additional opening assistance or if Franchisee requests such additional assistance, Franchisor reserves the right to charge an additional fee for such assistance, in addition to obtaining reimbursement for related travel, meals and lodging expenses.

(c) Additional Training and Tuition. Franchisor may periodically make other mandatory or optional training available to Franchisee's Principals and General Manager as well as other programs, seminars and materials, and Franchisee shall ensure that all such individuals, as Franchisor may direct, satisfactorily complete any required training within the time specified. Franchisor reserves the right to charge Franchisee a reasonable tuition for each individual Franchisee sends to such additional mandatory or optional training. Franchisee shall be responsible for Franchisee's attendees' tuition, travel expenses and room, board, and wages during such training.

8. OPERATIONS.

(a) Manager. Franchisee shall at all times either manage the Shop personally or employ at least one (1) fully trained General Manager who shall devote his or her full-time best efforts to the Shop.

(b) Operations Manuals. The Operations Manuals shall at all times (i) be kept in a secure place on the premises of the Shop, and (ii) remain the sole property of Franchisor. Franchisee and Franchisee's Principals shall at all times ensure that Franchisee's copy of the Operations Manuals is kept current and up-to-date, and in the event of any dispute as to the contents of the Operations Manuals, the terms of the version of the Operations Manuals maintained by Franchisor at Franchisor's home office shall be controlling.

(c) Standards of Operation. Franchisee understands and acknowledges that every detail of the System is essential to maintain and enhance the goodwill associated with the Marks and the integrity of the brand. As such, Franchisee agrees to:

(i) operate the Shop in accordance with the Operations Manuals to ensure that the highest degree of quality and service is uniformly maintained. If amended or modified by Franchisor, Franchisee agrees that it will fully implement Franchisor's amended Operations Manuals, within a period of time prescribed by Franchisor, but in no event to exceed three (3) months after receipt of notice of such amendment or modification;

(ii) devote the requisite time, energy and best efforts to the management and operation of the Shop;

(iii) use, prepare, and maintain in sufficient supply only such products, materials, ingredients, supplies, items, and paper goods that conform with Franchisor's standards and specifications;

(iv) sell or offer for sale all and only such services, products and menu items as meet Franchisor's uniform standards of quality, packaging, and quantity, as have been expressly approved for sale in writing by Franchisor, and as have been prepared in accordance with Franchisor's methods and techniques. Such requirements may include, among others, purchasing mixes and ingredients from approved or designated sources, and preparing products using only the approved ingredients and mixes. Franchisee must refrain from any deviation from Franchisor's standards and specifications without Franchisor's prior written consent and must discontinue selling and offering for sale any such items (including items prepared using unauthorized ingredients) as Franchisor, in its sole discretion, may disapprove at any time;

(v) use Select Products, purchased only from Franchisor or Franchisor's designated vendors;

(vi) allow Franchisor to obtain information concerning Franchisee's accounts with any designated vendor and advise such designated vendor of any default by Franchisee under this Agreement;

(vii) use at the Shop only such menus which comply with the style, pattern and design prescribed by Franchisor;

(viii) purchase, install and update, at Franchisee's expense, all fixtures, furnishings, signs, and equipment (including, without limitation, point-of-sale computer hardware and software control systems, and a telephone modem) as Franchisor may reasonably direct from time to time in the Operations Manuals or otherwise in writing;

(ix) maintain a competent, conscientious, and trained staff (who have been adequately trained by Franchisee) in numbers sufficient to serve customers promptly and properly, including at least a manager or shift leader on duty at all times at which the Shop is open (including daily Shop opening and closing procedures), and take such steps as are necessary to ensure that its employees preserve good customer relations and comply with such uniform and dress code requirements as Franchisor may prescribe periodically; and shall prohibit the wearing of such uniforms except during and within the scope of an employee's employment. In addition, Franchisee and its employees shall handle all customer complaints, refunds, returns, or other adjustments in accordance with Franchisor's policies as described in the Operations Manuals or otherwise in writing. The parties acknowledge that these requirements are necessary to preserve the goodwill identified by the Marks. The parties further acknowledge and agree that Franchisor neither dictates nor controls labor or employment matters for Franchisee or Franchisee's employees. Franchisee is exclusively responsible for hiring personnel, for determining the number of jobs offered or job vacancies to be filled, for determining and changing employee wages and benefits and work hours, and for disciplining Franchisee's employees. Franchisee is exclusively responsible for maintaining employment records and labor relations with its employees;

(x) use the Site only for the operation of the Shop as well as keep and maintain the Shop open and Operational during the time and for the minimum number of hours and days as required by Franchisor;

(xi) participate in National Programs that Franchisor designates as mandatory, and process the sales transaction through the Internet Site within twenty-four (24) hours after the order is submitted by the customer (excluding Sundays and national holidays);

(xii) ensure that it maintains the goodwill of the System, including, but not limited to, by responding promptly to customer complaints, comments, and concerns, and participating in customer service programs established by the Franchisor;

(xiii) meet and maintain the highest governmental standards and ratings applicable to the operation of the Shop (including health) and immediately advise Franchisor in writing of any violations of any law, license or standard, applicable to the operation of the Shop; and

(xiv) ensure the delivery of all products and provision of all services meet the Standards set by the Franchisor.

(xv) conform Shop operations to all System and government mandated safety and health protocols.

(d) Designated and Approved Vendors.

(i) Franchisee agrees to purchase only from Franchisor or suppliers designated by Franchisor ("**Designated Vendors**") all goods and services that Franchisor identifies from time to time including, without limitation: (A) fixtures, furniture, equipment, interior and exterior signage, graphics, décor, and Shop design consulting services; (B) Franchisee's requirements of Select Products, icing and baking mixes and ingredients, and all other food products and ingredients; (C) cookie and baking molds, cutters, and images; (D) containers, packaging materials, and shipping materials; (E) uniforms, shirts, memorabilia, and all merchandise and items intended for retail sale (whether or not bearing the Marks); (F) advertising, point-of-purchase materials, and other printed or digital promotional materials; (G) gift certificates and stored value cards; (H) stationery, business cards, and other templates and forms; and (I) paper goods, packaging, and supplies. In addition to Designated Vendors, Franchisor may require Franchisee to buy its requirements of food, ingredients, and supplies from affiliated or third-party distributors ("**Designated Distributors**"), and Franchisee shall comply with such requirements.

(ii) Franchisee shall purchase all other equipment, supplies, products and materials used in the operation of the Shop solely from vendors approved in writing by Franchisor ("**Approved Vendors**"). To qualify for approval, such vendors must (A) demonstrate the ability to meet Franchisor's reasonable

standards and specifications for such items, and (B) possess adequate quality controls and capacity to supply Franchisee's needs promptly and reliably. Franchisor shall not be responsible for the delivery or the condition of goods ordered from any vendor. Franchisor shall have the right to require that its representatives be permitted to inspect the vendor's facilities and that samples from the vendor be delivered, at Franchisor's option, either to Franchisor or to an independent, certified laboratory designated by Franchisor for testing. A charge not to exceed the reasonable cost of the inspection and the actual cost of the test shall be paid by Franchisee or the vendor to Franchisor. Franchisor reserves the right, at its option, to re-inspect the facilities and products of any such Approved Vendor and to revoke its approval upon the vendor's failure to continue to meet, in Franchisor's sole discretion, any of Franchisor's criteria.

(iii) **Franchisor makes no representation concerning, and expressly disclaims any liability arising out of or in connection with, the services rendered or products furnished by any vendor, distributor, or supplier approved or designated by Franchisor. Franchisor's approval or consent to any services, goods, suppliers, or any other individual, entity or any item shall not create any liability to Franchisor.**

(e) National Programs. Franchisee agrees, to participate in National Programs established by Franchisor and, to the greatest extent permitted by law, Franchisee agrees to honor the terms of any National Program, including pricing terms, established by Franchisor. Such National Programs shall be designated by Franchisor in its discretion and may include, without limitation, programs implemented in connection with fundraising or awareness efforts for charitable or non-profit organizations, Franchisor's Internet Site, Intranet Site, National Account programs, Special Events, Sublicense Agreement, and Telephone Locator Program. In the event that Franchisee is in default of this Agreement, then, in addition to any termination or other rights under this Agreement, Franchisor may immediately limit, temporarily suspend, or terminate Franchisee's participation in any or all of these programs—

Specifically, as it relates to National Accounts, Franchisor may periodically enter into agreements with clients that Franchisor considers to be “**National Accounts**.” Franchisee agrees to provide services to National Accounts under the terms and conditions Franchisor has negotiated with the National Account. To the extent that Franchisor receives payment directly for the services provided for a National Account, Franchisor has the option to deduct from the payment the amount of all fees and other payments that Franchisee owes to Franchisor, and remit to Franchisee the balance within a reasonable period of time. In addition, should Franchisee be in default under this Agreement, or should Franchisee decline or fail to fulfill more than one National Account order during the Term of this Agreement, regardless of whether such decline or failure to fulfill relates to the same or a different National Account, Franchisor reserves the right to limit, temporarily suspend, and/or terminate Franchisee's ability to participate in any or all National Accounts.

(f) Sublicensed Materials. Franchisee expressly consents to the solicitation, offer, sale and delivery of products and services using Sublicensed Materials inside of the Designated Territory through other franchisee or corporate Shop locations if Franchisee has not signed a Sublicense Agreement required by Franchisor with respect to the applicable Sublicensed Material.

(g) General Maintenance. Franchisee shall at all times maintain the Shop in the highest degree of sanitation, repair and condition. Within sixty (60) days after receipt of notice from Franchisor, Franchisee agrees to make any additions, alterations repairs and replacements that Franchisor reasonably requires, including, without limitation, such periodic repainting, equipment repairs and replacement of obsolete signs, equipment and floor coverings (including carpet and tile) as Franchisor may reasonably direct.

(h) Scheduled Refurbishment. Commencing on January 1 of the third calendar year following the opening of the Shop and each January 1 thereafter during the Term, Franchisee, at its own expense, shall upgrade and refurbish the Shop, in conformity with Section 6 hereof. Such upgrades and refurbishment include, without limitation, those necessary to conform to the building décor, floor plan, trade dress, exterior signage and decor, color schemes, equipment, food service, and presentation of trademarks and service

marks consistent with the Public Image then prevailing in the latest of upgraded System Businesses operated by Franchisor and necessary to protect the System. The amount expended for each such upgrade and/or refurbishment shall be the lesser of: Five Thousand Dollars (\$5,000.00); or One percent (1%) of the Gross Sales of the Shop during the prior calendar year. Each such upgrade and refurbishment shall be completed by Franchisee on or before June 30 of each respective year. Franchisee shall provide to Franchisor, on or before June 30 of each such year, such reports, records, receipts and other information as Franchisor may request evidencing Franchisee's compliance with this requirement.

(i) Inspection. Franchisor will provide such continuing advisory assistance, as it deems advisable, in the operation of the Shop. Franchisee agrees to permit Franchisor or its agents, at any reasonable time, access to the Shop to conduct inspections to ensure compliance with Franchisor's then-current standards and specifications.

(i) Testing. In conducting its inspections, Franchisor will have the right to obtain samples of any inventory items without payment therefor, in amounts reasonably necessary for testing by Franchisor or an independent certified laboratory to determine whether said samples meet Franchisor's then-current standards and specifications. Franchisor may require Franchisee to bear the cost of such testing if the item or vendor of the item has not previously been approved by Franchisor or if the sample fails to conform to Franchisor's specifications.

(ii) Recommendations. Franchisee acknowledges that Franchisor or its agents will have the authority to make immediate recommendations and resolutions to correct any deficiencies detected during such inspections (including ceasing of the use of the non-conforming equipment, advertising materials, ingredients, products, or supplies).

(iii) Failure to Correct Deficiencies. In the event Franchisee fails or refuses to implement recommendations or resolutions, Franchisor shall have the right, but not the obligation, to enter upon the Shop premises for the purpose of making or causing to be made such corrections as may be required, with all costs to be paid by Franchisee.

(j) Pricing. Franchisor reserves the right to establish Franchisee's maximum, minimum or other retail pricing to the fullest extent permitted by law.

(k) Payment Systems. Franchisee shall accept debit cards, credit cards, stored value cards, and other non-cash systems (including, for example, APPLE PAY, GOOGLE WALLET, etc.) that Franchisor specifies periodically to enable customers to purchase authorized products, and to acquire and install all necessary hardware and/or software used in connection with these non-cash systems. Franchisee further agrees to use only the hardware and/or software designated by the Franchisor. The parties acknowledge and agree that protection of customer privacy and credit card information is necessary to protect the goodwill of businesses operating under the Marks and System. Accordingly, Franchisee shall cause the business franchised hereunder to meet or exceed, at all times, all applicable security standards developed by the Payment Card Industry Standards Council or its successor and other regulations and industry standards applicable to the protection of customer privacy and credit card information. Franchisee is solely responsible for its own education concerning these regulations and standards and for achieving and maintaining applicable compliance certifications. Franchisee shall defend, indemnify, and hold Franchisor harmless from and against all claims arising out of or related to Franchisee's violation of the provisions of this subsection (k).

(l) Modification to the System. Franchisee shall, within the time Franchisor reasonably specifies, at its own expense, make such alterations, additions, or modifications to the Shop as Franchisor may reasonably require to accommodate changes made by Franchisor to the System, including, without limitation, changes to authorized services, products, and menu items or market positioning. Franchisee shall not implement any modification to the System without Franchisor's express prior written consent.

(m) Public Relations. Franchisee shall not make any public statements (including giving interviews or issuing press releases) regarding the Shop or the System or any particular incident or occurrence related to the Shop or System, without the Franchisor's prior written approval.

(n) Association with Causes. Franchisee shall not in the name of the Shop or the System: (i) donate money, products, or services to any charitable, political, religious or other organization, or (ii) act in support of any such organization, without the Franchisor's prior written approval.

(o) Independently Owned - Notification Requirements. Franchisee shall conspicuously identify itself as an independently owned and operated business, including posting a sign to this effect in each location.

9. INTELLECTUAL PROPERTY RIGHTS

(a) Intellectual Property and the Sublicensed Materials. Franchisee and Franchisee's Principals acknowledge Franchisor's exclusive ownership of, or right to sublicense, the Intellectual Property (including, but not limited to the Marks, Copyrighted Materials, and Patents) and will neither directly or indirectly, infringe, contest or otherwise impair Franchisor's exclusive ownership of, and/or license, with respect to the Intellectual Property either during or after the termination or expiration of this Agreement. Franchisee and Franchisee's Principals also expressly acknowledges and agrees that:

(i) the Intellectual Property will only be used by Franchisee in connection with the operation of the Shop and only in the manner authorized and prescribed by Franchisor herein or by written notification;

(ii) Franchisor may offer to Franchisee the right to use one or more Sublicensed Materials upon Franchisee's execution of any applicable Sublicense Agreement upon the terms and conditions determined by Franchisor; provided, however, the use of the Intellectual Property of any Licensor will inure solely to the benefit of Franchisor and the Licensor;

(iii) except for the non-exclusive license to use granted herein, Franchisee and Franchisee's Principals acquire no right, title or interest in (or any goodwill associated with) the System and the Intellectual Property;

(iv) upon the expiration or termination of this Agreement, no monetary amount will be assigned as attributable to any goodwill associated with Franchisee's use of the System, Intellectual Property and all goodwill associated with Franchisees' use of the System, Intellectual Property will inure solely to the benefit of Franchisor or Franchisor's licensors, as the case may be;

(v) Franchisee and Franchisee's Principals will promptly notify Franchisor of any use by any third party of the Intellectual Property of which the Franchisee or Franchisee's Principals know or have reason to know is unauthorized;

(vi) Franchisee and Franchisee's Principals will promptly notify Franchisor of any Action instituted by any person or legal entity against Franchisor, Franchisee, Franchisee's Principals or any other franchisee involving the Intellectual Property, and will execute any and all documents, and render such assistance as may, in the opinion of Franchisor's counsel, be reasonably requested to carry out such defense or prosecution. Franchisee further acknowledges that, in connection with such Action, Franchisor or its Affiliate has the right to direct and control the Action, involving the Intellectual Property, including any settlement thereof. Franchisor or its Affiliate has the right, but not the obligation, to take action against third parties for infringement of the Intellectual Property;

(vii) Franchisee will operate, advertise and promote the Shop under the Marks designated by Franchisor from time to time, without prefix or suffix, and will use no other name or mark and will refrain from using any of the Marks in conjunction with any word or symbol without Franchisor's prior written consent. Franchisee will not use the Marks as part of its corporate or other legal name, and will obtain Franchisor's approval of its corporate or other legal name before applying for or filing it with the applicable government authority;

(viii) Franchisee will use, promote and offer for sale under the Intellectual Property only those products and services which meet Franchisor's prescribed standards and specifications, as they may be revised by Franchisor from time to time; and

(ix) Franchisee and Franchisee's Principals will execute all documents requested by Franchisor, Licensor or their counsel that are necessary to obtain protection for the Intellectual Property or to maintain their continued validity or enforceability and to take no action that would jeopardize the validity or enforceability thereof.

(b) Restriction Against Use of the Marks and Copyrighted Materials on the Internet. Franchisee may not use the Marks or any part or derivative thereof or any of Franchisor's Copyrighted Materials on the Internet, except as expressly permitted in writing. Without limiting the generality of the foregoing, Franchisee may not use the Marks or any part or derivative of the Marks as part of any URL or domain name, and may not register as part of any user name on any website (including commercial, gaming, video sharing, user review, and social networking websites (such as FACEBOOK, INSTAGRAM, or TWITTER), whether or not such social media platform is used for commercial gain), or as part of any unauthorized email address. Franchisee also may not display on any website (including commercial, gaming, video sharing, user review, and social networking websites) Franchisor's Copyrighted Materials, which include the design portion of its Marks, or any collateral merchandise identified by the Marks.

(c) Copyrighted Materials. Franchisee and Franchisee's Principals acknowledge that Franchisor owns the worldwide copyright and other ownership rights to all Copyrighted Materials provided by Franchisor (in all forms or media now or hereafter known). Franchisee and Franchisee's Principals also agree:

(i) if registration of any of the Copyrighted Materials is required by law or deemed advisable by Franchisor, Franchisee and Franchisee's Principals agree to cooperate with and assist Franchisor in obtaining the registration in the name of Franchisor, or its designee, and will not register or attempt to register or assist or be involved in any way with the registration (either directly or indirectly) of such Copyrighted Materials;

(ii) Franchisee agrees to use proper copyright and other proprietary notices in connection with all Copyrighted Materials and conform with Franchisor's standards for protecting its rights; and

(iii) Franchisee and Franchisee's Principals agree to promptly cause the execution of any assignments, waivers of rights, or other documents, and take any further actions needed or advisable to ensure that Franchisor has such copyright and other rights described in this Article 9.

(d) Improvements. If Franchisee or Franchisee's Principals make any improvements (as determined by Franchisor) to the Confidential Information, Intellectual Property or the System, then Franchisee and the Franchisee's Principals will each execute all documents requested by Franchisor that Franchisor believes are necessary to obtain protection for or maintain the continued validity or enforceability of the Confidential Information, Intellectual Property, or the System, and will take no action that would jeopardize the validity or enforceability thereof. Furthermore, all ideas, concepts, techniques or materials relating to the System Business, whether or not protectable intellectual property and whether created by or for Franchisee or Franchisee's Principals or employees must be promptly disclosed to Franchisor and be deemed to be Franchisor's sole and exclusive property, part of the System and works for hire for Franchisor. To the extent any item does not qualify as a work for hire for Franchisor, by this Section 9(d), Franchisee assigns ownership of that item and all related rights to that item to Franchisor and agrees to take whatever action (including signing assignments or other documents) Franchisor requests to evidence Franchisor's ownership or to help Franchisor obtain intellectual property rights in such items.

(e) Changes to the Intellectual Property. Franchisor has the right on reasonable notice, to change, discontinue, or substitute any of the Intellectual Property and to adopt new Intellectual Property for use with the System without any liability to Franchisee. Franchisee agrees to implement any such change at Franchisee's own expense within the time Franchisor reasonably specifies.

10. ADVERTISING AND MARKETING

(a) General Requirements. Franchisor and Franchisee agree that all advertising by Franchisee will be conducted in a commercially acceptable manner and will conform to such standards and requirements as Franchisor or a Sublicense Agreement, as applicable, may provide in writing.

(b) Pre-Approved Advertising. Franchisor may offer from time to time or provide, upon Franchisee's request and at Franchisee's expense, approved local advertising and promotional plans and materials, including, without limitation, newspaper slicks, promotional leaflets and coupons. All such advertising will be placed in or distributed through such media or channel of communication as approved by Franchisor.

(c) New Advertising. Samples of all planned advertising, whether or not previously approved by Franchisor, must be submitted to Franchisor for Franchisor's prior approval. Upon receipt of such planned advertising, Franchisor will notify Franchisee no later than fifteen (15) days after receipt of the proposed advertising whether such advertising has been approved. If Franchisor does not respond within fifteen (15) days of its receipt of the proposed advertising, such nonresponsiveness will not constitute Franchisor's approval of the proposed advertising. Franchisee will not utilize any advertising which has not been approved by Franchisor, or which has been subsequently disapproved by Franchisor. All such advertising will be placed or distributed on such schedule and through such media or channel of communication as approved by Franchisor.

(d) Advertising Fund. Franchisee will contribute the amount described in Section 4(c) to the Advertising Fund established by Franchisor. Contributions to the Advertising Fund will be paid at the time and in the manner as described in Section 4(j), and subject to the late payment charges described in Section 4(n). The Advertising Fund will be maintained and administered by Franchisor or its designee as follows:

(i) Franchisor and/or its designees will direct all advertising and other programs produced using the Advertising Fund, and will have sole discretion to approve or disapprove the creative concepts, materials, and media used in those programs, the placement of advertisements, and the allocation of the money in the Advertising Fund to production, placement, or other costs. In administering the Advertising Fund, Franchisor and its designees undertake no obligation to make expenditures for Franchisee which are equivalent or proportionate to Franchisee's contribution, or to ensure that Franchisee or any particular System Business benefits directly or *pro rata* from the placement of advertising of the expenditure of Advertising Fund monies;

(ii) the Advertising Fund may be used to satisfy any and all costs for maintaining, administering, directing, preparing, purchasing and placing advertising (including the cost of preparing and conducting national, regional or local television, radio, magazine and newspaper advertising campaigns; direct mail and outdoor billboard advertising; public relations activities; marketing and promotional programs; and employing advertising agencies to assist in those activities); the operation of one or more sites on the Internet; to pay for creative development services (including creation and modification of Shop design and trade dress, logos, menu design, graphics and vehicle wraps, and advertising and promotional items, including the cost of photography services and design software); preparing and procuring market studies, providing or obtaining marketing services (including, without limitation, conducting customer surveys, focus groups, and marketing and compliance-related mystery shops and customer interviews); employing advertising and/or public relations agencies; developing, producing, distributing and placing advertising (including, without limitation, preparing and conducting media advertising campaigns in various media, local store advertising and promotion in a particular area or market, or for the benefit of a particular Shop or Shops in connection with store opening promotion or otherwise, conducting and administering in-store promotions; preparing and executing direct mail advertising, and developing, producing and purchasing point-of-sale advertising, menus and menu boards, and other sales aids and promotional items and materials); new product development and development of product packaging; developing, updating and hosting our web site (including development of locator programs) and/or an intranet or extranet system; obtaining sponsorships and endorsements; preparing and conducting

sweepstakes and other promotions; developing, administering, and distributing coupons, gift certificates, stored value card and loyalty card programs, and customized promotions, and the cost of product associated with the redemption of free coupons, gift certificates, stored value cards, loyalty cards and/or other customized promotions; developing and administering other customer loyalty programs; providing and procuring public relations services; conducting public relations activities; charitable donations; membership fees in international, national, regional, and/or local trade or other associations or organizations. Franchisor also may use Advertising Fund monies to reimburse itself or its designated third-party administrator for costs of personnel and other administrative and overhead costs associated with providing the services described in this Section 10(d);

(iii) Franchisor and its designees have no fiduciary duty to Franchisee, or any other franchisees, or their respective principals, including Franchisee's Principals with regard to the operation or administration of the Advertising Fund;

(iv) an unaudited statement of the operations of the Advertising Fund will be prepared annually and will be made available to Franchisee upon reasonable written request;

(v) although the Advertising Fund is intended to be of perpetual duration, Franchisor may, in its sole discretion, modify or terminate the Advertising Fund. Franchisor will give Franchisee at least thirty (30) days' written notice of the establishment of a new or modified Advertising Fund or the termination thereof. The Advertising Fund will not be terminated, however, until all monies in the Advertising Fund have been expended or returned to contributing System Businesses (whether franchised or operated by Franchisor or its Affiliates), without interest, on the basis of their respective contributions;

(vi) Franchisor reserves the right to structure the Advertising Fund's organization and administration in ways that, in Franchisor's judgment, most effectively and efficiently accomplish the Advertising Fund's objectives. Franchisor may therefore organize or reorganize the Advertising Fund as a separate non-profit corporation or other appropriate entity and transfer the Advertising Fund's assets to the entity to administer the Advertising Fund (the "**Association**"). Franchisee agrees to become a member of the Association and, in that regard, to sign a participation agreement and take such other steps as Franchisor reasonably specifies;

(vii) in the event Franchisor's designee maintains or administers the Advertising Fund, neither Franchisor nor its officers, directors, employees, or agents will be liable to Franchisee for any act, error or omission committed by such designee or in connection with the designation of such designee(s); and

(viii) Franchisor may advance amounts to the Advertising Fund and will be repaid such amounts on commercially reasonable terms. For purposes of this Article 10, "commercially reasonable" means financing costs at terms comparable to an arm's length transaction, not to exceed the prime rate as published by the Wall Street Journal in effect as of the date of the advance, plus one percent (1%).

(e) Franchisor Established National and Regional Marketing Programs, and Affiliate Marketing Programs. To the greatest extent permitted by law, Franchisee agrees to participate in any regional and/or national marketing and advertising and promotional programs that Franchisor or Franchisor's designee develops and to abide by Franchisor's or Franchisor's designee's established terms for such program. Such programs may include but are in no way limited to strategic marketing partnerships, affinity marketing partnerships, affiliate marketing partnerships, and other advertising or marketing programs developed to enhance the well-being of the COOKIES BY DESIGN franchise system. Such programs may also include the sale of Products and Services by or through unaffiliated third parties, for example, through alternate channels of distribution (such as mail order, catalog sales, and/or the Internet), which Franchisee agrees to fulfill to the extent that such sales are made to residents within their Designated Territory. Franchisee acknowledges that Franchisor may establish such maximum or minimum pricing, as permitted by law, in connection with the marketing programs established under this Article 10.

(f) Local Advertising. Franchisee will spend the amount described in Section 4(d) for Minimum Local Advertising. Only advertising and promotional materials of the type determined by Franchisor in its sole discretion will count toward satisfaction of the Minimum Local Advertising requirement.

(g) Within 30 days of the end of each calendar quarter (i.e., calendar quarters are the 3-month periods ending at the end of March, June, September, and December annually), Franchisee must submit a quarterly report describing the preceding quarter's local advertising activities and the amount Franchisee spent on each activity. If Franchisee fails to meet the Local Advertising requirements, Franchisor reserves the right to collect the Minimum Local Advertising amount in the same manner as the Royalty and to spend the collected amount in order to advertise and promote your Shop. –

(ii) Franchisee shall use only advertising programs or materials provided by Franchisor or that Franchisor has specifically designated or approved in writing. All costs, including production costs, for advertising programs or materials not provided by Franchisor shall be paid by Franchisee. Franchisee will be required to participate, from time to time, in promotional and discount programs and/or offer various promotional items, cross-marketing coupons, rebates or other sales and marketing goods or value-added items. There may be additional purchases required from time to time to participate in such promotions and/or programs. Franchisee may be required to sell goods and/or services in accordance with maximum, minimum, or other retail pricing requirements established by Franchisor, to the extent permitted by law. Any such pricing and promotional requirements will be based on Franchisor's unilateral determination of what would be in the best interest of the System to protect its competitive brand position.

(iii) Franchisee shall establish a Twitter, Facebook, Instagram, and other reasonable social media outlets as determined in the Franchisor's discretion as will be required from time to time to promote the Shop in their local area. Any such account created shall require prior written approval from Franchisor. Franchisee shall provide Franchisor with the account name and/or handle and the password for each account. If at any time the password and/or account name shall change for the account, Franchisee shall provide that information to the Franchisor within twenty-four (24) hours. Franchisee shall publish approved promotional material provided by Franchisor for use on social media. Franchisee further agree to publish any promotional material within twenty-four (24) hours of receipt of such promotion material on Franchisee's accounts. Franchisee understands that any marks, promotion material, and any accounts created for use with the Shop is Franchisor's sole property. Franchisee also agrees to execute the attached Limited Power of Attorney designating Franchisor as the beneficiary and control over any and all social media accounts. If this Agreement were to ever terminate, or transfer, Franchisee agrees to transfer or terminate Franchisee's interest in any such account(s). Franchisee agrees to follow Franchisor's mandatory specifications, standards, operating procedures, and rules for using social media in connection with the operation of the Shop and Franchisee will agree to any social media policy Franchisor implements.

11. INTRANET SITE.

(a) Franchisor's Option. Franchisor may, at its option, establish and maintain an Intranet Site; provided, however, Franchisor has no obligation to maintain the Intranet Site indefinitely, and may discontinue it at any time without liability to Franchisee.

(b) Franchisor's Control. Franchisor will have sole discretion and control over the Intranet Site design and contents. However, Franchisor has no control over the stability or maintenance of the Intranet Site generally, and is not responsible for damage or loss caused by errors of the Intranet Site.

(c) Policies. Franchisor will establish policies and procedures for the Intranet Site's use that will be posted on the Intranet Site or made available to Franchisee upon request. These policies, procedures and other terms of use will address issues such as (i) restrictions on the use of abusive, slanderous, or otherwise offensive language in electronic communications; (ii) restrictions on communications between or among

franchisees that endorse or encourage breach of any franchisee's franchise agreement with Franchisor; (iii) confidential treatment of materials that Franchisor transmits via the Intranet Site; (iv) password protocols and other security precautions; (v) grounds and procedures for Franchisor's suspension or revocation of access to the Intranet Site by Franchisee and others; and (vi) a privacy policy governing Franchisor's access to and use of electronic communications that franchisees and others post on the Intranet Site. Franchisee acknowledges that, as administrator of the Intranet Site, Franchisor can access and view all communications posted on the Intranet Site. Franchisee further acknowledges that the Intranet Site and all communications posted to it will become Franchisor's property, free of any claims of privacy or privilege that Franchisee or any other person may assert.

(d) Upgrade. Upon receipt of notice from Franchisor that the Intranet Site has become functional, Franchisee agrees to purchase, install, upgrade and/or replace all necessary additions to the Shop's computer system hardware and maintain all required licenses for the third-party software during the Term at Franchisee's cost and to establish and continually maintain electronic connection with the Intranet Site. Franchisee's obligation to maintain connection with the Intranet Site will continue until this Agreement's expiration or termination (or earlier, if Franchisor discontinues the Intranet Site).

(e) Suspension. If Franchisee fails to comply with any policy or procedure governing the Intranet Site, Franchisor may temporarily suspend Franchisee's access to all or any aspect of the Intranet Site (such as a chat room, bulletin board, list serve, or similar feature) until Franchisee fully cures the breach.

(f) Payment for Access. Franchisee will pay the amount described in Section 4(k) for access to the Intranet Site established by Franchisor. Payments for the Intranet Site will be paid at the time and in the manner as described in Section 4(j), and subject to the late payment charges described in Section 4(n).

12. TELEPHONE LOCATOR.

(a) Franchisor's Option; Franchisee Participation. Franchisor may, at its option, establish and maintain a Telephone Locator Program; provided, however, Franchisor has no obligation to maintain the Telephone Locator Program indefinitely, and may discontinue it at any time without liability to Franchisee. If Franchisor elects to establish a Telephone Locator Program, Franchisee agrees to participate in such program, to enter into any related and required agreements (as determined by Franchisor), and to pay any applicable fees thereunder.

(b) Non-Exclusive License. Franchisor will provide to Franchisee, a non-exclusive, non-transferable, non-sublicensable license to use the Vanity Number in order to participate in the Locator Service on the terms and conditions set forth in this Agreement, and the Telephone Locator Program, as may be revised from time to time by Franchisor (the "**Vanity License**").

(c) Required Equipment. Franchisee acknowledges and agrees that use of the Locator Service will require that Franchisee purchase certain telephone hardware and toll-free number access, which may need to be upgraded or replaced periodically for the proper operation of the Locator Service (the "**Required Equipment**"). Franchisee may at the onset and/or from time to time incur certain expenses in order to obtain, upgrade, or replace such Required Equipment. Franchisee hereby agrees to obtain the Required Equipment at its sole expense and to upgrade or replace the Required Equipment as needed to continue its access to and participation in the Telephone Locator Program.

(d) Acknowledgements. Franchisee acknowledges and agrees to:

(i) comply with the published operating procedures for the Telephone Locator Program as provided in the Operations Manuals, and the terms and conditions of this Agreement and any Locator Agreement; and

(ii) use the Telephone Locator Program exclusively for the benefit of the COOKIES BY DESIGN franchise system, Franchisee's Shop, and any other purposes specifically authorized by Franchisor.

(e) Right to Delegate. Franchisee acknowledges that the Locator Service may be provided by either a third party or Franchisor (the “Locator”). Franchisee agrees to execute any agreement required by the Locator in connection with the Locator Service (the “Locator Agreement”). Franchisee also agrees to comply with all payment and other terms set forth in the Locator Agreement.

(f) Temporary Suspension or Termination. Franchisee acknowledges that failure to pay fees due to Locator or to Franchisor on a timely basis, or to comply with other terms or conditions set forth in the Locator Agreement or this Agreement may result in termination of this Agreement and/or Franchisee’s participation in the Telephone Locator Program or suspension until all amounts owed are brought current, and/or Franchisee is otherwise in full compliance with the terms and conditions of the Locator Agreement and/or this Agreement.

(g) Rules. Franchisee agrees that Franchisor will, in its sole discretion, set all rules and policies that will apply to Shop referrals through the Locator Service for customer contacts received through the Vanity Number.

(h) Vanity License. The Vanity License provided for herein will be effective as of the Effective Date, and will terminate (i) automatically upon the date this Agreement expires, is terminated for any reason, or is Transferred to a third party; or (ii) upon any breach of the Locator Agreement by Franchisee, including any failure to pay fees due. Franchisor has the right to immediately terminate the Locator Agreement without prior notice and without waiving any other rights if Franchisee violates any term or condition of this Agreement. In the event that Franchisee cures all defaults on which any termination was based, and is in full compliance with this Agreement, Franchisor may, in its sole discretion, but is not required to reinstate the Vanity License. The address for notice may be revised from time to time by either party by providing written notice to the other party. Franchisor reserves the right, in its sole discretion, to terminate the Telephone Locator Program in its entirety or any part thereof for any reason.

(i) Payment of Fees. In consideration of the Vanity License granted herein, Franchisee agrees to comply with all terms and conditions of this Agreement and the Locator Agreement, and to pay all fees required thereunder. Franchisee will pay the amount described in Section 4(f) for access to the Telephone Locator Program established by Franchisor. Payments for the Telephone Locator Program will be paid at the time and in the manner as described in Section 4(j), and subject to the late payment charges described in Section 4(n).

(j) Ownership. As between Franchisee and Franchisor, Franchisor will have the exclusive ownership of the Vanity Number and all other rights related to the Telephone Locator Program. Franchisor reserves all rights not expressly granted under this Agreement.

(k) Amendment. The terms and conditions of the Vanity License may be modified in writing by Franchisor in its sole discretion. Any proposed modification will be communicated to Franchisee at least ten (10) days prior to the effective date of the modification.

13. OTHER PROGRAMS.

(a) Call Center.

(i) Franchisor may, at its option, establish and maintain a Call Center to supplement or replace the Telephone Locator Program; provided, however, Franchisor has no obligation to establish or maintain a Call Center indefinitely, and may discontinue it at any time without liability to Franchisee upon thirty (30) days’ written notice.

(ii) In the event that a Call Center is established, Franchisee agrees to participate in such program and to enter into the then-current form of Call Center agreement designated by Franchisor, whether such agreement is to be entered into with Franchisor or Franchisor’s designee, and whether or not such agreement includes fees in addition to those described in this Agreement.

(iii) For purposes of this Agreement, “**Call Center**” means a telephonic support system provided through Franchisor or its designee to assist the Franchisee to capture each the customer’s inquiries and automate the routing, tracking and delivery of this information in a quick and efficient manner for the Shop, Satellite and/or Kiosk covered by this Agreement.

(b) **In-Shop Order Program.**

(i) Franchisor may, at its option, establish and maintain an In-Shop Order Program; provided, however, Franchisor has no obligation to establish or maintain an In-Shop Order Program indefinitely, and may discontinue it at any time without liability to Franchisee.

(ii) In the event that an In-Shop Order Program is established, Franchisee agrees to participate in such program and to enter into the then-current form of In-Shop Order Program agreement designated by Franchisor, whether such agreement is to be entered into with Franchisor or Franchisor’s designee, and whether or not such agreement includes fees in addition to those described in this Agreement.

(iii) For purposes of this Agreement, an “**In-Shop Order Program**” means a program in which a franchisee processes orders received either in-person at the Shop or by telephone for deliveries outside of the Designated Territory and in another franchisee’s designated territory. In exchange for processing the order, Franchisee would receive a fee or credit in an amount to be determined in the In-Shop Order Program agreement.

14. ACCOUNTING AND RECORDS.

(a) **General Accounting Principles.** During the term of this Agreement, Franchisee must maintain full, complete, and accurate books, records, and accounts. All such books, records, and accounts will be kept or a minimum of five (5) years from their date of preparation. Such books shall be kept in accordance with generally-accepted accounting principles in the United States and in the form and manner prescribed by Franchisor from time to time in the Operations Manuals or otherwise in writing. Franchisee will maintain separate bookkeeping, accounting and recordkeeping for each Satellite and Kiosk, and if requested by Franchisor, Franchisee will submit separate profit and loss statements, balance sheet, annual statements, schedule of capital expenditures and a schedule of advertising expenditures, state sales tax returns, and such other financial statements, reports and records required to be reported under this Agreement or as requested by Franchisor in writing.

(b) **Accounting Statements.** In addition to the general accounting requirements, at Franchisee’s cost, Franchisee will submit to Franchisor:

(i) unaudited quarterly profit and loss statements (in the form prescribed by Franchisor and showing the sources of all income and the amount expended each month during the period on local advertising) and balance sheet within forty-five (45) days of the end of each fiscal quarter during the Term hereof;

(ii) unaudited annual statements, as well as a schedule of capital expenditures and a schedule of advertising expenditures, within ninety (90) days of the end of each calendar year during the Term hereof;

(iii) copies of Franchisee’s quarterly state sales tax returns within forty-five (45) days of the end of each quarter; and

(iv) such other financial statements, reports and records as Franchisor prescribes.

(c) **Inspection of Accounting and Records.** Franchisor or its representatives (including independent auditors, attorneys or agents) will have the right at all reasonable times to examine and copy (and to remove and return the materials to be copied from the premises on which they are located), at Franchisor’s expense, the books, records and tax returns of Franchisee. If an inspection should reveal that payments due to Franchisor have been understated in any report to Franchisor, then Franchisee will immediately pay to Franchisor the amount understated upon demand, in addition to interest from the date such amount was due

until paid, at one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less. Notwithstanding the foregoing, if an inspection discloses an understatement in any report of two percent (2%) or more, Franchisee will reimburse Franchisor for any and all costs and expenses connected with the inspection (including, without limitation, reasonable accounting and attorneys' fees). The foregoing remedies will be in addition to any other remedies Franchisor may have, including, without limitation, the remedies for default.

(d) Records of Ownership Interests in Franchisee. In addition to the terms and conditions of Section 20 herein, if there is a change in the Franchisee's Principals listed in Schedule 1A during the Term of this Agreement, Franchisee will immediately provide Franchisor a list of all persons owning an Equity Interest in Franchisee; provided, however, that if Franchisee's shares are publicly traded on a nationally recognized stock exchange, the list of shareholders required will include only those owning five percent (5%) or more of the shares outstanding.

(e) Sales Records. Franchisee will record all food, beverage and all other sales by, at, from or through the Shop (excluding only sales from pay telephones and vending machines, if approved by the Franchisor) on cash registers or other machines approved by Franchisor, which will contain devices or systems that will record accumulated sales and provide such other information and reports as Franchisor may prescribe. The Gross Sales from each Satellite and Kiosk will be reported separate from, but at the same time and in the same manner as, the Gross Sales from the Shop for purposes of computing the Royalty described in Section 4(b). Franchisee must report Gross Sales for Royalty and assessment reporting requirements on the same accounting calendar used by the Franchisor.

15. COMPUTER SYSTEMS.

(a) Hardware and Software Requirements. Franchisee agrees to purchase, install, and use all hardware and software designated by Franchisor in connection with the System Business. The software and hardware required may change from time to time, for example, as the CBD POS Software is modified or updated by Franchisor. Franchisee is solely responsible for ensuring that its computer system is capable of supporting the current version of the CBD POS Software and any additional required software. Franchisee must enter into all required license or user agreements with Franchisor or designated or approved third parties for any required software and pay to such parties any required license or other fees as designated under the license or user agreement. If any third-party software is required to support the CBD POS Software, Franchisee is responsible, at its own expense, for obtaining and maintaining current, valid licenses for the third-party software.

(b) CBD POS Program/Point of Sale System. Franchisee will install the CBD POS Program at the Shop, and each Satellite and Kiosk, and grant Franchisor access to such systems by telephone, modem, or such other means designated by Franchisor at all reasonable times for the purpose of inspecting, monitoring and retrieving information concerning the operation of the Shop and each Satellite and Kiosk. The point-of-sale computer systems will be installed and operated in accordance with the following terms and conditions:

(i) License. Franchisor hereby grants to Franchisee a non-exclusive, non-transferable, right and license to use the Sales and Marketing Software ("**CBD POS Software**") in object format only for the point-of-sale system located at the Shop and any approved Satellite or Kiosk locations. Franchisor will provide the CBD POS Software to Franchisee upon Franchisor's receipt of the CBD POS Maintenance Fee. Franchisee may use the CBD POS Software only through a local area network, but not a wide area network, which is designed for multiple Shop locations. Franchisee may make one copy of the CBD POS Software as Franchisee may require solely for backup purposes; provided, however, such copy must include a copyright notice as specified by, and in favor of, Franchisor.

(ii) Technical Support. Technical support for the CBD POS Software will be provided by Franchisor or its designee by telephone during Franchisor's normal business hours. This support does not

include any on-site support. Reasonable technical support will be provided to Franchisee with regard to the operation of the CBD POS Software, only if the software is installed on and being used in conjunction with both hardware and software as designated and specified by Franchisor. Any technical support for third party software must be obtained by Franchisee from the applicable vendor.

(iii) Fees. Franchisee will pay the amount described in Section 4(g) for the CBD POS Maintenance Fee. Payment will be made at the time and in the manner as described in Section 4(j), and subject to the late payment and charges described in Section 4(n).

(iv) Taxes. Franchisee will be solely responsible for and will pay any and all sales, use, or other taxes or similar charges now due, or to become due in the future, relative to the annual CBD POS Maintenance Fee or any services provided to Franchisee by Franchisor hereunder. To the extent required by any local, state or federal law, such taxes and/or charges will be collected from the Franchisee by Franchisor, and remitted to the appropriate authority.

(v) Software Security. Franchisee hereby acknowledges that all right and title to the CBD POS Software, including but not limited to the worldwide copyright therein, are the sole and exclusive property of Franchisor and nothing herein will be construed to grant to Franchisee any right or title in or to the CBD POS Software save and except the specific limited right to use the CBD POS Software on the computer or computers at the Shop (and each Satellite and Kiosk) as set forth in this Agreement. Franchisee hereby agrees that neither Franchisee nor its agents, employees or Affiliates will: (A) make copies of the CBD POS Software except as permitted by this Agreement; (B) export or re-export the CBD POS Software without Franchisor's prior written consent and without appropriate United States or foreign government licenses; (C) attempt to reverse compile or disassemble the CBD POS Software; or (D) use the CBD POS Software for the performance of services for others without Franchisor's prior written consent.

(vi) Data Extraction. Franchisee understands and agrees that Franchisor has the right to and may, at any time, view and extract data collected by Franchisee through the CBD POS Software, or any other software or lawful means, without notice to Franchisee. Accordingly, Franchisor will have the right to extract, without limitation, financial and marketing data including sales totals, breakdowns on types of sales, customer addresses, and other data collected and saved by the CBD POS Software. At a minimum, Franchisee agree to maintain Internet and telephone connection at all times.

(vii) No Warranty. THE CBD POS SOFTWARE AND TECHNICAL SUPPORT IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. ANY MATERIAL AND/OR DATA FRANCHISEE DOWNLOADS OR OTHERWISE OBTAINS FROM FRANCHISOR IS AT ITS OWN DISCRETION AND RISK. FRANCHISEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE USE OF THE CBD POS SOFTWARE IS AT ITS OWN RISK, AND THAT FRANCHISEE WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO ITS COMPUTER SYSTEMS OR LOSS OF DATA. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAWS, FRANCHISOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. FRANCHISOR MAKES NO WARRANTY THAT THE CBD POS SOFTWARE WILL MEET ITS REQUIREMENTS, OR THAT THE OPERATION OF THE CBD POS SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, OR THAT DEFECTS IN THE CBD POS SOFTWARE WILL BE CORRECTED. NO INFORMATION OR ADVICE GIVEN BY FRANCHISOR OR ITS AUTHORIZED REPRESENTATIVES, IN ORAL OR WRITTEN FORM, WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY.

(viii) Limitation of Liability. IN NO EVENT WILL FRANCHISOR BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES (INCLUDING LOSS OF DATA, REVENUE, AND/OR PROFITS) COSTS OR EXPENSES (INCLUDING LEGAL FEES AND

EXPENSES), WHETHER FORESEEABLE OR UNFORESEEABLE, THAT MAY ARISE OUT OF OR IN CONNECTION WITH THE CBD POS SOFTWARE AND THE LICENSE FOR THE CBD POS SOFTWARE GRANTED HEREIN; AND IN NO EVENT WILL THE COLLECTIVE LIABILITY OF FRANCHISOR EXCEED THE CURRENT AMOUNT OF THE ANNUAL MAINTENANCE FEE PAID UNDER THIS AGREEMENT.

(c) Non-Cash Hardware and Software Requirements. Franchisee agrees to accept debit cards, credit cards, stored value cards, or other non-cash systems that Franchisor specifies periodically to enable customers to purchase Products and Services, and to acquire and install all necessary and Franchisor-designated hardware and/or software used in connection with these non-cash systems. Franchisee covenants and agrees to only use electronic payment equipment, programs and payment software specifically approved in writing by the Franchisor. Franchisee further covenants and agrees to provide the Franchisor open and unlimited access to all login credentials, usernames, passwords and all data gathered including but not limited to all transaction, software, report and customer information. The parties acknowledge and agree that protection of customer privacy and credit card information is necessary to protect the goodwill of businesses operating under the Marks and System. Accordingly, Franchisee agrees that it shall cause the Shop to meet or exceed, at all times, all applicable security standards developed by the Payment Card Industry Standards Council or its successor and other regulations and industry standards applicable to the protection of customer privacy and credit card information. Franchisee is solely responsible for educating itself as to these regulations and standards, and for achieving and maintaining applicable compliance certifications. Franchisee shall defend, indemnify, and hold Franchisor harmless from and against all claims arising out of or related to Franchisee's violation of the provisions of this Section 15(c).

(d) Technology Risk. Franchisee acknowledges and agrees that technology is constantly changing. Technologic devices and computer systems are always being updated, improved, replaced, and discontinued. Consequently, computer systems are sometimes incompatible and are susceptible to Internet, computer system, and communication failures. By entering into this Agreement, Franchisee assumes all of the risk of all such issues and technology failures, which Franchisee acknowledges may affect its ability to order or receive products or to conduct business, and Franchisee acknowledges that Franchisor is not responsible for any damages caused by such issues or technology failures, including lost sales or profits.

16. REPRESENTATIONS AND WARRANTIES

(a) Representations, and Warranties of Franchisee. If Franchisee is not an individual, then Franchisee and each of Franchisee's Principals represents, warrants and covenants to Franchisor that:

(i) Due Incorporation. If Franchisee is a corporation, limited liability company, general or limited partnership or other form of business entity, it is duly formed and organized, validly existing and in good standing under the laws of the jurisdiction of its organization with all requisite power and authority to enter into this Agreement and perform the obligations contained herein.

(ii) Authorization. The execution, delivery and performance by Franchisee of this Agreement and all other agreements contemplated herein has been duly authorized by all requisite actions on the part of Franchisee and no further actions are necessary to make this Agreement or such other agreements valid and binding upon it and enforceable against it in accordance with their respective terms.

(iii) Exclusivity. Franchisee's corporate charter, written partnership, limited liability company agreement, membership agreement or other governing documents will at all times provide that Franchisee's activities are confined exclusively to the operation of the Shop unless otherwise consented to in writing by Franchisor.

(iv) Execution and Performance. Neither the execution, delivery nor performance by Franchisee of this Agreement or any other agreements contemplated hereby will conflict with, or result in a breach of any term or provision of Franchisee's charter, by-laws, articles of organization, or partnership

agreement and/or other governing documents and any amendments thereto, any indenture, mortgage, deed of trust or other material contract or agreement to which Franchisee is a party or by which it or any of its assets are bound, or breach any order, writ, injunction or decree of any court, administrative agency or governmental body.

(v) Corporate Documents. Certified copies of Franchisee's charter by-laws, articles of organization, partnership agreement, membership agreement and/or other governing documents and any amendments thereto, including board of directors' or partners' resolutions authorizing this Agreement have been delivered to Franchisor. Any amendments or changes to such governing or charter documents subsequent to the date of this Agreement will not be undertaken without Franchisor's prior written consent.

(vi) Ownership Interests. All Equity Interests in Franchisee are accurately and completely described in Schedule 1A. Franchisee will maintain at all times a current list of all owners of record and all beneficial owners of Equity Interests in Franchisee. Franchisee will make such list of available to Franchisor upon request.

(vii) Stop Transfer Instructions. If Franchisee is a corporation, Franchisee will maintain stop-transfer instructions against the transfer on Franchisee's records of any of its equity securities and each stock certificate will have conspicuously endorsed upon it a statement in a form satisfactory to Franchisor that it is held subject to all restrictions imposed upon assignments by this Agreement; but the requirements of this Section 16(a)(vii) will not apply to the transfer of equity securities of a publicly-held corporation. If Franchisee is a partnership or limited liability company, its written partnership or limited liability company agreement will provide that ownership of an interest in the partnership or limited liability company is held subject to all restrictions imposed upon assignments by this Agreement.

If Franchisee is an individual, then Franchisee represents, warrants and covenants that neither the execution, delivery nor performance by Franchisee of this Agreement or any other agreements contemplated hereby conflicts with, or results in a breach of any contract or agreement to which Franchisee is a party or a breach of any order, writ, injunction or decree of any court, administrative agency or governmental body.

(b) Financial Statements. Franchisee and, at Franchisor's request, each of Franchisee's Principals have provided Franchisor with their most recent financial statements in the form and for the time periods specified by Franchisor. The financial statements (i) present fairly Franchisee's financial position and the financial position of each of Franchisee's Principals, as applicable, at the dates indicated therein and, with respect to Franchisee, the results of its operations and cash flow for the periods then ended; (ii) are certified as true and correct by the Franchisee's Chief Financial Officer or President, as applicable; and (iii) have been prepared in conformity with generally accepted accounting principles in the United States, applied on a consistent basis. No material liabilities, adverse claims, commitments or obligations of any nature, whether accrued, unliquidated, absolute, contingent or otherwise, exist as of the date of this Agreement which are not reflected as liabilities on Franchisee's financial statements or those of Franchisee's Principals.

(c) Franchisee's Principals. Franchisee will notify Franchisor within ten (10) days following the date that any person previously identified as Franchisee's Principal ceases to qualify as such or that any new person succeeds to or otherwise comes to occupy a position which would qualify such person as one of Franchisee's Principals. That person will immediately execute all documents and instruments (including, as applicable, this Agreement) required by Franchisor to be executed by others in a comparable position; but if there is any conflict between this provision and the transfer provisions of Article 20, the provisions of Article 20 will control.

(d) Guaranty. Franchisee's Principals will, jointly and severally, guaranty the performance of Franchisee's obligations, covenants and agreements under this Agreement pursuant to the terms and conditions of the Guaranty of Franchisee's Principals attached to this Agreement as Attachment D, and will otherwise bind themselves to the terms of this Agreement as stated herein.

17. COVENANTS

(a) Non-Competition During Term of Agreement. Franchisee and Franchisee's Principals acknowledge that they will receive valuable specialized training and access to Confidential Information, during the term of this Agreement. As such, Franchisee and Franchisee's Principals covenant and agree that during the Term of this Agreement, except as otherwise approved in writing by Franchisor, they will not, either directly or indirectly:

(i) divert or attempt to divert business of any System Business to any competitor, or do or perform any other act injurious or prejudicial to the goodwill associated with Franchisor's Intellectual Property or the System; and

(ii) except as provided for herein, own, manage, financially or operationally participate in, invest in, consult with, maintain, operate, engage in, be employed by, provide any assistance to, or have any interest in (including an Equity Interest in), in a Competing Business; provided that this provision will not apply to any Minority Interest collectively held by Franchisee or Franchisee's Principals in any publicly-held corporation listed on a national stock exchange. For purposes of this Article 17, "**Competing Business**" means a business which operates an establishment, or a business via a website, electronically, the internet, or otherwise, that produces, accepts orders for, or ships cookies, cookie arrangements, chocolates, small gifts, and related products, alone or in combination, for sale to the general public, other businesses or governmental entities, and "**Minority Interest**" means an Equity Interest of less than five percent (5%) of the capital stock of, partnership interest in, or other Equity Interest in (including the right to vote) any type of legal entity.

(b) Non-Competition after Termination or Non-Renewal of Agreement. Franchisee and Franchisee's Principals acknowledge that they will receive valuable specialized training and access to Confidential Information, during the term of this Agreement. As such, for a continuous period of two (2) years after the expiration, non-renewal or termination of this Agreement or after the approved Transfer by Franchisee and/or Franchisee's Principals, Franchisee and Franchisee's Principals (as applicable) will not, directly or indirectly:

(i) divert or attempt to divert any business or customer of the Shops to not engage in a business relationship with the Shop, 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 Intellectual Property or the System; and

(ii) except as provided for herein, own, manage, financially or operationally participate in, invest in, consult with, maintain, operate, engage in, be employed by, provide any assistance to, or have any interest in (including an Equity Interest in) in a Competing Business which is located at the Shop premises, within the Designated Territory, within twenty (20) miles from the boundaries of the Designated Territory, within the designated territory of any other System Business; provided that this provision will not apply to any Minority Interest collectively held by Franchisee or Franchisee's Principals in any publicly-held corporation listed on a national stock exchange.

The two (2) year time limitation in this Article 17 will be tolled during any period of noncompliance.

(c) Independent Covenants. Each of the covenants in Section 17(a) and (b) will be construed as independent of any other covenant or provision of this Agreement.

(i) Franchisee and each of Franchisee's Principals understand and acknowledge that Franchisor will have the right, in its sole discretion, to reduce the scope of any covenant set forth in Section 17(a) and Section 17(b), or any portion thereof, without their consent, effective immediately upon notice to Franchisee; and Franchisee and Franchisee's Principals agree that they will comply with any covenant as so modified.

(ii) Franchisee and each of Franchisee's Principals expressly agree that the existence of any claims they may have against Franchisor, whether or not arising from this Agreement, will not constitute a defense to the enforcement by Franchisor of the covenants in Section 17(a) and Section 17(b).

(iii) Franchisee and each of Franchisee's Principals acknowledge that the covenants not to compete contained in Section 17(a) and Section 17(b) are reasonable in scope and are necessary to protect the business and goodwill of the System and to avoid misappropriation or other unauthorized use of the System and Franchisor's other trade secrets.

(iv) Franchisee and each of Franchisee's Principals acknowledge and confirms that Franchisee and Franchisee's Principals possess the education, training and experience necessary to earn a reasonable livelihood apart from operating a Competing Business.

(d) Confidential Information. Franchisee and Franchisee's Principals will have no right, title or interest in the Confidential Information except as expressly provided for in this Agreement. All Confidential Information is proprietary to Franchisor or its Affiliates. Franchisee and the Franchisee's Principals will only communicate, disclose or use the Confidential Information as expressly permitted herein solely in connection with the System Business or as required by law. Franchisee and Franchisee's Principals will keep the Confidential Information confidential and will disclose the Confidential Information only to such of Franchisee's employees, agents, or independent contractors who must have access to it in connection with their employment or the operation of the System Business. Neither Franchisee nor any Franchisee Principal will make unauthorized copies of any Confidential Information or assign, sell, trade or otherwise profit in any way from the Confidential Information. Franchisor will adopt and implement reasonable procedures to prevent unauthorized use or disclosure of Confidential Information. The covenant in this Article 17 will survive the expiration, termination, or transfer of this Agreement or any interest in this Agreement and will be perpetually binding upon Franchisee and each of Franchisee's Principals.

(e) Confidentiality Agreements. Franchisee will cause Franchisee's employees having access to the Confidential Information, and other key employees designated by Franchisor, to execute confidentiality agreements substantially in the form of Attachment E, stating that they will preserve in confidence all Confidential Information. Neither Franchisee, Franchisee's Principals' nor their respective employees may at any time, without Franchisor's prior written consent, copy, duplicate, record or otherwise reproduce the Confidential Information, in whole or in part, nor otherwise make the same available to any unauthorized person.

(f) Additional Covenants. To the extent permitted by applicable law, Franchisee will require and obtain for the benefit of Franchisor execution of covenants similar to those set forth in Section 17(a) and Section 17(b) from any and all of its employees having access to materials or information furnished or disclosed to Franchisee by Franchisor, including, without limitation, all managers, assistant managers and directors of operations.

(g) Rights and Limitations to Use Sublicense. Franchisee and Franchisee's Principals acknowledge and agree that the rights granted to Franchisee under this Agreement to use the Sublicensed Material are limited solely to using the Sublicensed Material during the Term of this Agreement in the Shop. Franchisee will not use the Sublicensed Material except on the terms set forth in the Sublicense Agreement or in writing by Franchisor. Franchisee's right to use the Sublicensed Materials is coterminous with this Agreement and, as such, will terminate immediately upon this Agreement's expiration or termination, nor will such right be transferable by Franchisee except as part of, and in connection with, the transfer of the franchise granted hereunder, subject to the terms and conditions set forth in this Agreement.

(h) Non-Liability. Franchisee acknowledges and agrees that Franchisor will not, by virtue of any acceptances, approvals, advice or services provided to Franchisee, assume responsibility or liability to Franchisee or any third parties to which it would not otherwise be subject.

(i) Performance by Franchisor. Franchisee acknowledges and agrees that any duty or obligation imposed on Franchisor by this Agreement may be performed by any designee, employee, or agent of Franchisor, as Franchisor may direct in its sole discretion.

(j) Breach of Covenants Causes Irreparable Injury. Franchisee acknowledges that its violation of any covenant of this Article 17 would result in irreparable injury to Franchisor for which no adequate remedy at law may be available, and Franchisee consents to the issuance of, and agrees to pay all court costs and reasonable attorneys' fees incurred by Franchisor in obtaining, without the posting of any bond, an *ex parte* or other order for injunctive or other legal or equitable relief with respect to such conduct or action.

18. INDEMNIFICATION

(a) Indemnification. Franchisee and Franchisee's Principals agree to and hereby, jointly and severally, indemnify, defend (by counsel chosen by Franchisor) and agree to hold harmless each Indemnified Parties from all Losses and Expenses alleged, incurred or assessed in connection with:

(i) Franchisee's or any Franchisee's Principal's alleged infringement or alleged violation of any trademark or other proprietary name, mark, or right allegedly owned or controlled by a third party;

(ii) the violation, breach or asserted violation or breach, by Franchisee or any of Franchisee's Principals, of any federal, state or local law, regulation, ruling, standard or directive or any industry standard;

(iii) libel, slander, or any other form of defamation of Franchisor, the System or any franchisee operating under the System, by Franchisee or by any of Franchisee's Principals;

(iv) the violation or breach by Franchisee or any of Franchisee's Principals, of any warranty, representation, agreement or obligation in this Agreement, any Ancillary Agreement or in any other agreement, between Franchisee, its subsidiaries and Affiliates, and a third-party provider; and

(v) acts, errors or omissions of Franchisee, any of Franchisee's subsidiaries or Affiliates or any of Franchisee's Principals and the officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of Franchisee and its subsidiaries and Affiliates in connection with the activities contemplated under this Agreement, including the operation of the System Business.

Additionally, Franchisor disclaims all liability for acts or omissions of Franchisee's employees, and Franchisee and Franchisee's Principals agree to and hereby, jointly and severally, indemnify, defend (by counsel chosen by Franchisor) and agree to hold harmless each Indemnified Parties from all Losses and Expenses alleged, incurred or assessed in connection with opposing a joint employer claim. Franchisee and Franchisee's Principals agree to cooperate with Franchisor, and to make available management representatives for hearings and to provide documents requested by Franchisor, in defending any joint employer Action.

(b) Notice and Counsel. Franchisee and each of Franchisee's Principals agree to give Franchisor immediate notice of any Action. Franchisor may engage, at its expense, separate counsel to represent the Indemnified Parties in such Action and/or elect to assume (but under no circumstance is obligated to undertake) the defense and/or reasonable settlement of any Action. Franchisor's election to settle will not diminish Franchisee's and each of Franchisee's Principal's obligation to defend, indemnify and hold the Indemnified Parties harmless from all Losses and Expenses.

(c) Settlement and Remedial Actions. Franchisor may, at any time and without notice, as it, in its sole judgment deems appropriate, consent or agree to settlements or take such other remedial or corrective actions it deems expedient with respect to any Action if, in Franchisor's sole judgment, there are reasonable grounds to believe that:

(i) any of the acts or circumstances enumerated in Section 18(a)(i)-(iv) above have occurred; and

(ii) any act, error, or omission as described in Section 18(a)(v) may result directly or indirectly in damage, injury, or harm to any person or any property.

(d) Expenses. All Losses and Expenses incurred under this Article 18 will be chargeable to and paid by Franchisee or any of Franchisee's Principals pursuant to Franchisee's obligations of indemnity under this Article 18 regardless of any actions, activity or defense undertaken by Franchisor or the subsequent success or failure of such actions, activity, or defense.

(e) Third Party Recovery. Under no circumstances will the Indemnified Parties be required or obligated to seek recovery from third parties or otherwise mitigate their losses in order to maintain a claim against Franchisee or any of Franchisee's Principals. Franchisee and each of Franchisee's Principals agree that the failure to pursue such recovery or mitigate loss will in no way reduce the amounts recoverable from Franchisee or any of Franchisee's Principals by the Indemnified Parties.

(f) Survival. Franchisee and Franchisee's Principals expressly agree that the terms of this Article 18 will survive the termination, expiration or transfer of this Agreement or any interest herein.

19. INSURANCE.

(a) Requirement. Prior to the commencement of construction of the Shop and for the entire Term, Franchisee will obtain and maintain insurance protecting Franchisee and the Indemnified Parties against any demand or claim arising or occurring in connection with the construction and operation of the Shop. The insurance policies will name the Indemnified Parties as additional insureds and Franchisee and its insurers will agree to waive their rights of subrogation against Franchisor, and Franchisee shall provide evidence of such waiver with Franchisee's proof of insurance.

(b) Coverages. The insurance coverage will include the following minimum limits (which may be revised from time to time in franchisor's sole discretion and such revisions communicated to Franchisee in writing):

(i) employer's liability and workers' compensation insurance as required by law (if state law where the Shop operates does not require employer's liability or workers' compensation insurance, Franchisee shall obtain employer's liability and workers' compensation insurance providing coverage of the types and amounts required similar to those required by New Jersey state law for reference);

(ii) comprehensive general liability insurance covering the operation of the Shop of not less than One Million Dollars (\$1,000,000.00), including product liability insurance, and blanket contractual liability insurance, which insures contractual liability under the indemnification provisions found in this Agreement;

(iii) automobile liability insurance, providing coverage for owned, hired and non-owned automobiles used in the Shop both by Franchisee, Franchisee's Principals, Franchisee's employees and independent contractors (except independently owned and operated delivery services), with combined single limit coverage of not less than One Million Dollars (\$1,000,000.00);

(iv) business interruption insurance (also known as business income protection, or profit protection coverage) in a sufficient amount to cover twelve (12) months of: (A) Royalty fees, Advertising Fund contributions, and any other payments due to Franchisor under this Agreement, based upon the average fees paid by Franchisee to Franchisor during the twelve (12) months preceding the event of the business interruption; (B) rent and other direct site costs for the Shop; and (C) insurance premiums and other fixed expenses;

(v) key man life insurance insuring Franchisee's life (if Franchisee is an individual) or insuring the lives of all owners of Franchisee (if Franchisee is an Entity) having at least a twenty percent (20%) Equity Interest in Franchisee; and

(vi) fire and extended casualty coverage insuring the replacement value of the Shop and its contents against fire, flood, tornadoes and other hazards designated in the Operations Manuals.

Franchisee acknowledges that the preceding minimum insurance requirements do not constitute advice or a representation that such coverages are necessary or adequate to protect Franchisee from losses in connection with the Shop. Franchisor has the right to increase or modify required minimum coverages at any time. Nothing in this Agreement prevents or restricts Franchisee from acquiring and maintaining insurance with higher policy limits or lower deductibles than Franchisor requires.

(c) Evidence of Coverage. Franchisee will furnish Franchisor with evidence that Franchisee has obtained the required insurance at least fifteen (15) days prior to the commencement of construction of the Shop, and each year afterwards, and at any other time a carrier or coverage is changed. The evidence of coverage will include a statement by the insurer that the policy or policies will not be canceled or materially altered without giving at least thirty (30) days prior written notice to Franchisor.

(d) No Release. Franchisee's obligation to obtain and maintain the insurance coverage in the amounts specified in this Agreement does not relieve it of liability under the indemnification provisions of this Agreement, nor the responsibility to maintain such additional insurance coverage as it may consider advisable or in the amounts indicated by Franchisor upon thirty (30) days prior written notice.

(e) Right of Charge. If Franchisee fails to obtain or maintain the insurance coverage required by this Agreement, or as may otherwise be indicated by Franchisor, then Franchisor may, but is not obligated to, procure such insurance coverage and to charge the cost thereof to Franchisee. Such charge will be payable immediately upon notice from Franchisor.

(f) Applicability to Kiosks and Satellites. The provisions in Article 18, will also apply to the opening and continued operation of a Satellite or Kiosk. Franchisee must ensure that any Satellites and Kiosks are covered under Franchisee's existing insurance coverage or it will obtain any additional insurance coverage required for such operations.

20. TRANSFER OF INTEREST.

(a) Transfer by Franchisor. Franchisor has the right to transfer or assign this Agreement, its rights to the Intellectual Property, and all or any part of its rights or obligations herein to any person or legal entity without the consent of Franchisee or Franchisee's Principals. Upon such transfer by Franchisor, any transferee or assignee of Franchisor will become solely responsible for all such obligations of Franchisor under this Agreement from the date of transfer or assignment. Without limiting the foregoing, Franchisee acknowledges that Franchisor may sell its assets (including its rights in the Intellectual Property and the System) to a third party; may offer its securities privately or publicly; may merge, acquire other legal entities or be acquired by another legal entity; and may undertake a refinancing, recapitalization, leveraged buyout, or other economic or financial restructuring. With regard to any or all of the above sales, assignments and dispositions, Franchisee expressly and specifically waives any claims, demands, or damages against Franchisor or its Affiliates arising from or related to Franchisor's transfer of its rights in this Agreement, the Intellectual Property or the System to any other party. Nothing contained in this Agreement will require Franchisor to remain in the business of operating or licensing the operation of a System Business or other businesses or to offer any services or products to Franchisee, whether or not bearing or not bearing the Intellectual Property, if Franchisor transfers or assigns its rights in or obligations under this Agreement.

(b) Transfer by Franchisee. Franchisee and Franchisee's Principals understand and acknowledge that the rights and duties set forth in this Agreement, and any agreement applicable to the Sublicensed Materials, a Satellite and/or Kiosk location, are personal to Franchisee and are granted, in part, in reliance upon the skill, aptitude, business and financial capacity of Franchisee and Franchisee's Principals and their intention of complying with its terms and conditions. Therefore, if Franchisee and/or Franchisee's Principals desire to Transfer any interest to any individual or entity (including a trust), they must first obtain the prior written

approval of Franchisor. Any such attempted Transfer not approved in writing by Franchisor will be null and void from its purported inception.

(i) General Requisites. Prior to authorizing a Transfer by Franchisee of any interest, Franchisor may require, among other conditions, satisfaction of any or all of the following:

(A) Franchisee will be in full compliance with all of the terms and conditions of this Agreement and all Ancillary Agreements;

(B) Franchisee and Franchisee's Principals will remain liable for the performance of their obligations contained in this Agreement through the date of Transfer and will execute all instruments reasonably requested by Franchisor to evidence such liability;

(C) the transferee will satisfy, in Franchisor's reasonable judgment, Franchisor's then existing criteria for a franchisee including, without limitation: (i) education; (ii) business skill, experience and aptitude; (iii) character and reputation; and (iv) financial resources;

(D) the transferee and all owners of any record or beneficial interest in the capital stock (or other interest) of transferee will execute all instruments (including a new franchise agreement and guaranty) reasonably requested by Franchisor to evidence acceptance and assumption of all of the terms and conditions of this Agreement. Such new franchise agreement may contain terms materially different from this Agreement, including higher fees and will be for a term equal to the then unexpired Term hereof;

(E) [reserved];

(F) Franchisee must deliver to the transferee all Confidential Information, the Operations Manuals, materials containing trade secrets, Intellectual Property, and all copies of each of the preceding documents and materials;

(G) the terms and conditions of each Sublicense Agreement will govern Franchisee's rights and obligations under a transfer of the Sublicense Agreement;

(H) payment of a transfer fee to Franchisor equal to (i) Five Thousand Dollars (\$5,000.00) if the Transfer would result in a change in Control of Franchisee, or it is a Transfer of this Agreement or of any or all rights or obligations of herein, interest in Franchisee or any assets of Franchisee beyond transfers necessary in the ordinary course of business; or (iii) the greater of the reasonable costs incurred by Franchisor or One Thousand Dollars (\$1,000.00) if the Transfer would not result in a change in Control of Franchisee;

(I) at the transferee's expense, the transferee and any of the transferee's employees responsible for the operation of the Shop have satisfactorily completed such training as Franchisor may then require, including any on-site training. for which transferee agrees to reimburse Franchisor for all travel-related costs incurred (such as transportation, room, and board) as well as a reasonable per-diem fee per trainer sent to the Shop;

(J) Franchisee has complied with the requirements set forth in Section 20(b)(ii);

(K) the transferee has complied with Franchisor's then-current application requirements for a new franchise, including, but not limited to, being provided with Franchisor's current form of disclosure document, and a receipt evidencing the date of delivery of the disclosure document(s) to the transferee has been delivered to Franchisor, provided, however, Franchisor will not be liable for any representations other than those contained in the disclosure document(s); and

(L) the transferor agrees, and thereafter conducts, such training of the transferee as Franchisor requires, and transferee acknowledges that Franchisor may elect to have such transferor's training of transferee meet its training obligations under this Agreement.

(ii) Right of First Refusal. In the event that Franchisee and/or any of Franchisee's Principals or any holder of an Equity Interest in Franchisee desire to effectuate a Transfer, Franchisor will have the right and option, exercisable within thirty (30) days after Franchisor's receipt of all materials and information described in this Section 20(b)(ii)(A), (B) and (C) to purchase the interest proposed to be transferred in accordance with the following:

(A) Franchisee will notify Franchisor in writing of any bona fide proposed Transfer and set forth a complete description of all terms and fees of the proposed Transfer in the manner prescribed by the Franchisor, including the prospective transferee's name, address, financial qualifications and previous five (5) years business experience;

(B) Franchisee will provide the Franchisor with any additional information, agreements, certifications or documents Franchisor requests for use in its evaluation of whether to exercise its first refusal right;

(C) upon receipt of the Franchisor's request, Franchisee or the proposed transferee will promptly provide Franchisor with access to any real or personal property, documents or records relevant to the transaction and to the interest which is the subject of the Transfer. Once Franchisor has received all materials submitted by Franchisee or the proposed transferee and has reviewed all property, records and documents it has requested, Franchisor will notify Franchisee or the proposed transferee of its decision to exercise its option to acquire the interest being transferred;

(D) if the Franchisor exercises its first refusal right, the transferor will transfer the interest to Franchisor or to its assignee pursuant to an agreement to purchase which contains substantially the same material terms to which the transferor and the proposed transferee have agreed. If the offer or proposed purchase contract omitted any terms customarily addressed in a transfer of an interest of the type which is the subject of the transaction, Franchisor may supply those terms in the purchase agreement and related documents;

(E) if the proposed transferor wishes to make a Transfer, the transferor will provide Franchisor with a copy of any offer or agreement to purchase, signed by the proposed transferee, together with copies of any documents referenced in the offer or agreement. If all material terms of the proposed sale are not described in the offer or agreement, Franchisee will provide details of all such terms in its submission to the Franchisor, accompanied by the proposed transferee's written agreement to the terms; and

(F) in the event the consideration, terms, and/or conditions offered by the proposed transferee are such that Franchisor or its nominee may not reasonably be able to furnish the same consideration, terms, and/or conditions, then Franchisor or its nominee, as appropriate, may purchase the interest proposed to be transferred for the reasonable equivalent in cash. If the parties cannot agree, within a reasonable time, on the reasonable equivalent in cash of the consideration, terms, and/or conditions offered by the third party, an independent appraiser will be designated by Franchisor, and such appraiser's determination will be binding.

(iii) Death or Disability. Within fifteen (15) days after the death or Permanent Disability (as defined below) of Franchisee or any of Franchisee's Principals, Franchisee or a representative of Franchisee must notify Franchisor in writing. Any transfer upon death or Permanent Disability will be subject to the same terms and conditions as described in this Article 20 for any *inter vivos* Transfer.

Upon the death of Franchisee (if a natural person) or any Franchisee's Principal who is a natural person and who has an interest in this Agreement, in the System Business, or in Franchisee, the executor, administrator, or other person representative of the deceased will transfer the interest of the deceased to a third party approved by Franchisor within twelve (12) months after the date of death. If no personal representative is designated or appointed and no probate proceedings are instituted with respect to the estate of the deceased, then the distributee of the interest of the deceased must be approved by Franchisor. If the

distributee is not approved by Franchisor, then the distributee will transfer the interest of the deceased to Franchisor or a third party approved by Franchisor within twelve (12) months after the date of death of the deceased.

Upon the Permanent Disability of Franchisee (if a natural person) or any of Franchisee's Principals who is a natural person and who has an interest in this Agreement, in the System Business or in Franchisee, Franchisor may require the interest to be transferred to Franchisor or a third party in accordance with the conditions described in this Article 20 within six (6) months after notice to Franchisee. For purposes of this Section 20(b)(iii), "**Permanent Disability**" means any physical, emotional, or mental injury, illness, or incapacity that would prevent a person from performing the obligations set forth in this Agreement or in the Guaranty made part of this Agreement for at least ninety (90) consecutive days, and from which condition recovery within ninety (90) days from the date of determination of disability is unlikely. If the parties disagree as to whether a person is permanently disabled, the existence of Permanent Disability will be determined by a licensed practicing physician selected by Franchisor, upon examination of the person; or if the person refuses to submit to an examination, then (for the purpose of this Section 20(b)(iii)) the person automatically will be considered permanently disabled as of the date of refusal. The costs of any examination required by this Section 20(b)(iii) will be paid by Franchisor.

If an interest is not transferred upon death or Permanent Disability as required in this Section 20(b)(iii) then the failure will constitute a default under this Agreement.

21. TERMINATION.

(a) Automatic Termination. Franchisee will be in default under this Agreement, and all rights granted by this Agreement will automatically terminate without notice to Franchisee if:

- (i) Franchisee becomes insolvent or makes a general assignment for the benefit of creditors;
- (ii) Franchisee files a voluntary petition under any section or chapter of the federal bankruptcy law or under any similar law or statute of the United States or any state, or admits in writing its inability to pay its debts when due;
- (iii) Franchisee is adjudicated bankrupt or insolvent in proceedings filed against Franchisee under any section or chapter of the federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee; or if a receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed by any court of competent jurisdiction;
- (iv) proceedings for a composition with creditors under any state or federal law is instituted by or against Franchisee;
- (v) a final judgment against Franchisee in excess of Twenty-Five Thousand Dollars (\$25,000.00) (or such lesser amount that Franchisor deems material) remains unsatisfied or of record for thirty (30) days or longer (unless a supersedeas bond is filed);
- (vi) Franchisee is dissolved;
- (vii) Execution is levied against Franchisee's business or property in excess of Twenty-Five Thousand Dollars (\$25,000.00) (or such lesser amount that Franchisor deems material);
- (viii) suit to foreclose any lien or mortgage against the Shop (or any Satellite and Kiosk) premises or equipment in excess of Twenty-Five Thousand Dollars (\$25,000.00) (or such lesser amount that Franchisor deems material) is instituted against Franchisee and not dismissed within thirty (30) days; or
- (ix) the real or personal property of Shop (or any Satellite and Kiosk) will be sold after levy thereupon by any sheriff, marshal, or constable.

(b) Termination upon Notice. This Agreement shall terminate immediately upon Franchisee's receipt of Franchisor's notice and without providing Franchisee the right to cure such default if:

- (i) Franchisee ceases to do business at the Shop;
- (ii) Franchisee fails to comply with any law or regulation applicable to the operation of the Shop for thirty (30) days after notification of non-compliance by an appropriate authority;
- (iii) Franchisee or any of Franchisee's Principals cause a threat or danger to the public health or safety in the construction or operation of the Shop (or any Satellite and Kiosk);
- (iv) Franchisee or any of Franchisee's Principals is convicted of, or pleads *nolo contendere* to a felony or any other crime or offense that is reasonably likely, in the opinion of Franchisor, to adversely affect the System, the Intellectual Property, the goodwill associated therewith, or Franchisor's interest therein;
- (v) Franchisee or any of Franchisee's Principals copies or duplicates any Sublicensed Materials or purports to transfer ownership or possession of any Sublicensed Materials without the prior written consent of Franchisor;
- (vi) Franchisee or any of Franchisee's Principals, violates the requirements for Transfers contained in Section 20;
- (vii) Franchisee or any of Franchisee's Principals, as applicable, fails to comply with the representations and warranties in Sections 16 and 25 hereof;
- (viii) Franchisee receives three (3) or more default notices from Franchisor, whether or not the defaults are cured;
- (ix) if, on two (2) or more occasions during the Initial Term or any one (1) Renewal Term, an inspection or audit discloses that Franchisee have under reported Franchisee's Gross Sales during any month by two percent (2%) or more of the actual Gross Sales during a month, whether or not Franchisee later rectifies the deficiency;
- (x) Franchisee or any of Franchisee's Principals discloses or divulges the contents of the Operations Manuals or other trade secret or confidential information provided Franchisee by Franchisor contrary to the provisions of this Agreement;
- (xi) Franchisee fails to maintain the insurance required by Section 19;
- (xii) Franchisee or any of Franchisee's Principals knowingly maintains false books or records, or submits any false reports to Franchisor;
- (xiii) Franchisee fails to construct or refurbish the Shop (or any Satellite and Kiosk) in accordance with Section 6 hereof;
- (xiv) Franchisee fails to open the Shop (or any Satellite and Kiosk) for business as a System Business by the date described in Section 6;
- (xv) Franchisee, Franchisee's General Manager, or a designated substitute, fails to complete the training required by Section 7(a) to Franchisor's satisfaction;
- (xvi) Franchisee operates the Shop (or any Satellite and Kiosk) or sells Products and Services authorized by Franchisor for sale at the Shop (or any Satellite and Kiosk) from a location which has not been accepted or approved by Franchisor;
- (xvii) Franchisee purchases Select Products from sources other than those prescribed in Section 8(d), or sells, distributes or delivers Select Products or other products to unauthorized persons in violation of Section 2(d) without Franchisor's prior written consent;

(xviii) Franchisee ceases to operate or otherwise abandons the Shop, or loses the right to possession of the premises, or otherwise forfeits the right to do or transact business in the jurisdiction where the Shop is located at any time. This provision will not apply if through no fault of Franchisee, the premises are damaged or destroyed by an event of Force Majeure, provided that Franchisee applies for Franchisor's approval to relocate or reconstruct the premises within thirty (30) days after the event and Franchisee diligently pursues the reconstruction or relocation after Franchisor's approval. Franchisor will not unreasonably withhold its approval to relocate or reconstruct the premises after an event of Force Majeure, but Franchisor may condition its approval upon Franchisee's payment of an agreed minimum fee to Franchisor during the period in which the Shop is not in operation. For purposes of this Article 21, "**Force Majeure**" means acts of God (such as tornadoes, hurricanes, floods, fire or other natural catastrophe); strikes, lockouts or other industrial disturbances; war, riot, or other civil disturbance; epidemics; acts of governments, such as the exercise of eminent domain rights and condemnation (if caused by reasons beyond Franchisee's control); or other forces beyond Franchisee's reasonable control;

(xix) Franchisee or any of Franchisee's Principals fails to comply with the in-term covenants in Section 17 or if Franchisee fails to obtain execution of the covenants and related agreements required under Section 17 within thirty (30) days after being requested to do so by Franchisor;

(xx) Franchisee misuses or makes any unauthorized use of the Marks or otherwise materially impairs the goodwill associated therewith or Franchisor's rights therein and Franchisee fails to cure that default within twenty-four (24) hours after notice from Franchisor;

(xxi) Franchisee or any of Franchisee's Principals engages in any act, conduct, or practice which Franchisor, in its sole judgment, deems to be deceptive, misleading, unethical or otherwise contrary to or in conflict with the reputation and image of the System; or

(xxii) Franchisee fails to cure any default of which it has been given prior notices on two (2) occasions.

(c) Termination with Ten (10) Day Notice. Franchisee shall have ten (10) days after its receipt from Franchisor of a written notice to remedy Franchisee's failure, refusal, or neglect to pay promptly any monies due under this Agreement, to submit the financial information or other reports, to connect to either the Internet Site or Intranet Site required by Franchisor under this Agreement, for selling any Product or Service from the Shop (or any Satellite or Kiosk) outside of its Designated Territory without Franchisor's prior written consent, or participate in any National Program. If such default is not cured within that time (including the payment of all revenue derived from sales outside the Designated Territory as required by Section 2(a)), this Agreement shall terminate without further notice to Franchisee effective immediately upon the expiration of the ten (10) day period.

(d) Termination with Thirty (30) Day Notice. Except as otherwise provided in this Article 21, Franchisee shall have thirty (30) days after its receipt from Franchisor of a written notice within which to remedy any default of the terms of this Agreement and the attachments hereunder and provide evidence thereof to Franchisor. If any such default is not cured within that time, this Agreement shall terminate without further notice to Franchisee effective immediately upon the expiration of the thirty (30) day period.

(e) Sublicense Agreement. Notwithstanding any provision of this Article 21, the applicable Sublicense Agreement will govern any events of default by Franchisee of such Sublicense Agreement. A termination or expiration of:

(i) this Agreement will constitute a termination of all Sublicense Agreements as of the date of termination or expiration of this Agreement, except with respect to those provisions of any Sublicense Agreement that survive the termination or expiration thereof;

(ii) a default under a Sublicense Agreement will not constitute a default of this Agreement, except as otherwise provided in this Article 21; and

(iii) a license between Franchisor and a Licensor will constitute a termination of the related Sublicense Agreement, without notice and without liability to Franchisor.

(f) Cross-Default. Any default under any agreement between Franchisee and Franchisor or its Affiliates, and failure to cure within any applicable cure period, shall be considered a default under this Agreement and shall provide an independent basis for termination of this Agreement.

(g) Step-In Rights. To prevent any interruption of the business of the Shop, and any injury to the goodwill and reputation to the System which may be caused thereby, Franchisee hereby authorizes Franchisor, and Franchisor shall have the right, but not the obligation, to operate the Shop on Franchisee's behalf for as long as Franchisor deems necessary and practical, and without waiver of any other rights or remedies Franchisor may have under this Agreement, in the event that: (i) Franchisee's General Manager is absent or incapacitated by reason of illness, death or disability and, therefore, in Franchisor's sole determination, Franchisee is not able to operate the Shop in full compliance with this Agreement; (ii) any allegation or claim is made against Franchisee or any of Franchisee's Principals, or the operation of the Shop, involving or relating to fraudulent, deceptive or illegal practices or activities; or (iii) Franchisor determines that operational problems require Franchisor to operate the Shop for a period of time to maintain the operation of the business as a going concern. If Franchisor undertakes to operate the Shop pursuant to this section, Franchisor shall have the right to collect and pay from the revenues of the Shop all operating expenses including, without limitation, Royalty fees, Advertising Fund contributions, and employee salaries, and further shall be entitled to collect, as compensation for its efforts, a reasonable management fee of up to 10% of Gross Sales. Franchisee shall indemnify and hold harmless Franchisor from any and all claims arising from the alleged acts and omissions of Franchisor and its representatives. Nothing contained herein shall prevent Franchisor from exercising any other right which Franchisor may have under this Agreement, including, without limitation, termination.

(h) Franchisor's Alternative Remedies to Termination. In lieu of exercising its right to terminate this Agreement, Franchisor may, without waiving such right to terminate, withhold services to Franchisee. Such services which may be withheld include, without limitation, the referral of online orders through the Internet Site, access to any or all portions of certain software or the Intranet System, the right to participate in National Programs, invitations to franchise conventions and meetings, and the delivery of Franchisor's newsletters. Should Franchisor elect, pursuant to this Section, to withhold referrals of online orders through the Internet Site or a national phone number, suspend Franchisee's right to participate in National Programs, or take such another other action which would potentially result in unfulfilled customer orders, Franchisee hereby grants Franchisor the irrevocable right to fulfill orders through such channels, whether itself, through any affiliated entity, another System franchisee, or a designated third party, acknowledging that Franchisor or such designated third party may be required to receive payment from or ship orders into Franchisee's Designated Territory.

22. OBLIGATIONS UPON TERMINATION OR EXPIRATION.

(a) Obligations upon Termination or Expiration. Upon termination or expiration of this Agreement for any reason, all rights of Franchisee under this Agreement will immediately terminate and Franchisee will have the following duties which will survive termination of this Agreement:

(i) Amounts Due. Franchisee will promptly pay to Franchisor and its Affiliates, the Association, Licensor, and Locator all sums due under this Agreement and all Ancillary Agreements, including, without limitation, all damages, costs, expenses, and reasonable attorneys' fees incurred by Franchisor by reason of default on the part of Franchisee, whether or not the expenses occur before or after the termination or expiration of this Agreement.

(ii) General Operations. Franchisee will immediately Cease to Operate the Shop (and any Satellite and Kiosk) and Cease to Use the Intellectual Property, the System, and the Operations Manuals in any manner including any advertising, equipment, format, confidential methods, procedures and techniques

associated with the System Business, the Intellectual Property, the System, and the Operations Manuals, and shall not thereafter hold itself out as a former franchisee of Franchisor. Franchisee shall also notify each authorized supplier that it is no longer authorized to purchase any Select Products on the same terms and conditions afforded to a System Business.

(iii) Confidential Information. Except as provided for Transfers in Section 20(b)(i)(F), Franchisee shall immediately return all Confidential Information to Franchisor, including the Operations Manuals, records, files, instructions, correspondence, cookie cutters, all materials related to operating the Shop (and any Satellite and Kiosk), 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 Franchisee and Franchisee's Principals reasonably need for compliance with any provision of law.

(iv) Copyrighted Materials. Franchisee shall immediately: (A) return all Copyrighted Materials to Franchisor; and (B) at Franchisor's option, either destroy (and provide evidence thereof) or return some or all cookie cutters, plastic bossed containers, mailing pieces, brochures, products, and Select Products, to Franchisor at Franchisee's cost (less an allowance for depreciation based upon the length of the life of the item and its length of use). In the event that Franchisor elects to purchase items from Franchisee, then Franchisor will purchase Franchisee's assets only and will assume no liabilities whatsoever, unless otherwise agreed to in writing by the parties. Franchisor will have the right to set off all amounts due from Franchisee to Franchisor or any of its Affiliates against any payment therefor and will pay the remaining amount in cash.

(v) Franchisor Software. Franchisee must remove any proprietary or customized computer software (including, but not limited to the CBD POS Software) specified by Franchisor ("Franchisor Software") from any computer hardware Franchisee retains. Franchisee must provide evidence to Franchisor that Franchisee has destroyed all back up and other copies of any part or all of any Franchisor Software, and returned to Franchisor any documentation provided to Franchisee with respect to the use of any Franchisor Software, and any other material or information which relate to or reveal any Franchisor Software and its operation, including data generated by Franchisor Software and materials derived from or copied from the Internet Site. At Franchisor's request, Franchisee will allow Franchisor's employees or agents to remove the Franchisor Software from Franchisee's computer hardware, and to take any of the above actions relating to the Franchisor Software. Franchisee will not retain a copy or record of any of the items listed above.

(vi) Use of Marks. Franchisee will immediately Cease to Use, in any manner whatsoever, and remove any Marks and distinctive trade dress, forms, slogans, signs, symbols, devices, or other items associated with the System.

(vii) Cancellation of Assumed Name; Assignment of Accounts. Franchisee shall take such action as may be necessary to cancel any assumed name or equivalent registration which contains any of the Marks, and Franchisee and Franchisee's Principals shall furnish Franchisor with evidence satisfactory to Franchisor of compliance with this obligation within thirty (30) days after termination or expiration of this Agreement. In addition to any forms and documents which may have been executed by Franchisee hereunder, Franchisee hereby appoints Franchisor its true and lawful agent and attorney-in-fact with full power and authority for the sole purpose of taking such action as is necessary to complete these cancellations under the Limited Power of Attorney for Telephone Numbers and Assumed Names attached to this Agreement as Attachment E. This limited power of attorney will survive the expiration or termination of this Agreement. Franchisee will thereafter use different assumed names at or in connection with any subsequent business conducted by Franchisee. In addition to cancellation of any assumed names and assignment of phone numbers used in connection with the Shop, Franchisee will to assign to Franchisor all directory listings, and any promotional, marketing, and advertising accounts, including online accounts or listings such as directory and social media accounts.

(viii) Payments. Franchisee and Franchisee's Principals will promptly pay all sums owing to Franchisor and its Affiliates, including all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of any default by Franchisee. Until those amounts are paid in full, the obligation to pay them will give rise to and remain a lien in favor of Franchisor against all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by Franchisee and on the premises of the Shop (or any Satellite and Kiosk) at the time of default.

In addition, Franchisee and Franchisee's Principals will pay to Franchisor all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor in connection with obtaining any remedy available to Franchisor for any violation of this Agreement and subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Article 22.

(ix) Confidentiality and Non-Competition. Franchisee and Franchisee's Principals will comply with the non-competition covenants and the restrictions on Confidential Information contained in this Agreement. Any other person required to execute similar covenants pursuant to Section 17 will also comply with those covenants.

(b) Leases. If Franchisee leases the Shop (or any Satellite and Kiosk) premises or leases any equipment used in the operation of the Shop (or any Satellite and Kiosk) from a third party, then Franchisee will, at Franchisor's option, assign to Franchisor any interest that Franchisee has in the lease or sublease. Franchisor may exercise this option at any time within thirty (30) days from and including either the date of termination or (subject to any existing right to renew) expiration of this Agreement. The time for closing on the assignment of the lease described in this Section 22(b) will be on the date of or no later than ten (10) days after Franchisor's exercise of its option hereunder unless Franchisor is also exercising its purchase options under Section 22(c), in which case the date of the closing will be on the same closing date prescribed for the purchase option. In any event, closing will take place at Franchisor's corporate offices or at such other location Franchisor may designate.

(c) Purchase Options. Except as provided in Section 22(a)(iv) (with respect to Copyrighted Materials) and Section 22(b) (with respect to leased equipment), Franchisor will have the option, to be exercised within thirty (30) days from and including either the date of termination or expiration of this Agreement (unless appraisals are needed as described below, in which case such option shall be exercised within thirty (30) days after such appraisals are provided), to purchase from Franchisee any or all of the furnishings, equipment, signs, fixtures, motor vehicles, supplies, and inventory of Franchisee related to the operation of the Shop (or any Satellite and Kiosk), at Franchisee's original cost (less an allowance for depreciation based upon the length of the life of the item and its length of use) or fair market value, whichever is less. Franchisor will purchase Franchisee's assets only and will assume no liabilities whatsoever, unless otherwise agreed to in writing by the parties. If the parties cannot agree on the fair market value within thirty (30) days after Franchisor's exercise of its option, fair market value will be determined by two (2) appraisers, with each party selecting one (1) appraiser, and the average of their determinations will be binding. In the event of such appraisal, each party will bear its own legal and other costs and will split the appraisal fees equally. Within thirty (30) days after Franchisor's receipt of such appraisal, the parties' agreement as to fair market value or Franchisor's receipt of such information and materials from Franchisee as Franchisor may prescribe evidencing Franchisee's cost, as applicable, Franchisor shall have the right to rescind its exercise of such option. If Franchisor elects to exercise any option to purchase herein provided, it will have the right to set off all amounts due from Franchisee to Franchisor or any of its Affiliates (including any costs for the appraisal) and any costs incurred in connection with any escrow arrangement (including reasonable legal fees) against any payment therefor and will pay the remaining amount in cash.

With respect to the option described in this Section 22(c) Franchisee will deliver to Franchisor, in a form satisfactory to Franchisor, such warranties, deeds, releases of lien, bills of sale, assignments, and any other documents and instruments necessary in order to perfect Franchisor's title and possession in and

to the properties being purchased or assigned and to meet the requirements of all tax and government authorities. If, at the time of closing, Franchisee has not obtained all of these certificates and other documents, Franchisor may, in its sole discretion, place the purchase price or rent in escrow pending issuance of any required certificates or documents.

The time for closing of the purchase and sale of the properties described in this Section 22(c) will be a date not later than sixty (60) days after the purchase price is determined by the parties or the determination of the appraisers, or such date Franchisor receives and obtains all necessary permits and approvals, whichever is later, unless the parties mutually agree to designate another date. Closing will take place at Franchisor's corporate offices or at such other location as Franchisor may designate.

(d) Modification of Premises. If Franchisor does not elect to exercise the options under Section 22(b) or Section 22(c) as applicable, then Franchisee will make all modifications or alterations to the Shop (or any Satellite and Kiosk) premises that are necessary to distinguish the appearance of the Shop (or any Satellite and Kiosk) from that of other System Businesses and will make any specific additional changes that Franchisor reasonably requests within forty five (45) days from and including either the date of termination or expiration of this Agreement. If Franchisee fails or refuses to comply with the requirements of this Section 22(d), then Franchisor may enter upon the premises of the Shop (or any Satellite and Kiosk), without being guilty of trespass or any other crime or tort, to make or cause to be made the changes required, at the expense of Franchisee, which expense Franchisee agrees to pay upon demand.

(e) Assignments. If requested by Franchisor, Franchisee will (at Franchisee's expense) assign to Franchisor all rights to the: (i) telephone numbers of the Shop (or any Satellite and Kiosk) and any related Yellow Pages or other business listings; and (ii) all e-mail addresses, URLs, domain names, Internet listings, and Internet accounts related to the Shop (or any Satellite and Kiosk) or that use the Marks. Franchisee will execute all forms and documents required by Franchisor, by any telephone company, or by any Internet service provider at any time to transfer those services and numbers to Franchisor. In addition to any forms and documents which may have been executed by Franchisee hereunder, Franchisee hereby appoints Franchisor its true and lawful agent and attorney-in-fact with full power and authority for the sole purpose of taking such action as is necessary to complete these assignments under the Limited Power of Attorney for Telephone Numbers and Assumed Names attached to this Agreement as Attachment E. This limited power of attorney will survive the expiration or termination of this Agreement. Franchisee will thereafter use different telephone numbers and e-mail addresses or listings at or in connection with any subsequent business conducted by Franchisee.

(f) Cease to Use and Cease to Operate. For purposes of this Article 22, "**Cease to Use**" as referring to the Marks, Sublicensed Materials, System, Operations Manuals, and distinctive trade dress, forms, slogans, signs, symbols and devices or other items associated with the System, shall include without limitation, refraining from deriving any economic benefit therefrom or displaying to the public and, at Franchisor's option and as applicable, destroying or relinquishing and delivering to Franchisor or its designee title and possession of the Sublicensed Materials, all items bearing the Marks, the Operations Manuals and all embodiments thereof, and any distinctive trade dress, forms, slogans, signs, symbols, devices, or other items associated with the System. "**Cease to Operate**" as referring to the Shop (or any Satellite and Kiosk) shall include, without limitation, refraining from offering or selling any goods or services therefrom.

(g) Franchisor Rights on Franchisee's Failure to Cease Operating. If Franchisee fails to comply with a written notice of termination sent by Franchisor and a court later upholds such termination of this Agreement, Franchisee's operation of the Shop, from and after the date of termination stated in such notice, shall constitute willful trademark infringement and unfair competition by Franchisee, and Franchisee shall be liable to Franchisor for damages resulting from such infringement in addition to any fees paid or payable hereunder, including, without limitation, any profits which Franchisee derived from such post termination operation of the Shop.

23. DISPUTE RESOLUTION.

(a) Mediation and Arbitration. The parties agree that it is in their best interest to resolve disputes between them in an orderly fashion and in a consistent manner. The parties agree as follows:

(i) the parties will use their best efforts to resolve and settle by direct, private negotiation any dispute which arises under or in relation to this Agreement or which concerns the relationship created by this Agreement. Both parties may seek the advice and assistance of legal counsel in connection with any such negotiation.

(ii) If the parties cannot resolve and settle a dispute by private negotiation within forty-five (45) days after one party gives the other notice that a dispute exists, the parties mutually agree to submit the dispute to non-binding mediation, as follows:

(A) mediation will occur in Mountainside, New Jersey, before a single mediator, using the facilities and Commercial Rules of the American Arbitration Association;

(B) the parties will jointly select a mediator from the panel of mediators maintained by the American Arbitration Association. The mediator must be a person experienced in franchising who has no prior business or professional relationship with either party;

(C) the parties will share the mediation filing fee equally but will otherwise separately bear their own costs and expenses (including legal fees) of participating in the mediation process. Each party agrees to send at least one (1) representative to the mediation conference who has authority to enter into binding contracts on that party's behalf; and

(D) either party's failure or refusal to participate in mediation in accordance with Section 23(a)(ii) will be considered a dispute subject to binding arbitration in accordance with Section 23(a)(iii).

(iii) If the parties cannot fully resolve and settle a dispute through mediation within thirty (30) days after the mediation conference concludes, all unresolved issues involved in the dispute, except as provided in Section 23(e), will be submitted to binding arbitration, to the exclusion of all other methods of dispute resolution, as follows:

(A) either party may make a demand for arbitration;

(B) arbitration proceedings will be conducted in Mountainside, New Jersey, before a single arbitrator, using the facilities and the Commercial Rules of the American Arbitration Association;

(C) the parties will jointly select an arbitrator from the panel of arbitrators maintained by the American Arbitration Association. The arbitrator must be an attorney experienced in the practice of franchise law who has no prior business or professional relationship with either party and who agrees to follow and apply the express provisions of this Agreement, including those regarding Losses and Expenses, in determining his or her award. If the parties are unable to agree on an arbitrator within thirty (30) days after the arbitration demand is filed, the parties will select an arbitrator who possesses the substantially similar qualifications as those on the panel of arbitrators maintained by the American Arbitration Association;

(D) the arbitrator's award will be final and binding on all parties, and neither party will have any right to contest or appeal the arbitrator's award except on the grounds expressly provided by the Commercial Rules of the American Arbitration Association. The party who demands arbitration will pay the arbitration filing fee, but the parties will otherwise separately bear their own costs and expenses (including legal fees) of participating in the arbitration process. Responsibility for the arbitrator's fees and expenses will be determined as part of the arbitrator's award; and

(E) the procedures contemplated by and the enforceability of this Section 23(a)(iii) will be governed by the Commercial Rules of the American Arbitration Association.

(F) Arbitration will be conducted on an individual, and not a class-wide basis, and the arbitration may not be joined or consolidated with any other proceeding.

(b) Injunctions and Emergency Relief. Notwithstanding the foregoing, nothing in this Article 23 shall prevent Franchisor from terminating the Agreement or from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other injunctive or emergency relief available to safeguard and protect Franchisor's interests. Franchisor may also include in such suit any other claims it may have against Franchisee. Franchisor may also bring suit against Franchisee in any court of competent jurisdiction for amounts owed to Franchisor under the Franchise Agreement.

(c) **WAIVER OF JURY TRIAL. FRANCHISOR AND FRANCHISEE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.**

(d) WAIVER OF PUNITIVE DAMAGES. THE PARTIES HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.

(e) Intellectual Property, Confidential Information and Security Interests. Notwithstanding Section 23(a)(ii) and Section 23(a)(iii), Franchisor will not be obligated to mediate or arbitrate any claim arising from Franchisee's alleged infringement of the Intellectual Property, or disclosure of Confidential Information, or related to any action to foreclose on the security interest in the telephone number(s), directory listings and advertisements using the telephone number(s), or arising under Section 22(a)(vii). The parties agree that any action based on infringement of any of the Marks will be governed by and interpreted and enforced in accordance with the United States Trademark (Lanham) Act or the United States Copyright Act, as applicable, and will be litigated in any federal District Court sitting in Union County, New Jersey. The parties further agree to submit to the jurisdiction and venue of any such federal District Court and that service of process by certified mail, return receipt requested, will be sufficient to confer in personam jurisdiction over them in connection with any such trademark or copyright litigation. Further, Franchisee and Franchisor agree that the provisions of this Section 23(e) will not be applicable to the exercise of rights and remedies under any Ancillary Agreements or other agreements and contracts executed by and between Franchisee and any third parties, an Association or an administrator of the Advertising Fund in connection with or relating to the Shop (including, without limitation any notes, guaranties, real, personal property or equipment leases, etc.) unless expressly provided in such agreements and contracts.

(f) Nonexclusivity of Remedy. No right or remedy conferred upon or reserved to Franchisor or Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy in this Agreement or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

(g) Contractual Limitations Period. No legal action or proceeding may be brought against Franchisor or its officers, directors, agents, or employees, for any claim or cause of action (whether sounding in contract, tort, or otherwise) unless such action or proceeding is instituted within two years and one day from the date the claim or cause of action accrued. This provision is intended to shorten any applicable statute of limitations to the extent permitted by law.

24. MISCELLANEOUS.

(a) Choice of Law. This Agreement and all claims arising out of or related to this Agreement or the parties' relationship created hereby shall be construed under and governed by the laws of the State of New Jersey (without giving effect to any conflict of laws).

(b) Independent Contractors. In performing this Agreement, the parties specifically agree that Franchisor and Franchisee's relationship is and always will be solely that of independent contractors, that Franchisor is not a joint employer of Franchisee, and that Franchisee, not Franchisor, controls the means or methods by which Franchisee performs. Neither Franchisor nor Franchisee will represent itself or permit any of its employees, agents, servants, or representatives to represent itself as an employee, agent, servant, or joint venturer of the other. Neither party will have any right to and will not attempt to enter into contracts or commitments in the name of or on behalf of the other in any respect whatsoever.

Franchisee's employees are solely employed by Franchisee, and the parties do not intend to create a joint employer relationship. Furthermore, Franchisor does not participate in the hiring, assigning, training, promoting, disciplining, or discharging of Franchisee's employees or in setting and paying wages and benefits to Franchisee's employees, and Franchisee acknowledges that Franchisor has no power, responsibility, or liability with respect to the hiring, disciplining, or discharging of Franchisee's employees or in setting or paying their wages.

(c) Compliance with Laws. Franchisee will comply, at its sole expense, with all laws and regulations applicable to this Agreement and the operation of the Shop, including, without limitation, employment and labor laws. Copies of all inspection reports, warnings, certificates and ratings, issued by any governmental entity during the Term of this Agreement in connection with the conduct of the Shop which indicate Franchisee's failure to meet or maintain the highest governmental standards (such as, without limitation, a Grade A sanitation rating or its equivalent) or less than full compliance by Franchisee with any applicable law, rule or regulation, will be forwarded to Franchisor by Franchisee immediately upon Franchisee's receipt thereof.

(d) Further Assurances. Franchisor and Franchisee will execute and deliver any and all additional papers, documents, and other assurances and will do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

(e) Judgment; Discretion. FRANCHISEE AND FRANCHISOR ACKNOWLEDGE THAT VARIOUS PROVISIONS OF THIS AGREEMENT SPECIFY CERTAIN MATTERS THAT ARE WITHIN THE SOLE DISCRETION OR JUDGMENT OF FRANCHISOR OR ARE OTHERWISE TO BE DETERMINED UNILATERALLY BY FRANCHISOR. IF THE EXERCISE OF FRANCHISOR'S SOLE DISCRETION OR JUDGMENT AS TO ANY SUCH MATTER IS SUBSEQUENTLY CHALLENGED, THE PARTIES TO THIS AGREEMENT EXPRESSLY DIRECT THE TRIER OF FACT THAT FRANCHISOR'S RELIANCE ON A BUSINESS REASON IN THE EXERCISE OF ITS SOLE DISCRETION OR JUDGMENT IS TO BE VIEWED AS A REASONABLE AND PROPER EXERCISE OF SUCH SOLE DISCRETION OR JUDGMENT, WITHOUT REGARD TO WHETHER OTHER REASONS FOR ITS DECISION MAY EXIST, WITHOUT REGARD TO WHETHER THE TRIER OF FACT WOULD INDEPENDENTLY ACCORD THE SAME WEIGHT TO THE BUSINESS REASONS, AND WITHOUT REGARD TO WHETHER SUCH SOLE DISCRETION OR JUDGMENT IS EXERCISED IN THE BEST INTERESTS OF FRANCHISEE.

(f) Approvals. If the approval, consent or agreement of a party is required in this Agreement, the request for such approval shall be in writing, shall be accompanied by reasonable detail if the circumstances require and shall refer to the Article 24 pursuant to which such approval is requested and may not be unreasonably withheld, delayed or conditioned, except to the extent that this Agreement expressly provides for another standard to apply, in which event such standard shall apply.

(g) No Waiver. Either party’s failure to exercise any right or remedy or to enforce any obligation, covenant or agreement herein will not constitute a waiver by, or estoppel of, such party’s right to enforce strict compliance with any such obligation, covenant or agreement. No custom or practice will modify or amend this Agreement. Either party’s waiver of, or failure or inability to enforce, any right or remedy will not impair such party’s rights or remedies with respect to subsequent default of the same, similar or different nature. Acceptance of any payment will not waive any default.

(h) Notice. All notices, requests, demands and claims required or desired to be given hereunder will be in writing and will be served in person, by express mail, by certified mail, by private overnight delivery, or electronic mail (email). Such notices, requests, demands and claims will be deemed conclusively given:

- (i) at the time of service, if personally served;
- (ii) twenty-four (24) hours (exclusive of weekends and national holidays) after deposited in the United States mail, properly addressed and postage prepaid, if served by express mail;
- (iii) upon the earlier of actual receipt or three (3) calendar days after deposit in the United States mail, properly addressed and postage prepaid, return receipt requested, if served by certified mail;
- (iv) twenty-four (24) hours after delivery if served by private overnight delivery; or
- (v) twenty-four (24) hours after delivery if served by electronic mail (email).

All notices, requests, demands and claims will be given to the intended party at the location set forth below; provided, however, either party may change its location for the purpose of receiving notices, requests, demands and claims by giving written notice to the other party in the manner set forth above:

Notices to Franchisor:

ATTN: Legal Department
Cookies Franchise Holdings LLC
110 Hillside Avenue, Suite 304
Springfield, New Jersey 07081
Tel. (972) 746-2681
Email. franchise@cookiesbydesign.com

Notices to Franchisee:

Tel. () _____
Email. _____

With a copy to:

dpolonitza@cookiesbydesign.com

(i) Severability. If all or any portion of any covenant contained herein are held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Franchisee and Franchisee’s Principals expressly agree to be bound by any lesser covenant subsumed within the terms of the covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement. Notwithstanding the above, should any term, covenant or provision hereof, or the application thereof, be determined by a valid, final, non-appealable order to be invalid or unenforceable, the remaining terms, covenants or provisions hereof will continue in full force and effect without regard to the invalid or unenforceable provision. In such event such term, covenant or provision will be deemed modified to impose the maximum duty permitted by law and such term, covenant or provision will be valid and enforceable in such modified form as if separately stated in and made a part of this Agreement. Notwithstanding the foregoing, if any term hereof is so determined to be invalid or unenforceable and such determination adversely affects, in Franchisor’s reasonable judgment, Franchisor’s ability to preserve its rights in, or the goodwill underlying,

the Intellectual Property, the System and/or the Confidential Information, or materially effects Franchisor's other rights hereunder, Franchisor may terminate this Agreement upon notice to Franchisee.

(j) Counterparts. This Agreement may be executed in any number of counterparts each of which when so executed will be an original, but all of which together will constitute one (1) and the same instrument.

(k) References and Headings. All references in this Agreement to Articles or Sections refer to corresponding Articles or Sections of this Agreement unless expressly provided otherwise. Headings appearing at the beginning of any of such Articles or Sections are for convenience only and shall not constitute part of such Article or Section and shall be disregarded in construing the language contained in such Article or Section. The words "this Agreement," "herein," "hereof," "hereby," "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular Article or Section unless expressly so limited. Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(l) Entire Agreement. This Agreement and the attachments hereto constitute the entire agreement between Franchisor, Franchisee and Franchisee's Principals concerning the subject matter hereof. All prior agreements, discussions, representations, warranties and covenants are merged herein. THERE ARE NO WARRANTIES, REPRESENTATIONS, COVENANTS OR AGREEMENTS, EXPRESS OR IMPLIED, BETWEEN THE PARTIES EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. Except those permitted to be made unilaterally by Franchisor, any amendments or modifications of this Agreement will be in writing and executed by Franchisor and Franchisee. Nothing in this Agreement or in any other related agreement is intended to disclaim the representations made by Franchisor in the franchise disclosure document.

(m) Rules of Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

(n) Business Judgment. Notwithstanding any contrary provisions contained in this Agreement, the parties acknowledge and agree that: (i) this Agreement (and the relationship of the parties which arises from this Agreement) grants Franchisor the discretion to make decisions, take actions and/or refrain from taking actions not inconsistent with Franchisee's explicit rights and obligations hereunder that may affect favorably or adversely Franchisee's interests; (ii) Franchisor will use its business judgment in exercising such discretion based on Franchisor's assessment of Franchisor's own interests and balancing those interests against the interests, promotion and benefit of the System and Shops generally (including Franchisor, and its Affiliates and other franchisees), and specifically without considering Franchisee's individual interests or the individual interests of any other particular franchisee (examples of items that will promote or benefit the System and Shops generally include, without limitation, enhancing the value of the Marks and/or the COOKIES BY DESIGN brand, improving customer service and satisfaction, improving project quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the System); (iii) Franchisor will have no liability to Franchisee for the exercise of its discretion in this manner; and (iv) even if Franchisor has numerous motives for a particular action or decision, so long as at least one motive is a reasonable business justification no trier of fact in any legal action shall substitute its judgment for Franchisor's judgment so exercised and such action or decision will not be subject to challenge for abuse of discretion. IF FRANCHISOR TAKES ANY ACTION OR CHOOSES NOT TO TAKE ANY ACTION IN ITS DISCRETION WITH REGARD TO ANY MATTER RELATED TO THIS AGREEMENT AND ITS ACTION OR INACTION IS CHALLENGED FOR ANY REASON, THE PARTIES EXPRESSLY DIRECT THE TRIER OF FACT THAT FRANCHISOR'S RELIANCE ON A BUSINESS REASON IN THE EXERCISE OF ITS DISCRETION IS TO BE VIEWED AS A REASONABLE AND PROPER EXERCISE OF ITS DISCRETION, WITHOUT REGARD TO

WHETHER OTHER REASONS FOR OUR DECISION MAY EXIST AND WITHOUT REGARD TO WHETHER THE TRIER OF FACT WOULD INDEPENDENTLY ACCORD THE SAME WEIGHT TO THE BUSINESS REASON.

(o) No Representations; No Reliance. You acknowledge, expressly represent, and warrant that, except for representations made in Franchisor’s franchise disclosure document, Franchisor has made no representations, warranties, or guarantees, express or implied, as to the potential revenues, profits or services of the business venture contemplated under this Agreement, and that you have not relied on any such representations in making your decision to purchase a COOKIES BY DESIGN franchise or area. You further acknowledge, expressly represent, and warrant that neither Franchisor nor its representatives have made any statements inconsistent with the terms of this Agreement.

(p) Electronic Signature. This Agreement, including all Attachments, may be signed with full force and effect using electronic signatures. By signing via your electronic signature, you consent to the legally binding terms and conditions of this Agreement and represent that you are the authorized signatory indicated in each signature block.

25. ACKNOWLEDGMENTS.

(a) Commercial Relationship. Franchisee and Franchisee’s Principals acknowledge that this Agreement creates an arm’s length commercial relationship that cannot and will not be transformed into a fiduciary or other “special” relationship by course of dealing, by any special indulgences or benefits that Franchisor bestows on Franchisee, or by inference from a party’s conduct.

Franchisee’s Principals Initials,
individually and on behalf of
Franchisee _____

(b) Compliance with Anti-Corruption and Anti-Money Laundering Laws. Franchisee and Franchisee’s Principals represent, covenant and warrant to Franchisor that, to the best of their knowledge, neither Franchisee nor any of Franchisee’s Principals or managerial employees thereof is identified, either by name or an alias, pseudonym or nickname, on the lists of “Specially Designated Nationals” or “Blocked Persons” maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (texts currently available at www.treas.gov/offices/enforcement/ofac/). Further, Franchisee and Franchisee’s Principals represent, covenant and warrant that, to the best of their knowledge, they have not violated and agree that they will not violate any law (in effect now or which may become effective in the future) prohibiting corrupt business practices, money laundering or the aid or support of persons or entities who conspire to commit acts of terror against any person or government, including acts prohibited by the U.S. Patriot Act, Public Law No. 107-56 (text currently available at <http://www.epic.org/privacy/terrorism/hr3162.html>), U.S. Executive Order 13244 (text currently available at <http://treas.gov/offices/enforcement/ofac/sanctions/terrorism.html>), or similar law. The foregoing constitutes continuing representations and warranties, and Franchisee will notify Franchisor immediately in writing of the occurrence of any event or the development of any circumstance that might render the foregoing representation and warranty false, inaccurate or misleading.

Franchisee’s Principals Initials,
individually and on behalf of
Franchisee _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

FRANCHISOR:
COOKIES FRANCHISE HOLDINGS LLC

FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE 1A
STATEMENT OF OWNERSHIP INTERESTS
AND FRANCHISEE’S PRINCIPALS

A. The following is a list of stockholders, partners, members or other investors in Franchisee, including all investors who own or hold a direct or indirect interest in Franchisee, and a description of the nature of their interest. All such individuals and entities will be deemed to be “**Franchisee’s Principals**” described in and designated pursuant to the Franchise Agreement, each of whom will execute the Guaranty of Franchisee’s Principals:

Name	Percentage of Ownership

B. The following is a list of all other of “**Franchisee’s Principals**” not described in “A”, above, described in and designated pursuant to the Franchise Agreement, each of whom will execute the Guaranty of Franchisee’s Principals attached to this Agreement as Attachment D.

Name	Designation / Relationship

SCHEDULE 1B

DESIGNATED TERRITORY MAP

The Designated Territory consists of the U.S. Postal Zip Codes set forth in Section 1 as of the Effective Date, and is further identified by the area highlighted in the map below:

ATTACHMENT A
AUTOMATIC FUNDS TRANSFER AGREEMENT

The undersigned depositor (“**Depositor**”) hereby authorizes Cookies Franchise Holdings LLC, a Delaware limited liability company, (“**Franchisor**”) and/or its agents, representatives, and assignees, to initiate debit/credit entries to the account indicated below for the payment of amounts required to be paid to Franchisor by the Depositor and for payments of amounts required to be contributed to the Advertising Fund by Depositor and collected by the Franchisor for the benefit of the Advertising Fund. The depository institution named below is authorized to debit/credit the same such account for the amounts and any costs, charges and expenses related to the electronic transfers permitted under this authorization, any termination or modification of the account, or the failure to provide notice or maintain a sufficient account balance. This authority can be terminated by the Depositor only by written permission from Franchisor. Franchisor must be given ten (10) days prior written notice of any changes, closures and modifications in the below authorized account.

Depositor shall provide Franchisor, in conjunction with this authorization, a voided check from the below-referenced account.

Bank Name _____

Address: _____

Transit ABA No. _____ Acct. No. _____

Taxpayer Federal ID No. _____

PLEASE ATTACH A VOIDED CHECK

Authorized Signature of Depositor

Date

Please print name of Depositor as it appears on bank records

Address of Depositor

ATTACHMENT B
LEASE RIDER

This Lease Rider is made and entered into _____, 20__, by and between Cookies Franchise Holdings LLC, a Delaware limited liability company, (“**Franchisor**”), _____, a _____ (corporation/partnership/limited liability company/individual) (“**Franchisee**”) and _____ (“**Landlord**”).

WHEREAS, Franchisor and Franchisee are parties to that certain Franchise Agreement dated _____, 20__ (“**Franchise Agreement**”);

WHEREAS, Franchisee and Landlord desire to enter into a lease (“**Lease**”) pursuant to which Franchisee will occupy the premises located at _____ (“**Shop**”) for the retail sale of cookies, decorated cookies, fanciful cookie arrangements and related products to the general public licensed under the Franchise Agreement (“**System**”); and

WHEREAS, as a condition of entering into the Lease, Franchisee is required under the Franchise Agreement to execute this Lease Rider along with the Landlord and Franchisor;

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

1. During the term of the Franchise Agreement, the Shop will be used only for the operation of the Shop using the Franchisor’s proprietary System, and under the Franchisor’s trademarks.
2. Landlord consents to Franchisee’s use of such marks and signs, decor items, color schemes and related components of the Cookies by Design system as Franchisor may reasonably prescribe for the Shop.
3. Landlord agrees to furnish Franchisor with copies of any and all default or termination letters and notices sent to Franchisee pertaining to the Lease and the Shop, at the same time that such letters and notices are sent to Franchisee.
4. Franchisor will have the right to enter the Shop to make any modification or alteration reasonably necessary to protect the Cookies By Design system and marks or to cure any default under the Franchise Agreement or any area development agreement entered into between Franchisor and Franchisee or under the Lease, without being guilty of trespass or any other crime or tort, and Landlord and Franchisor will not be liable to Franchisee for any expenses or damages arising from Franchisor’s action in connection therewith.
5. Franchisee will not assign the Lease or renew or extend the term thereof without notice to the Franchisor.
6. Landlord and Franchisee will not amend or otherwise modify the Lease in any manner that could materially affect any of the foregoing requirements without the prior written consent of Franchisor.
7. Landlord and Franchisee acknowledge that Franchisor is not a party to the Lease and will have no liability under the Lease, unless and until the Lease is assigned to, or assumed by, Franchisor.
8. The terms of this Lease Rider will supersede any conflicting terms of the Lease.

[Signature Page to Follow.]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Lease Rider as of the date first above written.

FRANCHISOR:
COOKIES FRANCHISE HOLDINGS LLC

FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

LANDLORD:

By: _____
Name: _____
Title: _____

ATTACHMENT C
CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“**Agreement**”) is made and entered into this ___ day of _____, 202___, by and between Cookies Franchise Holdings LLC (“**Franchisor**”), _____ (“**Franchisee**”), and _____ (“**Covenantor**”).

RECITALS

WHEREAS, Franchisor and Franchisee have entered into a Franchise Agreement dated _____ (“**Franchise Agreement**”), pursuant to which Franchisor has granted Franchisee the right to establish and operate a Cookies by Design Shop (“**Shop**”) and to use the trade names, trademarks, service marks, trade dress, logos, symbols, proprietary marks and other indicia of origin that are now or later designated by Franchisor for Franchisee’s use in the operation of a Shop (“**Marks**”) that produces cookies, cookie arrangements and related products for sale to the general public, other businesses or governmental entities (“**System**”);

WHEREAS, Franchisor has provided, or will provide to Franchisee, a confidential operations manual and such other written or printed material to explain the operation of the System and aid in its use (“**Documentation**”) and certain confidential information, knowledge, and know-how concerning the construction and methods of operation of the Shop relating to the System, including the Documentation, drawing, materials, equipment, techniques, products, recipes, and other data material marked as confidential of Franchisor (“**Confidential Information**”);

WHEREAS, the Marks and Confidential Information provide economic advantages to Franchisor and the Confidential Information is not generally known to, and are not readily ascertainable by proper means by Franchisor’s competitors who could obtain economic value from knowledge and use of the Confidential Information; and

WHEREAS, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor or herein.

NOW, THEREFORE, as consideration of Employee’s employment and in consideration of Employee’s further employment by the Company, and in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

Confidentiality Agreement

1. Franchisor and Franchisee will disclose to Covenantor some or all of the Confidential Information. All information and materials, including, without limitation, the Documentation, which Franchisor provides to Franchisee and/or Covenantor will be deemed Confidential Information for purposes of this Agreement.
2. Covenantor will at all times treat as confidential, and will not at any time disclose, distribute, copy, duplicate, record, or otherwise reproduce, in whole or in part, or otherwise make available to any person or source or otherwise use in any manner except for the operation of the Shop, the contents of the Confidential Information without the prior written consent of Franchisor.
3. Covenantor agrees that any goodwill that may arise from Covenantor’s use of the Confidential Information will at all times remain the sole and exclusive property of Franchisor and will inure to the sole benefit of Franchisor.
4. Covenantor agrees to notify Franchisor and Franchisee promptly in writing of any loss, theft, or unauthorized disclosure or use of any of the Confidential Information of which Covenantor has knowledge.
5. Covenantor will surrender any material containing some or all of the Confidential Information, including the Documentation, to Franchisee or Franchisor, upon request, or upon termination of

employment by Franchisee, or upon conclusion of the use for which such information or material may have been furnished to Covenantor.

Miscellaneous

1. Franchisee and Covenantor agree that in the event of a breach of this Agreement, Franchisor and/or Franchisee will be entitled to enforce the provisions of this Agreement and will be entitled, in addition to any other remedies which are made available to it at law or in equity, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

2. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement.

3. THIS AGREEMENT WILL BE INTERPRETED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REFERENCE TO ITS CHOICE OF LAW PRINCIPLES.

4. This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

5. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision shall be fully severable and/or construed in remaining part to the full extent allowed by law, with the remaining provisions of this Agreement continuing in full force and effect.

6. Any and all notices required or permitted under this Agreement will be in writing and will be personally delivered, sent overnight delivery via a nationally recognized express courier (such as FedEx, UPS, or USPS), mailed by certified mail, return receipt requested, or transmitted electronically via email with delivery confirmation, in each instance to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to Franchisor:

ATTN: Legal Department
Cookies Franchise Holdings LLC
110 Hillside Avenue, Suite 304
Springfield, New Jersey 07081
Tel. (972) 746-2681
Email. franchise@cookiesbydesign.com

Notices to Franchisee:

Tel. () _____
Email. _____

With a copy to:

dpolonitza@cookiesbydesign.com

Notices to Covenantor:

Tel. () _____
Email. _____

Any notice by: (a) personal delivery will be deemed to have been given at the date and time of delivery (or refusal to accept delivery), as documented by the person making (or attempting to make) delivery, (b)

overnight delivery via a nationally recognized express courier service will be deemed to have been given on the next business day after sent, (c) certified mail will be deemed to have been given at the date and time of mailing, and (d) email will be deemed to have been given at the date and time sent.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

FRANCHISOR:
COOKIES FRANCHISE HOLDINGS LLC

FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

COVENANTOR:

By: _____
Name: _____

ATTACHMENT D

GUARANTY OF FRANCHISEE'S PRINCIPALS

This Guaranty of Franchisee's Principals is made and entered into _____, 20__ (“**Guaranty**”), in accordance with the terms and conditions of that certain Franchise Agreement dated _____, 20__ (“**Franchise Agreement**”), by and between Cookies Franchise Holdings LLC, a Delaware limited liability company, (“**Franchisor**”) and _____ (“**Franchisee**”).

WHEREAS, Franchisee's Principals (each a “**Guarantor**”) are required to execute this Guaranty as a condition to entering into the Franchise Agreement.

NOW, THEREFORE, in consideration of the undertakings and commitments of Franchisee set forth in the Franchise Agreement, any Ancillary Agreements and any applicable Sublicense Agreement, each of the undersigned Guarantors acknowledge and agree as follows:

1. Guarantor is included in the term “Franchisee's Principals.”
2. Guarantor has read the terms and conditions of the Franchise Agreement, and any applicable Sublicense Agreement, and acknowledges that the execution of this Guaranty and the undertakings of the Guarantors in the Franchise Agreement, any Ancillary Agreements and any applicable Sublicense Agreement, are in partial consideration for, and a condition to, the granting of the franchise, and that Franchisor would not have granted the franchise without the execution of this Guaranty and the other undertakings by each of the undersigned.
3. Each Guarantor individually, jointly, and severally, makes all of the covenants, representations, warranties and agreements of Franchisee and Guarantors set forth in the Franchise Agreement, any Ancillary Agreements and any applicable Sublicense Agreement, and is obligated to perform thereunder.
4. Each Guarantor individually, jointly and severally, unconditionally, and irrevocably guaranties to Franchisor and its successors and assigns that all of Franchisee's obligations under the Franchise Agreement, any Ancillary Agreements and any applicable Sublicense Agreement, will be punctually paid and performed. Upon default by Franchisee or upon notice from Franchisor, each will immediately make each payment and perform each obligation required of Franchisee under the Franchise Agreement, any Ancillary Agreements and any applicable Sublicense Agreement.
5. Without affecting the obligations of any Guarantors under this Guaranty, Franchisor may, without notice to the Guarantors, waive, renew, extend, modify, amend, or release any indebtedness or obligation of Franchisee or settle, adjust, or compromise any claims that Franchisor may have against Franchisee.
6. Each Guarantor waives all demands and notices of every kind with respect to the enforcement of this Guaranty, including notices of presentment, demand for payment or performance by Franchisee, any default by Franchisee or any guarantor, and any release of any guarantor or other security for this Guaranty or the obligations of Franchisee.
7. Further, each Guarantor hereby waives all other rights or benefits otherwise provided to sureties or guarantors under any state or federal law or common law, except as provided in this Guarantee. This waiver is expressly intended to waive any and all benefits and defenses available under the laws of any state that may be deemed to be applicable to this Guaranty, including, without limitation, the right to require Franchisor to (i) obtain Guarantor's consent to any modification of the Franchise Agreement or any other agreement between Franchisor and any party other than Guarantor, (ii) proceed against any collateral that may be given for any of Franchisee's obligations, or (iii) pursue any other right or remedy for Guarantor's benefit, and agrees that Franchisor may proceed against Guarantor for the obligations guaranteed herein without taking any action against Franchisee or any other guarantor or pledgor. Each Guarantor agrees that Franchisor may unqualifiedly exercise, in its sole discretion, any or all rights and remedies available to it against Franchisee or any other guarantor or pledgor without impairing Franchisor's rights and remedies in

enforcing this Guarantee, under which Guarantor's liabilities will remain independent and unconditional. Each Guarantor acknowledges that Franchisor's exercise of certain of such rights or remedies may affect, or eliminate Guarantor's right of subrogation or recovery against Franchisee and that each Guarantor may incur a partially or totally nonreimbursable liability under this Guarantee.

8. On Franchisor's request, each Guarantor will promptly deliver to Franchisor complete and current financial statements and tax returns and such other financial information about each Guarantor as Franchisor may reasonably request. Each Guarantor further agrees to keep Franchisor fully informed on all aspects of Franchisee's financial condition and the performance of Franchisee's obligations to Franchisor and that Franchisor has no duty to disclose to Guarantor any information pertaining to Franchisee or to notify Guarantor of Franchisee's default under the Franchise Agreement or any Related Agreement.

9. Franchisor may pursue its rights against any Guarantor without first exhausting its remedies against Franchisee and without joining any other Guarantor and no delay on the part of Franchisor in the exercise of any right or remedy will operate as a waiver of the right or remedy, and no single or partial exercise by Franchisor of any right or remedy will preclude the further exercise of that or any other right or remedy.

10. Upon receipt by Franchisor of notice of the death of any Guarantor, the estate of the deceased will be bound by the foregoing Guaranty, but only for defaults and obligations under the Franchise Agreement, and any applicable Sublicense Agreement, existing at the time of death, and in that event, the obligations of the remaining Guarantors will continue in full force and effect.

11. If this Guaranty is executed by more than one party, each Guarantor agrees that Franchisor may enforce the provisions of this Guaranty against one or more of the parties without seeking to enforce this Guaranty as to all or any other parties to this Guaranty and each Guarantor waives any requirement of joinder of all or any other of the parties to this Guaranty in any suit or proceeding to enforce the provisions of this Guaranty.

12. The provisions of this Guaranty are severable, and, in the event that any of them is held void and unenforceable as a matter of law, the remainder will be deemed modified so as to impose the maximum duty permitted by law and such provision will be valid and enforceable in such modified form as if separately stated in and made a part of this Guaranty.

13. All disputes concerning the validity, interpretation, or performance of this Guaranty and any of its terms or provisions, or any rights or obligations of the parties hereto, will be governed by and resolved in accordance with the laws of the State of New Jersey, without regard to its conflicts of laws principles, and be resolved in the courts located within Union County, New Jersey.

14. Any capitalized term used herein and not defined in this Guaranty will have the meaning defined in the Franchise Agreement.

15. If any arbitration or other legal action is initiated by either of the parties hereto, the prevailing party will be entitled to recover from the other party reasonable attorneys' fees and costs in addition to any other relief that may be awarded.

[Signature Page to Follow.]

ATTACHMENT F

COOKIES FRANCHISE HOLDINGS LLC EXTENDED DELIVERY AREA AGREEMENT

This Extended Delivery Area Agreement (“**Agreement**”) is entered into on this ___ day of _____, by and between, Cookies Franchise Holdings LLC, a Delaware limited liability company, with its principal place of business at 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081 (“**Franchisor**”) and _____ a _____ with its principal place of business at _____ (“**Franchisee**”).

RECITALS

- A. Pursuant to a Franchise Agreement dated _____, 20__ (“**Franchise Agreement**”), Franchisee has acquired the right to operate a COOKIES BY DESIGN® Shop in a Protected Territory (“**Shop**”).
- B. Franchisee now desires the opportunity to participate in the fulfillment and delivery of product orders received via telephone, facsimile, mail order, catalog sales, and/or the Internet, in an area outside of Franchisee’s Protected Territory, and Franchisor desires to grant Franchisee the right to participate in such fulfillment and delivery, in the U.S. ZIP Codes identified on Schedule A (the “**Extended Delivery Area**”) pursuant to the terms and conditions contained in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual premises contained in this Agreement, and other good and valuable consideration, the parties agree as follows:

1. **Grant.**

- a. Franchisor grants Franchisee the right, and Franchisee undertakes the obligation, to fulfill orders received by the Shop or by Franchisor or its affiliate via telephone, facsimile, mail order, catalog sales, and/or the Internet, and deliver or ship the orders to residential and business locations in the
- b. Extended Delivery Area (“**Extended Delivery Area Fulfillment**”) as assigned by the Franchisor.
- c. This Agreement applies to the fulfillment of orders to be delivered or shipped into the Extended Delivery Area. The Franchisor and its affiliates retain the right to fulfill, and hand deliver or ship orders, however received, anywhere inside the Extended Delivery Area.
- d. Nothing in this Agreement prohibits or restricts Franchisor’s right to grant a franchise for the operation of a COOKIES BY DESIGN® System Business in the Extended Delivery Area (but outside the Protected Area). If a franchise is granted in the Extended Delivery Area, the Franchisor has the right to terminate the rights granted by this Agreement, or to reduce or modify the Extended Delivery Area, in its sole discretion.
- e. If there is a change to any U.S. Postal ZIP Code during the Agreement, Franchisee shall notify Franchisor in writing of such change, and Franchisor shall have the right to adjust the Extended Delivery Area as it deems appropriate.
- f. Franchisee acknowledges that, except as expressly set forth in this Agreement, Franchisee has no right to operate a COOKIES BY DESIGN® Shop, Satellite, Kiosk, or other business, to deliver Products and Services, or to otherwise use the System or Marks, in the Extended Delivery Area.

2. **Term of Agreement.** This Agreement will terminate on the earlier of: i) the expiration or termination of the Franchise Agreement, ii) Franchisor’s termination of this Agreement pursuant to the terms herein; or iii) Franchisee’s termination of this Agreement pursuant to the terms herein.

3. **Fulfillment.**

- a. Franchisor will establish procedures for communicating orders to you. Such information may be communicated by online ordering systems, email, or other means.
- b. Franchisee shall fulfill and ensure delivery or shipment of all such orders in a timely manner, and in accordance with order specifications (i.e., whether the order is to be hand delivered or shipped).
- c. Franchisee shall strictly adhere to Franchisor’s presentation, delivery, and shipment policies, as modified from time to time. These may include, among other things, packaging of boxed products, containers, packaging materials and delivery carriers and method(s).
- d. Franchisee shall maintain an account with delivery carriers designated by Franchisor. If Franchisor so requires and upon Franchisor’s request, Franchisee will grant Franchisor access to the account and/or provide Franchisor with account-related information. Franchisee will be responsible for all shipping and account-related costs and expenses.
- e. Franchisor retains the right to specify delivery companies, carrier, and/or carrier agent and to determine the price structure and method for deliveries inside the Extended Delivery Area.

4. **Extended Delivery Area Fee.** Franchisee shall pay a fee equal to Ten Percent (10%) of Gross Sales derived from Extended Delivery Order Fulfillment (“**Extended Delivery Area Fee**”), of which Six Percent (6%) is a Royalty Fee paid by Franchisee for the right to right to provider order fulfillment and delivery services in the Extended Delivery Area (outside Franchisee’s Designated Territory) and Four Percent (4%) is a fee paid to Franchisor to cover Franchisor’s additional costs for administering the Extended Delivery Area program, including, without limitation, any advertising and promotion costs and expenses. Payments shall be made by Automatic Funds Transfer in accordance with the applicable provisions of the Franchise Agreement.

5. **Default and Termination.** Franchisor has the right to pause or terminate the rights granted by this Agreement, for any or no reason, 30 days after delivery of written notice to Franchisee. Furthermore, Franchisor may immediately suspend or terminate this Agreement upon delivery of written notice to Franchisee upon any of the following events of default:

- a. Franchisee is in default of the Franchise Agreement.
- b. Franchisee fails to fulfill two (2) or more extended delivery orders within any rolling 12-month period.
- c. Franchisee is unable to consistently service orders in the Extended Delivery Area due to lack of staffing, product, specified packaging, or other operational deficiencies as determined by the Franchisor.
- d. Franchisee fails to maintain the goodwill of the System, including, but not limited to, by responding promptly to customer complaints, comments, and concerns, and participating in customer service programs established by the Franchisor.

6. **Franchisee’s Right to Terminate.** Franchisee has the right to terminate this Agreement, for any or no reason, 30 days after delivery of written notice to Franchisor.

7. **Modification of Extended Delivery Area.** The Franchisor has an immediate right to unilaterally modify the area of the Extended Delivery Agreement with notice to the Franchisee during the initial 60 days of this agreement. After the initial 60-day period the Franchisor has the right to periodically review

the U.S. ZIP Codes covered under the Extended Delivery Agreement and may unilaterally modify Franchisee’s Extended Delivery Area, for any or no reason, upon 30 days delivery of written notice to Franchisee.

8. **Definitions.** Capitalized terms shall have the meanings ascribed to them in the Franchise Agreement unless otherwise defined herein.

9. **Applicable Law, Jurisdiction, and Venue.** This Agreement and its application will be governed by the laws of the State of New Jersey. In the event of a default or dispute, the parties agree that exclusive venue for filing legal action must be in the courts of county in which the Franchisor is headquartered, and Franchisees and Guarantor waive all questions of personal jurisdiction and venue for the purposes of carrying out this provision.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date first set forth above.

FRANCHISOR:

FRANCHISEE:

COOKIES FRANCHISE HOLDINGS LLC
A Delaware limited liability company

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Schedule A

Franchisee's Extended Delivery Area will consist of the following U.S. ZIP Codes beginning with:

EXHIBIT C

AREA DEVELOPMENT AGREEMENT

SHOP NO.: _____
CITY/STATE: _____



THE *original* COOKIE BOUQUET[®] COMPANY

AREA DEVELOPMENT AGREEMENT

BY AND BETWEEN

**COOKIES FRANCHISE HOLDINGS LLC
AND**

(Name of Developer)

**AREA DEVELOPMENT AGREEMENT
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Schedules:

- 1A Statement of Ownership Interests and Developer’s Principals
- 1B Development Area Map

Attachments:

- A. Franchise Agreement
- B. Employee’s Confidentiality and Non-Competition Agreement
- C. Guaranty of Developer’s Principals

State Law Addendums to Area Development Agreement

AREA DEVELOPMENT AGREEMENT

THIS AREA DEVELOPMENT AGREEMENT (“**Agreement**”) is executed and entered into on this ____ day of _____, 20__ (“**Effective Date**”) by and between Cookies Franchise Holdings LLC, a Delaware limited liability company, with its principal place of business at 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081 (“**Franchisor**”), and _____, a _____ (insert State), _____ (insert type of entity) with its principal place of business at _____ (“**Developer**”).

RECITALS

WHEREAS, Franchisor has developed and is the owner of the System;

WHEREAS, Franchisor has developed and is the owner of, or licensee with rights to sublicense, certain Marks and the other Intellectual Property which are utilized in connection with and identify the System; and

WHEREAS, Developer desire to obtain from Franchisor, and Franchisor desires to grant to Developer, certain rights to use the System, the Marks and the other Intellectual Property to develop and establish Shops within the Development Area.

NOW THEREFORE, Franchisor and Developer, in consideration of the undertakings and commitments set forth herein, agree as follows:

1. DEFINITIONS

“**Action**” means any cause of action, suit, proceeding, claim, demand, investigation or inquiry (whether a formal proceeding or otherwise) with respect to which Developer’s indemnity applies.

“**Affiliate(s)**” means as to any person or Entity, any other person or Entity that, directly or indirectly, Controls, or is under the Control of such person or Entity (as those terms are defined below).

“**Competing Business**” has the meaning given such term in Section 8(e)(iii).

“**Confidential Information**” means all trade secrets and other elements of the System; all information contained in the Operations Manuals; our proprietary recipes and standards and specifications for product preparation, packaging, and service; drawings; methods; processes; formulae; systems; techniques; inventions; proprietary computer programs; research projects; business information; customer and supplier lists; pricing data; sources of supply; financial information; marketing, production, or merchandising data, systems and plans; and all other information, data, know-how, materials and data imparted or made available by Franchisor or its Affiliates to Developer, however learned or received, either in writing, orally or in electronic format, which relates to the operation of a System Business or the System, or is (i) designated as confidential, (ii) known by Developer to be considered confidential by Franchisor, or (iii) by its nature is inherently or reasonably to be considered confidential

“**Control(s)**” means the direct or indirect ownership of more than 50% of the voting Equity Interest in Developer, or if there is no one voting Equity Interest of more than 50%, then it means the largest undivided voting Equity Interest in Developer, having the right to elect a majority of the members of the board of directors or other governing body of Developer, or otherwise having the power to direct the management and policies of Developer, whether through the ownership of voting securities, by contract or otherwise.

“**Copyrighted Materials**” means Franchisor’s cookie and mold designs, cookie arrangements, the Operations Manuals, training materials, the design elements of Franchisor’s Marks, proprietary software, Franchisor’s product packaging and advertising and promotional materials, the content and design of Franchisor’s web site (including Internet Site and Intranet Site), and any other original materials created by or on behalf of Franchisor, whether or not the Copyrighted Materials are registered.

“Development Fee” means the fee paid to Franchisor prior to or upon the execution of this Agreement described in Section 4(a).

“Developer’s Principals” means Developer and Developer’s spouse, if Developer is an individual, all officers and directors of Developer and all holders of an Equity Interest in Developer and of any entity directly or indirectly controlling Developer, all as listed on Schedule 1A attached hereto.

“Development Area” means the area highlighted in the map (attached hereto on Schedule 1B and encompassed by the following U.S. Postal Zip Codes as of the Effective Date: _____); specifically excluding all Special Venues and sites of Special Events. In the event that there is a change to the U.S. Postal Zip Codes during the Term of this Agreement, then the Designated Territory shall mean only the area highlighted in the map in attached Schedule 1B.

“Development Schedule” means the schedule pursuant to which the Developer will establish Shops as set forth in Section 5(a).

“Entity” means a corporation, partnership, limited liability company or trust.

“Equity Interest” means a direct or indirect ownership interest in the capital stock of, partnership or membership interest in, or other equity or ownership interest in (including the right to vote) any type of legal entity.

“Force Majeure” has the meaning given such term in Section 5(b).

“Franchise Agreement” means the then-current form of franchise agreement approved by Franchisor and to be executed with franchisees in accordance with this Agreement, the current form of which is attached as Attachment A.

“Immediate Family” has the meaning given such term in Section 11(b)(iv).

“Indemnified Parties” means Franchisor, and its directors, officers, agents, employees, attorneys, shareholders, parent and Affiliates.

“Intellectual Property” means all of the elements and components of the Copyrighted Materials, Marks, trademarks, copyrights, trade dress, trade secrets, Patents, and proprietary technology, programs, appliances and materials, some of which also constitutes Confidential Information, that have been or may later be developed or created by or on behalf of Franchisor, or which is or may be based on materials relating to the System that Developer or any other Developer creates, develops, modifies, improves, or otherwise changes.

“Internet Site” has the meaning given such term in Section 2(d)(vii).

“Initial Developer’s Principals” has the meaning given such term in Section 11(b)(iv).

“Kiosk” means a retail sales location, cart or booth operated within the Development Area and meeting the specifications determined by Franchisor in its sole discretion. A Kiosk cannot be opened or operated unless Developer has first constructed and opened a Shop in accordance with this Agreement.

“Licensor” means a party that grants a license to Franchisor for intellectual property, with a right to sublicense the intellectual property to Franchisor franchisees for use in the System.

“Losses and Expenses” means all losses, compensatory, exemplary or punitive damages, fines, penalties, charges, costs, expenses, lost profits, assessments and fees (including reasonable attorneys’, experts’, accountants’ and consultants’ fees); interest, court costs, settlement or judgment amounts, compensation for damages to Franchisor’s reputation and goodwill, costs of or resulting from delays, financing costs, 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 similar amounts incurred, charged against or suffered by the Indemnified Parties in connection with any Action.

“Marks” means the trade names, trademarks, service marks, trade dress, logos, symbols, proprietary marks and other indicia of origin that are now or later designated by Franchisor for Franchisee’s use in the operation of the Shop. Unless otherwise noted, the term “Marks” also includes Sublicensed Materials.

“Minority Interest” has the meaning given such term in Section 8(e)(iii).

“Operational” means, when used in reference to the Shop, that it is fully constructed and finished out as approved by Franchisor and is legally permitted to render its services to, and is open to, the general public pursuant to this Agreement.

“Operations Manuals” means the confidential written or electronic instructions and manuals and the proprietary technology, programs, appliances and materials including, but not limited to: (i) written standards, procedures, rules, regulations and policies for the operation of a System Business; (ii) any other written or electronic instructions; and (iii) other materials or information provided for use with a Sublicense.

“Patents” means all inventions, improvements, processes, ideas, designs, and discoveries whatsoever that are discovered, made, invented, conceived, produced, developed, designed or owned by Franchisor, its Affiliates or any other Developer, solely or jointly with others, that relate to the Shop, the System Business, or the System, including, without limitation, U.S. Patent Nos. 5,755,325 and 6,561,363, or any future patent applications filed by or on behalf of Franchisor or its Affiliates or predecessors, together with any continuation, continuation-in-part, divisional, reissue, reexamination, extension, follow-on, and substitution patents and patent applications relating to such patents and patent applications, including foreign counterparts and equivalents thereof.

“Permanent Disability” has the meaning given to such term in Section 11(b)(iii).

“Primary Contact” has the meaning give such term in Section 8(h).

“Products and Services” means those products and services authorized by Franchisor to be sold at a System Business.

“Satellite” means a version of a Shop on a smaller scale operating within the Development Area and meeting the specifications determined by Franchisor in its sole discretion. A Satellite cannot be opened or operated unless Developer has first constructed and opened a Shop in accordance with this Agreement.

“Shop” means the full-scale retail outlet that is established and operated by Developer at the Site utilizing the System Business in accordance with the terms and conditions of this Agreement.

“Site” means the approved location for the establishment and operation of a Shop which is approved pursuant to a duly executed Franchise Agreement.

“Special Event” means a notable event of worldwide, regional or national proportion regardless of frequency, such as the Olympics, World’s Fair, a State Fair, a political convention, the Super Bowl, World Series, etc. Franchisor will determine, in its sole discretion, whether a particular event qualifies as a Special Event.

“Special Venue” means the food court of an enclosed shopping mall, an airport terminal, sports arena, theme or amusement park, United States military bases, location of a Special Event or other facility in which the rent structure is inflated to a significant degree. Franchisor will determine, in its sole discretion, whether a particular facility qualifies as a Special Venue.

“System” means the distinctive system developed and owned by Franchisor for the establishment, development, and operation of retail establishments that decorated cookies, gourmet cookies, fanciful cookie arrangements, and related products for retail sale to the general public, the distinguishing characteristics of which include without limitation, business practices and policies, operations manuals, methods of operation, merchandising, advertising, sales and promotional techniques, personnel training, copyrighted cookie and arrangement designs, recipes, distinctive interior and exterior design, décor, color

scheme, graphics, fixtures and furnishings, and other standards, specifications, techniques, and procedures, all of which may be changed, improved or further developed by Franchisor from time to time

“**System Business**” means a Shop (including the Shop and any Satellites and/or Kiosks) that is established and operated by either the Franchisor, or a franchisee in accordance with the Intellectual Property, the Confidential Information and the System pursuant to the terms of a franchise agreement.

“**Transfer**” means the sale, assignment, conveyance, pledge, gift, mortgage or other encumbrance, whether direct or indirect, in whole or in part, or in one or a series of related transactions or occurrences, of (i) this Agreement or of any or all rights or obligations of herein, (ii) any Equity Interest in Developer, or (iii) any assets of Developer beyond transfers necessary in the ordinary course of business.

2. GRANT OF RIGHTS

(a) Grant. Subject to the terms, and conditions and limitations of this Agreement, Franchisor hereby grants to Developer the right, and Developer undertakes the obligation to establish and operate the Shops set forth in Section 5(a) at duly approved Sites in the Development Area and pursuant to duly executed Franchise Agreements; provided, however:

(i) Developer has no right to operate or function as a master franchisee, sub-franchisor, franchise broker, or to otherwise franchise the Shops to any other entity or person or delegate its duties under this Agreement. Franchisor retains all other rights; and

(ii) the establishment and/or operation of a Shop will be governed by the applicable Franchise Agreement in the event of any inconsistency between the terms and conditions of this Agreement and an executed Franchise Agreement.

(b) Exclusivity. For so long as Developer is in compliance with this Agreement and it has not otherwise terminated or expired, Franchisor will not, without Developer’s prior written consent, establish or operate, or license anyone other than Developer to establish or operate a System Business, which is physically located in the Development Area prior to the last date specified in the Development Schedule.

(c) Right of First Refusal For a period of two (2) years after the successful and timely completion of the Development Schedule, as determined by Franchisor in its sole discretion, if Franchisor proposes to establish any additional System Business which is physically located in the Development Area, Developer shall have the right to enter into a new Area Development Agreement and/or Franchise Agreement to establish such additional System Business under the terms and conditions of the then-current form of Development and/or Franchise Agreements. If the Developer and Franchisor have not executed a new Development and/or Franchise Agreement within a period of thirty (30) days after Franchisor provides written notice to Developer of Franchisor’s desire to further develop the Development Area, Franchisor will have the right, to the exclusion of Developer, to further develop or establish additional System Businesses in the Development Area on its own or with others.

(d) Limitation of Rights. Franchisor retains all rights not expressly granted hereunder. Franchisor, its Affiliates, and their respective franchisees and licensees may, among other things, operate other types of businesses besides a System Business in the Development Area, including businesses that are identified by some or all of the Marks. Franchisor therefore may (or may authorize a third party to conduct, among other things, the following activities:

(i) advertise and promote sales of Products and Services or a System Business, at any location, including within the Development Area;

(ii) offer and sell collateral and ancillary products and services, such as pre-packaged food products, clothing, and memorabilia, in the Development Area under the Marks, even though those products and services may be similar to items offered by the Shops;

(iii) offer and sell any products and services (regardless of similarity to Products and Services sold in the Shops) under any names and marks, *other than* the Marks, at any location, including within the Development Area;

(iv) establish, promote and operate a System Business anywhere outside of the Development Area, regardless of proximity or financial impact to the Shops;

(v) establish, promote and operate any business other than a System Business within or outside of Developer's Development Area, regardless of whether this other business is identified by the Marks;

(vi) sell or distribute products and services identified by the Marks anywhere inside or outside of the Designated Territory, through alternative channels of distribution including grocery stores, supermarkets, convenience stores, restaurants, and via mail order, catalog sales, and/or the Internet.; and

(vii) operate one or more Internet Sites on the world-wide web portion of the internet that advertise the System, allow customers and potential customers to place orders at any System Business (including the Shops), sell any Products or Services, such as pre-packaged food products, clothing, and memorabilia, or permit other activities (whether or not similar), even though the Internet Site is accessible to or viewable by persons in the Development Area. For purposes of this Article 2, "**Internet Site**" means the internet website located at www.cookieorder.com, or some other location, maintained by Franchisor for the purposes of facilitating online orders for franchisee through the Internet Site, and of providing email services, customer order information, employment opportunities in Shops, online ordering reports and such other matters as Franchisor may determine.

3. TERM

(a) Unless terminated as provided for herein, the term of this Agreement and all rights granted hereunder will commence upon the Execution Date and expire on the earliest to occur of either _____ () years after the Effective Date or the date on which Developer successfully and in a timely manner completes the Development Schedule ("**Term**").

(b) Developer will have no option to renew or otherwise extend the Term for an additional period of time, except as otherwise provided in the Agreement.

(c) This Agreement will not govern the term or renewal of a Franchise Agreement.

4. FEES

(a) Development Fee. Upon the execution of this Agreement, Developer shall deliver a non-refundable development fee of _____ Dollars (\$ _____). This development fee is calculated by adding together the following amounts:

(i) One hundred percent (100%) of the Initial Franchise Fee for the first Shop to be developed pursuant to the Development Schedule; and

(ii) Twenty-five percent (25%) of the Initial Franchise Fee for all of the remaining Shops to be developed pursuant to the Development Schedule.

If Developer is in compliance with the terms and conditions of this Agreement, then it will receive a credit in the amounts indicated above towards the initial franchise fees to be paid to Franchisor pursuant the terms of this Area Development Agreement and the Franchise Agreements.

The Development Fee is fully earned by Franchisor when paid and is not refundable. Developer agrees to pay to Franchisor the balance of the Initial Franchise Fee for each Shop upon the execution of and in accordance with the terms and conditions of each developed Shop's respective Franchise Agreement.

(c) Payment and Taxes. All payments made by Developer to Franchisor pursuant to this Agreement will be in United States dollars and will be made free and clear of any tax, deduction, offset or withholding

of any kind. All taxes and penalties on any payment made by Developer pursuant to this Agreement now or in the future will be fully borne by Developer. In the event of any bona fide dispute as to liability for taxes assessed or other indebtedness, Developer may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law; however, in no event shall Developer permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the premises of any Shop, or any improvements thereon.

5. SCHEDULE

(a) Development Schedule. Developer agrees to establish and operate the cumulative number of Shops in the Development Area in accordance with the following Development Schedule, unless otherwise consented to in writing by Franchisor:

<u>Franchise Agreement Date</u>	<u>Operational Date</u>	<u>Cumulative Number of Shops by Operational Date(s)</u>
_ / _ / _	_ / _ / _	_
_ / _ / _	_ / _ / _	_
_ / _ / _	_ / _ / _	_
_ / _ / _	_ / _ / _	_

In order to satisfy the terms and conditions of this Development Schedule the Developer will:

- (i) for each Shop to be opened under this Agreement, execute the Franchisor’s then-current Franchise Agreement, and pay any outstanding balance on the applicable initial franchise fee, by the dates set forth in the Development Schedule;
- (ii) have each Shop Operational by the date set forth in the Development Schedule; and
- (iii) have the cumulative number of Shops Operational by the dates set forth in the Development Schedule.

The opening and closing of any Satellite or Kiosk will be governed by the applicable Franchise Agreement and will not be taken into account when determining the Shops established and operated under the Development Schedule.

(b) Force Majeure. If Developer cannot meet the Development Schedule solely as the result of Force Majeure which results in Developer’s inability to construct or operate Shops, the Operational dates will be extended for a period equal to the time during which such Developer was unable to perform such action or task as a result of an event of Force Majeure, up to a maximum of six (6) months. For purposes of this Article 5, “Force Majeure” means acts of God (such as tornadoes, hurricanes, floods, fire or other natural catastrophe); strikes, lockouts or other industrial disturbances; war, riot, or other civil disturbance; epidemics; acts of governments, such as the exercise of eminent domain rights and condemnation (if caused by reasons beyond Developer’s control); or other forces beyond Developer’s reasonable control. Force Majeure does not include insufficiency of funds or failure to make any payment required hereunder.

(c) Extensions. Upon Developer’s written request, Franchisor, in its sole discretion and without obligation, may grant a written extension or extensions to the period for the execution of the then-current Franchise Agreement and/or Operational date for the period of time that Developer requests. In the event Franchisor grants such extension, Developer agrees to pay the Franchisor a non-refundable extension fee of One Thousand Dollars (\$1,000.00) for every thirty (30) day period of the agreed extension.

6. CONFIDENTIAL INFORMATION

- (a) Developer's Right, Title and Interest. Except as expressly provided herein, Developer and Developer's Principals shall have no right, title or interest in the Confidential Information. The Developer and Developer's Principals shall only communicate, disclose or use the Confidential Information as expressly permitted herein or as required by law. Developer and Developer's Principals shall disclose the Confidential Information only to such of Developer's employees, agents, or independent contractors who must have access to it in connection with their employment. The covenant in this Article 6 will survive the expiration, termination, or transfer of this Agreement or any interest in this Agreement and will be perpetually binding upon Developer and each of Developer's Principals.
- (b) Confidentiality Agreements. Developer shall cause all employees having access to the Confidential Information to execute confidentiality agreements substantially in the form of Attachment B stating that they will preserve in confidence all Confidential Information. Neither Developer, Developer's Principal's or their respective employees may at any time, without Franchisor's prior written consent, copy, duplicate, record or otherwise reproduce the Confidential Information, in whole or in part, nor otherwise make the same available to any unauthorized person.
- (c) Improvements. If Developer or Developer's Principals make any improvements (as determined by Franchisor) to the Confidential Information or the System, then Developer and the Developer's Principals will each execute all documents requested by Franchisor that Franchisor believes are necessary to obtain protection for or maintain the continued validity or enforceability of the Confidential Information or the System, and will take no action that would jeopardize the validity or enforceability thereof.

7. INTELLECTUAL PROPERTY

- (a) Franchisor's Exclusive Ownership. Developer acknowledges Franchisor's exclusive ownership of or right to sublicense the Intellectual Property and shall neither directly or indirectly infringe, contest or otherwise impair Franchisor's exclusive ownership of, and/or license with respect to, the Intellectual Property either during or after termination or expiration of this Agreement.
- (b) Rights Acquired Through Franchise Agreement. Developer has no right, title or interest in the Intellectual Property or the System by virtue of this Agreement. Any rights granted to use the Intellectual Property or the System will be conveyed through the Franchise Agreement(s) negotiated to operate the individual Shop(s).
- (c) Improvements. If Developer or Developer's Principals make any improvements (as determined by Franchisor) to the Intellectual Property or the System, then Developer and the Developer's Principals will each execute all documents requested by Franchisor that Franchisor believes are necessary to obtain protection for or maintain the continued validity or enforceability of the Intellectual Property or the System, and will take no action that would jeopardize the validity or enforceability thereof.

8. REPRESENTATIONS AND WARRANTIES

- (a) Representations, Warranties and Covenants of Developer. If Developer is not an individual, then Developer and each of Developer's Principals represent, warrant and covenant to Franchisor that:
- (i) Due Incorporation. If Developer is a corporation, limited liability company, general or limited partnership or other form of business entity, it is duly formed and organized, validly existing and in good standing under the laws of the jurisdiction of its organization with all requisite power and authority to enter into this Agreement and perform the obligations contained herein.
- (ii) Authorization. The execution, delivery and performance by Developer of this Agreement and all other agreements contemplated herein has been duly authorized by all requisite actions on the part of Developer and no further actions are necessary to make this Agreement or such other agreements valid and binding upon it and enforceable against it in accordance with their respective terms.

(iii) Exclusivity. Developer's corporate charter, written partnership, limited liability company agreement, membership agreement or other governing documents will at all times provide that Developer's activities are confined exclusively to the development and establishment of the Shop unless otherwise consented to in writing by Franchisor.

(iv) Execution and Performance. Neither the execution, delivery nor performance by Developer of this Agreement or any other agreements contemplated hereby will conflict with, or result in a breach of any term or provision of Developer's charter, by-laws, articles of organization, or partnership agreement and/or other governing documents and any amendments thereto, any indenture, mortgage, deed of trust or other material contract or agreement to which Developer is a party or by which it or any of its assets are bound, or breach any order, writ, injunction or decree of any court, administrative agency or governmental body.

(v) Corporate Documents. Certified copies of Developer's charter by-laws, articles of organization, partnership agreement, membership agreement and/or other governing documents and any amendments thereto, including board of directors' or partners' resolutions authorizing this Agreement have been delivered to Franchisor. Any amendments or changes to such governing or charter documents subsequent to the date of this Agreement will not be undertaken without Franchisor's prior written consent.

(vi) Ownership Interests. All Equity Interests in Developer are accurately and completely described in Schedule 1(h). Developer will maintain at all times a current list of all owners of record and all beneficial owners of Equity Interests in Developer. Developer will make such list of available to Franchisor upon request.

(vii) Stop Transfer Instructions. If Developer is a corporation, Developer will maintain stop-transfer instructions against the transfer on Developer's records of any of its equity securities and each stock certificate will have conspicuously endorsed upon it a statement in a form satisfactory to Franchisor that it is held subject to all restrictions imposed upon assignments by this Agreement; but the requirements of this Section 8(a)(vii) will not apply to the transfer of equity securities of a publicly-held corporation. If Developer is a partnership or limited liability company, its written partnership or limited liability company agreement will provide that ownership of an interest in the partnership or limited liability company is held subject to all restrictions imposed upon assignments by this Agreement.

If Developer is an individual, then Developer represents, warrants and covenants that neither the execution, delivery nor performance by Developer of this Agreement or any other agreements contemplated hereby conflicts with, or results in a breach of any contract or agreement to which Developer is a party or a breach of any order, writ, injunction or decree of any court, administrative agency or governmental body.

(b) Financial Statements. Developer and, at Franchisor's request, each of Developer's Principals have provided Franchisor with their most recent financial statements in the form and for the time periods specified by Franchisor. The financial statements (i) present fairly Developer's financial position and the financial position of each of Developer's Principals, as applicable, at the dates indicated therein and, with respect to Developer, the results of its operations and cash flow for the periods then ended; (ii) are certified as true and correct by the Developer's Chief Financial Officer or President, as applicable; and (iii) have been prepared in conformity with generally accepted accounting principles in the United States, applied on a consistent basis. No material liabilities, adverse claims, commitments or obligations of any nature, whether accrued, unliquidated, absolute, contingent or otherwise, exist as of the date of this Agreement which are not reflected as liabilities on Developer's financial statements or those of Developer's Principals.

(c) Developer's Principals. Developer will notify Franchisor within ten (10) days following the date that any person previously identified as Developer's Principal ceases to qualify as such or that any new person succeeds to or otherwise comes to occupy a position which would qualify such person as one of Developer's Principals. That person will immediately execute all documents and instruments (including, as applicable, this Agreement) required by Franchisor to be executed by others in a comparable position;

but if there is any conflict between this provision and the transfer provisions of Article 11, the provisions of Article 11 will control.

(d) Guaranty. Developer's Principals will, jointly and severally, guaranty the performance of Developer's obligations, covenants and agreements under this Agreement pursuant to the terms and conditions of the Guaranty of Developer's Principals attached to this Agreement as Attachment C, and will otherwise bind themselves to the terms of this Agreement as stated herein.

(e) Non-Competition During Term of Agreement. Developer and Developer's Principals acknowledge that they will receive valuable specialized training and access to Confidential Information, during the term of this Agreement. As such, Developer and Developer's Principals covenant and agree that during the Term of this Agreement, except as otherwise approved in writing by Franchisor, they will not, either directly or indirectly:

(i) Divert or attempt to divert business of any System Business to any competitor, or do or perform any other act injurious or prejudicial to the goodwill associated with Franchisor's Intellectual Property or the System;

(ii) Except as provided for herein, own, manage, financially or operationally participate in, invest in, consult with, maintain, operate, engage in, be employed by, provide any assistance to, or have any interest in (as owner or otherwise), or have an Equity Interest in a Competing Business (as defined below); provided that this provision will not apply to any Minority Interest (as defined below) collectively held by Franchisee or Franchisee's Principals in any publicly-held corporation listed on a national stock exchange. For purposes of this Article 8, "**Competing Business**" means a business which operates an establishment that produces, accepts orders for, or ships cookies, cookie arrangements, chocolates, small gifts, and related products, alone or in combination, which compromises more than twenty-percent (20%) of total sales, measured on a weekly basis, for sale to the general public, other businesses or governmental entities, and "**Minority Interest**" means an Equity Interest of less than five percent (5%) of the capital stock of, partnership interest in, or other Equity Interest in (including the right to vote) any type of legal entity.

(f) Non-Competition after Termination or Non-Renewal of Agreement. Developer and Developer's Principals acknowledge that they will receive valuable specialized training and access to Confidential Information, during the term of this Agreement. As such, for a continuous period of two (2) years after the expiration, non-renewal, non-extension or termination of this Agreement or after the approved Transfer by Developer and/or Developer's Principals, Developer and Developer's Principals (as applicable) will not, directly or indirectly:

(i) Divert or attempt to divert business of any System Business to any competitor, or do or perform any other act injurious or prejudicial to the goodwill associated with Franchisor's Intellectual Property or the System;

(ii) Except as provided for herein, own, manage, financially or operationally participate in, invest in, consult with, maintain, operate, engage in, be employed by, provide any assistance to, or have any interest in (as owner or otherwise) in a Competing Business which is located within the Development Area or within twenty (20) miles of the Development Area; provided that this provision will not apply to any Minority Interest collectively held by Developer or Developer's Principals in any publicly-held corporation listed on a national stock exchange; and

(iii) The two (2) year time limitation in this Article 8 will be tolled during any period of noncompliance.

(g) Independent Covenants. Each of the covenants in Section 8(e) and Section 8(f) will be construed as independent of any other covenant or provision of this Agreement.

(i) Developer and each of Developer's Principals understand and acknowledge that Franchisor will have the right, in its sole discretion, to reduce the scope of any covenant set forth in Section 8(e) and Section 8(f), or any portion thereof, without their consent, effective immediately upon notice to Developer; and Developer and Developer's Principals agree that they will comply with any covenant as so modified, which will be fully enforceable notwithstanding the provisions of Section 17(e) hereof.

(ii) Developer and each of Developer's Principals expressly agree that the existence of any claims they may have against Franchisor, whether or not arising from this Agreement, will not constitute a defense to the enforcement by Franchisor of the covenants in Section 8(e) and Section 8(f).

(iii) Developer and each of Developer's Principals acknowledge that the covenants not to compete contained in Section 8(e) and Section 8(f) are reasonable and necessary to protect the business and goodwill of the System and to avoid misappropriation or other unauthorized use of the System and Franchisor's other trade secrets.

(iv) Developer and each of Developer's Principals acknowledge and confirms that Developer and Developer's Principals possess the education, training and experience necessary to earn a reasonable livelihood apart from operating a Competing Business.

(h) Additional Covenants. Developer will require and obtain for the benefit of Franchisor execution of covenants similar to those set forth in this Section 8(e) and Section 8(f) from any and all of its employees having access to materials or information furnished or disclosed to Developer by Franchisor, including, without limitation, the Primary Contact and any director of operations. For purposes of this Section 8(h), "**Primary Contact**" means a full-time employee responsible for Developer's obligations under this Agreement.

(i) No Right to Use Sublicensed Material. Developer and Developer's Principals acknowledge and agree that Developer is granted no right to use the Sublicensed Material. Any rights granted to use the Sublicensed Material will be set forth in a separate franchise agreement which will limit the use thereof to the term of the franchise agreement in the Shop.

(j) Non-Liability. Developer acknowledges and agrees that Franchisor will not, by virtue of any approvals, advice or services provided to Developer, assume responsibility or liability to Developer or any third parties to which it would not otherwise be subject.

(k) Performance by Franchisor. Developer acknowledges and agrees that any duty or obligation imposed on Franchisor by this Agreement may be performed by any designee, employee, or agent of Franchisor, as Franchisor may direct in its sole discretion.

(l) Breach of Covenants Causes Irreparable Injury. Developer acknowledges that its violation of any covenant of this Article 8 would result in irreparable injury to Franchisor for which no adequate remedy at law may be available, and Developer consents to the issuance of, and agrees to pay all court costs and reasonable attorneys' fees incurred by Franchisor in obtaining, without the posting of any bond, an *ex parte* or other order for injunctive or other legal or equitable relief with respect to such conduct or action.

9. INDEMNIFICATION

(a) Indemnification. Developer and Developer's Principals agree to and hereby, jointly and severally, indemnify, defend (by counsel chosen by Franchisor) and agree to hold harmless each Indemnified Parties from all Losses and Expenses alleged, incurred or assessed in connection with:

(i) Developer's or any Developer's Principal's alleged infringement or alleged violation of any trademark or other proprietary name, mark, or right allegedly owned or controlled by a third party;

(ii) The violation, breach or asserted violation or breach, by Developer or any of Developer's Principals, of any federal, state or local law, regulation, ruling, standard or directive or any industry standard;

(iii) Libel, slander or any other form of defamation of Franchisor, the System or any Developer or franchisee operating under the System, by Developer or by any of Developer's Principals;

(iv) The violation or breach by Developer or any of Developer's Principals, of any warranty, representation, agreement or obligation in this Agreement or in any other agreement, between Developer, its subsidiaries and Affiliates, and a third-party provider or Franchisor, its subsidiaries and Affiliates or the officers, directors, shareholders, partners, agents, representatives, independent contractors and employees thereof; and

(v) Acts, errors or omissions of Developer, any of Developer's subsidiaries or Affiliates or any of Developer's Principals and the officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of Developer and its subsidiaries and Affiliates in connection with the activities contemplated under this Agreement, including the operation of the System Business.

(b) Notice and Counsel. Developer and each of Developer's Principals agree to give Franchisor immediate notice of any Action. Franchisor may engage, at its expense, separate counsel to represent the Indemnified Parties in such Action and/or elect to assume (but under no circumstance is obligated to undertake) the defense and/or reasonable settlement of any Action. Franchisor's election to settle will not diminish Developer's and each of Developer's Principal's obligation to defend, indemnify and hold the Indemnified Parties harmless from all Losses and Expenses.

(c) Settlement and Remedial Actions. Franchisor may, at any time and without notice, as it, in its sole judgment deems appropriate, consent or agree to settlements or take such other remedial or corrective actions it deems expedient with respect to any Action if, in Franchisor's sole judgment, there are reasonable grounds to believe that:

(i) any of the acts or circumstances enumerated in Sections 9(a)(i)-(iv) above have occurred; and

(ii) any act, error, or omission as described in Section 9(a)(v) may result directly or indirectly in damage, injury, or harm to any person or any property.

(d) Expenses. All Losses and Expenses incurred under this Article 9 will be chargeable to and paid by Developer or any of Developer's Principals pursuant to Developer's obligations of indemnity under this Article 9 regardless of any actions, activity or defense undertaken by Franchisor or the subsequent success or failure of such actions, activity, or defense.

(e) Third Party Recovery. Under no circumstances will the Indemnified Parties be required or obligated to seek recovery from third parties or otherwise mitigate their losses in order to maintain a claim against Developer or any of Developer's Principals. Developer and each of Developer's Principals agree that the failure to pursue such recovery or mitigate loss will in no way reduce the amounts recoverable from Developer or any of Developer's Principals by the Indemnified Parties.

(f) Survival. Developer and Developer's Principals expressly agree that the terms of this Article 9 will survive the termination, expiration or transfer of this Agreement or any interest herein.

10. INSURANCE

(a) Prior to the commencement of construction of any Shop and for the entire Term, Developer will obtain and maintain insurance protecting Developer and the Indemnified Parties against any demand or claim arising or occurring in connection with the construction of the Shops. The insurance policies will name the Indemnified Parties as additional insureds.

(b) The insurance coverage will include the following minimum limits (except as may otherwise be specified by Franchisor from time to time):

(i) employer's liability and workers' compensation insurance as required by law;

(ii) comprehensive general liability insurance covering the construction and operation of the Shop of not less than One Million and no/100 Dollars (\$1,000,000.00), including Blanket Contractual Liability insurance, which insures contractual liability under the indemnification provisions found in this Agreement;

(iii) builder's risk coverage insuring against losses due to fire, vandalism, lightning, wind, and similar forces; and

(iv) fire and extended casualty coverage insuring the replacement value of the Shop and its contents against fire, flood, tornadoes and other hazards designated in the Operations Manuals.

(c) Developer will furnish Franchisor with evidence that Developer has obtained the required insurance at least fifteen (15) days prior to the commencement of construction of any Shop, and each year thereafter while construction continues, and at any other time a carrier or coverage is changed. The evidence of coverage will include a statement by the insurer that the policy or policies will not be canceled or materially altered without giving at least thirty (30) days prior written notice to Franchisor.

(d) Developer's obligation to obtain and maintain the insurance coverage in the amounts specified in this Agreement does not relieve it of liability under the indemnification provisions of this Agreement, nor the responsibility to maintain such additional insurance coverage as it may consider advisable or in the amounts indicated by Franchisor upon thirty (30) days prior written notice.

If Developer fails to obtain or maintain the insurance coverage required by this Agreement, or as may otherwise be indicated by Franchisor, then Franchisor may, but is not obligated to, procure such insurance coverage and to charge the cost thereof to Developer. Such charge will be payable immediately upon notice from Franchisor.

11. TRANSFER OF INTEREST

(a) Transfer by Franchisor. Franchisor has the right to transfer or assign this Agreement, its rights to the Intellectual Property, and all or any part of its rights or obligations herein to any person or legal entity without the consent of Developer or Developer's Principals. Upon such transfer by Franchisor, any transferee or assignee of Franchisor will become solely responsible for all such obligations of Franchisor under this Agreement from the date of transfer or assignment. Without limiting the foregoing, Developer acknowledges that Franchisor may sell its assets (including its rights in the Intellectual Property and the System) to a third party; may offer its securities privately or publicly; may merge, acquire other legal entities or be acquired by another legal entity; and may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. With regard to any or all of the above sales, assignments and dispositions, Developer expressly and specifically waives any claims, demands, or damages against Franchisor or its Affiliates arising from or related to Franchisor's transfer of its rights in this Agreement, the Intellectual Property or the System to any other party. Nothing contained in this Agreement will require Franchisor to remain in the business of operating or licensing the operation of the System Business or other businesses or to offer any services or products to Developer, whether or not bearing or not bearing the Intellectual Property, if Franchisor transfers or assigns its rights in or obligations under this Agreement.

(b) Transfer by Developer. Developer and Developer's Principals understand and acknowledge that the rights and duties set forth in this Agreement are personal to Developer and are granted, in part, in reliance upon the skill, aptitude, business and financial capacity of Developer and Developer's Principals and their intention of complying with its terms and conditions. Therefore, if the Developer and/or Developer's Principals desire to Transfer any interest to any individual or entity (including a trust), they must first obtain the prior written approval of Franchisor. Any such attempted Transfer not approved by Franchisor will be null and void from its purported inception.

(i) General Requisites. Prior to authorizing a Transfer by Developer of any interest, Franchisor may require, among other things, satisfaction of any or all of the following:

(A) Developer will be in full compliance with all of the terms and conditions of this Agreement;

(B) Developer and any of Developer's Principals will remain liable for the performance of their obligations contained in this Agreement through the date of Transfer and will execute all instruments reasonably requested by Franchisor to evidence such liability;

(C) The transferee will satisfy, in Franchisor's reasonable judgment, Franchisor's then existing criteria for a Developer including, without limitation: (i) education; (ii) business skill, experience and aptitude; (iii) character and reputation; and (iv) financial resources;

(D) The transferee and all owners of any record or beneficial interest in the capital stock (or other interest) of transferee will execute all instruments (including a new area development agreement and guaranty) reasonably requested by Franchisor to evidence acceptance and assumption of all of the terms and conditions of this Agreement. Such new Area Development Agreement may contain terms materially different from this Agreement, including higher fees and will be for a term equal to the then unexpired Term hereof;

(E) Developer and Developer's Principals (if applicable) must have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor, its Affiliates, and the officers, directors, members, shareholders, partners, agents, representatives, independent contractors, servants and employees of each of them, in their corporate and individual capacities, including, without limitation, claims arising under this Agreement and any other agreement between Developer or any of Developer's Affiliates and Franchisor or any of its Affiliates or under federal, state or local laws, rules, regulations or orders. Franchisor's current form of general release is attached hereto as Attachment D;

(F) Developer must deliver to the transferee all Confidential Information, the Operations Manuals, materials containing trade secrets, Intellectual Property, and all copies of each of the preceding;

(G) Developer has complied with the requirements set forth in Section 11(b)(ii);

(H) payment of a transfer fee to Franchisor equal to (i) one quarter (¼) of then-current initial Development Fee if the Transfer would result in a change in Control of Developer or it is a Transfer of this Agreement or of any or all rights or obligations of herein, interest in Developer or any assets of Developer beyond transfers necessary in the ordinary course of business; or (ii) an amount equal to the greater of the reasonable costs incurred by Franchisor or One Thousand Dollars (\$1,000.00) if the Transfer would not result in a change in Control of Developer; and

(I) The transferee has complied with Franchisor's then-current application requirements for a new area development agreement, including, but not limited to, being provided with Franchisor's current form of disclosure document, and a receipt evidencing the date of delivery of the disclosure document(s) to the transferee has been delivered to Franchisor, provided, however, Franchisor will not be liable for any representations other than those contained in the disclosure document(s).

(ii) Right of First Refusal. In the event that Developer and/or any of Developer's Principals or any holder of an Equity Interest in Developer desire to effectuate a Transfer, Franchisor will have the right and option, exercisable within thirty (30) days after Franchisor's receipt of all materials and information described in this Sections 11(b)(ii)(A), (B) and (C) to purchase the interest proposed to be transferred in accordance with the following:

(A) Developer will notify Franchisor in writing of any bona fide proposed Transfer and set forth a complete description of all terms and fees of the proposed Transfer in the manner prescribed by Franchisor, including the prospective transferee's name, address, financial qualifications and previous five (5) years business experience;

(B) Developer will provide Franchisor with any additional information, agreements, certifications or documents Franchisor requests for use in its evaluation of whether to exercise its first refusal right;

(C) Upon receipt of Franchisor's request, Developer or the proposed transferee will promptly provide Franchisor with access to any real or personal property, documents or records relevant to the transaction and to the interest which is the subject of the Transfer. Once Franchisor has received all materials submitted by Developer or the proposed transferee and has reviewed all property, records and documents it has requested, Franchisor will notify Developer or the proposed transferee of its decision to exercise its option to acquire the interest being transferred, and the conditions, if any, under which it will approve the proposed Transfer;

(D) If Franchisor exercises its first refusal right, the transferor will transfer the interest to Franchisor or to its assignee pursuant to an agreement to purchase which contains the material terms to which the transferor and the proposed transferee had agreed. If the offer or proposed purchase contract omitted any terms customarily addressed in a transfer of an interest of the type which is the subject of the transaction, Franchisor may supply those terms in the purchase agreement and related documents;

(E) If the proposed transferor wishes to make a Transfer, the transferor will provide Franchisor with a copy of any offer or agreement to purchase, signed by the proposed transferee, together with copies of any documents referenced in the offer or agreement. If all material terms of the proposed sale are not described in the offer or agreement, Developer will provide details of all such terms in its submission to Franchisor, accompanied by the proposed transferee's written agreement to the terms; and

(F) In the event the consideration, terms, and/or conditions offered by the third party are such that Franchisor or its nominee may not reasonably be able to furnish the same consideration, terms, and/or conditions, then Franchisor or its nominee, as appropriate, may purchase the interest proposed to be transferred for the reasonable equivalent in cash. If the parties cannot agree, within a reasonable time, on the reasonable equivalent in cash of the consideration, terms, and/or conditions offered by the third party, an independent appraiser will be designated by Franchisor, and such appraiser's determination will be binding.

(iii) Death or Disability. Within fifteen (15) days after the death or Permanent Disability (as defined below) of Developer or any of Developer's Principals, Developer or a representative of Developer must notify Franchisor in writing. Any transfer upon death or Permanent Disability will be subject to the same terms and conditions as described in this Article 11 for any *inter vivos* Transfer.

Upon the death of Developer (if a natural person) or any Developer's Principal who is a natural person and who has an interest in this Agreement, or in Developer, the executor, administrator, or other person representative of the deceased will transfer the interest of the deceased to a third party approved by Franchisor within twelve (12) months after the date of death. If no personal representative is designated or appointed and no probate proceedings are instituted with respect to the estate of the deceased, then the distributee of the interest of the deceased must be approved by Franchisor. If the distributee is not approved by Franchisor, then the distributee will transfer the interest of the deceased to a third party approved by Franchisor within twelve (12) months after the date of death of the deceased.

Upon the Permanent Disability of Developer (if a natural person) or any of Developer's Principals who is a natural person and who has an interest in this Agreement, in the Franchised Business or in Developer, Franchisor may require the interest to be transferred to a third party in accordance with the conditions described in this Article 11 within six (6) months after notice to Developer. For purposes of this Section 11(b)(iii), "**Permanent Disability**" means any physical, emotional, or mental injury, illness, or incapacity that would prevent a person from performing the obligations set forth in this Agreement or in the Guaranty made part of this Agreement for at least ninety (90) consecutive days, and from which condition recovery within ninety (90) days from the date of determination of disability is unlikely. If the

parties disagree as to whether a person is permanently disabled, the existence of Permanent Disability will be determined by a licensed practicing physician selected by Franchisor, upon examination of the person; or if the person refuses to submit to an examination, then (for the purpose of this Section 11(b)(iii)) the person automatically will be considered permanently disabled as of the date of refusal. The costs of any examination required by this Section 11(b)(iii) will be paid by Franchisor.

If an interest is not transferred upon death or Permanent Disability as required in this Section 11(b)(iii) then the failure will constitute a default under this Agreement.

(iv) Permitted Transfers. Notwithstanding any provision herein to the contrary, the Developer's Principals listed on Schedule 1A as of the Effective Date ("**Initial Developer's Principals**") may transfer his or her interest to another of the Initial Developer's Principals, member(s) of his or her Immediate Family, one or more trusts for the benefit of such Immediate Family members, or one or more partnerships where such Immediate Family members are the only partners, if Developer obtains the prior written consent of Franchisor for such transfer, and Developer does not receive any consideration in any form whatsoever for said transfer ("Permitted Transfer"). A Permitted Transfer may be made *inter vivos* or at the death or permanent disability of the transferring Initial Developer's Principals. A Permitted Transfer does not constitute a Transfer under this Article 11, require a transfer fee, or trigger Franchisor's right of first refusal. For purposes of this Agreement, "**Immediate Family**" means the children, grandchildren or spouse of Developer.

12. TERMINATION

(a) Automatic Termination. Developer will be in default under this Agreement, and all rights granted by this Agreement will automatically terminate without notice to Developer if:

- (i) developer becomes insolvent or makes a general assignment for the benefit of creditors;
- (ii) developer files a voluntary petition under any section or chapter of the federal bankruptcy law or under any similar law or statute of the United States or any state, or admits in writing its inability to pay its debts when due;
- (iii) developer is adjudicated bankrupt or insolvent in proceedings filed against Developer under any section or chapter of the federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Developer or other custodian for Developer's business or assets is filed and consented to by Developer; or if a receiver or other custodian (permanent or temporary) of Developer's assets or property, or any part thereof, is appointed by any court of competent jurisdiction;
- (iv) proceedings for a composition with creditors under any state or federal law is instituted by or against Developer;
- (v) a final judgment against Developer in excess of Twenty-Five Thousand Dollars (\$25,000.00) (or such lesser amount that Franchisor deems material) remains unsatisfied or of record for thirty (30) days or longer (unless a supersedeas bond is filed);
- (vi) developer is dissolved;
- (vii) execution is levied against Developer's business or property in excess of Twenty-Five Thousand Dollars (\$25,000.00) (or such lesser amount that Franchisor deems material);
- (viii) suit to foreclose any lien or mortgage against Developer's business or any asset thereof in excess of Twenty-Five Thousand Dollars (\$25,000.00) (or such lesser amount that Franchisor deems material) is instituted against Developer and not dismissed within thirty (30) days; or
- (ix) the real or personal property of Developer's business will be sold after levy thereupon by any sheriff, marshal, or constable.

(b) Termination upon Notice. This Agreement shall terminate immediately upon notice from Franchisor to Developer and without providing Developer the right to cure such default, if Developer:

(i) or any of Developer's Principals is convicted of, or pleads *nolo contendere* to a felony or any other crime or offense that is reasonably likely, in the opinion of Franchisor, to adversely affect the System, the Intellectual Property, the goodwill associated therewith, or Franchisor's interest therein;

(ii) or any of Developer's Principals, violate the requirements for Transfers contained in Section 11;

(iii) or any of Developer's Principals, as applicable, fails to comply with the representations and warranties in Sections 8 and 17 hereof;

(iv) receives three (3) or more default notices from Franchisor, whether or not the defaults are cured;

(v) or any of Developer's Principals discloses or divulges any Confidential Information contrary to the provisions of this Agreement;

(vi) fails to maintain the insurance(s) required by Section 10;

(vii) or any of Developer's Principals fails to comply with the in-term covenants in Section 8 or if Developer fails to obtain execution of the covenants and related agreements required under Section 8 within thirty (30) days after being requested to do so by Franchisor;

(viii) or any of Developer's Principals engages in any act, conduct, or practice which Franchisor, in its sole judgment, deems to be deceptive, misleading, unethical or otherwise contrary to or in conflict with the reputation and image of the System; or

(ix) fails to cure any default of which it has been given prior notices on two (2) occasions.

(c) Termination upon Fifteen Day Notice. Developer shall have fifteen (15) days after its receipt from Franchisor of a written notice within which to remedy Developer's failure, refusal, or neglect to comply with its obligations under the Development Schedule. If any such default is not cured within that time, this Agreement shall terminate without further notice to Developer effective immediately upon the expiration of the fifteen (15) day period.

(d) Termination upon Thirty Day Notice. Except as otherwise provided in this Article 12, Developer shall have thirty (30) days after its receipt from Franchisor of a written notice within which to remedy any default of the terms of this Agreement and the attachments hereunder and provide evidence thereof to Franchisor. If any such default is not cured within that time, this Agreement shall terminate without further notice to Developer effective immediately upon the expiration of the thirty (30) day period.

(e) Cross-Default. Any default under any agreement between Developer, or its Affiliates, and Franchisor, or its Affiliates, and failure to cure within any applicable cure period, shall be considered a default under this Agreement and shall provide an independent basis for termination of this Agreement.

13. OBLIGATIONS UPON TERMINATION OR EXPIRATION

(a) Obligations upon Termination or Expiration. Upon termination or expiration of this Agreement for any reason, all rights of Developer under this Agreement will immediately terminate and Developer will have the following duties which will survive termination of this Agreement:

(i) Confidential Information. Except as provided for Transfers in Section 11(b)(i)(F), Developer shall immediately return all Confidential Information to Franchisor, and shall retain no copy or record of any Confidential Information, excepting only Developer's copy of this Agreement and of any correspondence between the parties, and any other documents which Developer and Developer's Principals reasonably need for compliance with any provision of law.

(ii) Assumed Name. Developer shall take such action as may be necessary to cancel any assumed name or equivalent registration which contains any of the Marks, and Developer and Developer's Principals shall furnish Franchisor with evidence satisfactory to Franchisor of compliance with this obligation within thirty (30) days after termination or expiration of this Agreement.

(iii) Payments. Developer and Developer's Principals will promptly pay all sums owing to Franchisor and its Affiliates, including all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of any default by Developer. Until those amounts are paid in full, the obligation to pay them will give rise to and remain a lien in favor of Franchisor against all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by Developer and on the premises of the Site or Shop at the time of default.

In addition, Developer and Developer's Principals will pay to Franchisor all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor in connection with obtaining any remedy available to Franchisor for any violation of this Agreement and subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Article 13.

(iv) Confidentiality and Non-Competition. Developer and Developer's Principals will comply with the non-competition covenants and the restrictions on confidential information contained in Section 6 and Sections 8(e) and (f) of this Agreement. Any other person required to execute similar covenants pursuant to Section 6 will also comply with those covenants.

14. REMEDIES UPON BREACH OR TERMINATION

(a) Remedies Upon the occurrence of an uncured breach or subsequent termination pursuant to Sections 12(c) and (d), Franchisor may exercise one or more of the following remedies set forth in Sections 14(b), (c) and (d) or such other remedies as may be available either under Sections 12 (c) and (d), or at law or in equity (each of the following remedies are non-exclusive and non-cumulative): reduction of exclusivity, cure, specific enforcement, or termination.

(b) Termination or Reduction of Exclusivity. Franchisor, at its sole discretion, can terminate the Agreement or, alternatively, reduce the number of Shops that Developer was given the right to develop and establish pursuant to the Development Schedule, or terminate or reduce the territorial exclusivity granted Developer pursuant to Section 2(a) in the understanding that this Agreement will remain in effect and will be considered to be amended accordingly.

(c) Cure. Franchisor, at Franchisor's discretion and without obligation, may cure such breach at Developer's expense and, in connection therewith, Developer (i) hereby grants to Franchisor all rights and powers necessary or appropriate to accomplish such cure; (ii) shall indemnify, defend (by counsel chosen by Franchisor) and agree to hold harmless each Indemnified Parties from all Losses and Expenses alleged, incurred or assessed against any of the Indemnified Parties in connection with Franchisor's cure; and (iii) shall reimburse or pay such costs or damages within ten (10) days of receipt of Franchisor's invoice therefore.

(d) Specific Enforcement. Franchisor may, in addition to pursuing any other remedies, specifically enforce Developer's and Developer's Principal's obligations, covenants and agreements or obtain injunctive or other equitable relief in connection with the violation or anticipated violation of such obligations, covenants and agreements without the necessity of showing (i) actual or threatened harm; (ii) the inadequacy of damages as a remedy; or (iii) likelihood of success on the merits, and without being required to furnish bond or other security. Nothing in this Agreement shall impair Franchisor's right to obtain equitable relief.

15. DISPUTE RESOLUTION

(a) Mediation and Arbitration. The parties agree that it is in their best interest to resolve disputes between them in an orderly fashion and in a consistent manner. The parties agree as follows:

(i) The parties will use their best efforts to resolve and settle by direct, private negotiation any dispute which arises under or in relation to this Agreement or which concerns the relationship created by this Agreement. Both parties may seek the advice and assistance of legal counsel in connection with any such negotiation.

(ii) If the parties cannot resolve and settle a dispute by private negotiation within forty-five (45) days after one party gives the other notice that a dispute exists, the parties mutually agree to submit the dispute to non-binding mediation, as follows:

(A) Mediation will occur in Mountainside, New Jersey, before a single mediator, using the facilities and Commercial Rules of the American Arbitration Association;

(B) The parties will jointly select a mediator from the panel of mediators maintained by the American Arbitration Association. The mediator must be a person experienced in franchising who has no prior business or professional relationship with either party;

(C) The parties will share the mediation filing fee equally but will otherwise separately bear their own costs and expenses (including legal fees) of participating in the mediation process. Each party agrees to send at least one (1) representative to the mediation conference who has authority to enter into binding contracts on that party's behalf. Each party further agrees to sign a confidentiality agreement which prohibits the mediator from disclosing, orally or in writing, any information the other party discloses to the mediator in confidence at any stage of the mediation process; and

(D) Either party's failure or refusal to participate in mediation in accordance with Section 15(a)(ii) will be considered a dispute subject to binding arbitration in accordance with Section 15(a)(iii).

(iii) If the parties cannot fully resolve and settle a dispute through mediation within thirty (30) days after the mediation conference concludes, all unresolved issues involved in the dispute, except as provided in Section 15(e), will be submitted to binding arbitration, to the exclusion of all other methods of dispute resolution, as follows:

(A) Either party may make a demand for arbitration;

(B) Arbitration proceedings will be conducted in Mountainside, New Jersey, before a single arbitrator, using the facilities and the Commercial Rules of the American Arbitration Association;

(C) The parties will jointly select an arbitrator from the panel of arbitrators maintained by the American Arbitration Association. The arbitrator must be an attorney experienced in the practice of franchise law who has no prior business or professional relationship with either party and who agrees to follow and apply the express provisions of this Agreement, including those regarding Losses and Expenses, in determining his or her award. If the parties are unable to agree on an arbitrator within thirty (30) days after the arbitration demand is filed, the parties will select an arbitrator who possesses the substantially similar qualifications as those on the panel of arbitrators maintained by the American Arbitration Association;

(D) The arbitrator's award will be final and binding on all parties, and neither party will have any right to contest or appeal the arbitrator's award except on the grounds expressly provided by the Commercial Rules of the American Arbitration Association. The party who demands arbitration will pay the arbitration filing fee, but the parties will otherwise separately bear their own costs and expenses (including legal fees) of participating in the arbitration process. Responsibility for the arbitrator's fees and expenses will be determined as part of the arbitrator's award; and

(E) The procedures contemplated by and the enforceability of this Section 15(b)(iii) will be governed by the Commercial Rules of the American Arbitration Association.

(F) Arbitration will be conducted on an individual, and not a class-wide basis, and the arbitration may not be joined or consolidated with any other proceeding.

(b) Injunctions and Emergency Relief. Notwithstanding the foregoing, nothing in this Article 15 shall prevent Franchisor from terminating the Agreement or from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other injunctive or emergency relief available to safeguard and protect Franchisor's interests prior to the filing of or during or following any arbitration or other proceeding or pending the handing down of a decision or award in connection with any arbitration or other proceeding.

(c) WAIVER OF JURY TRIAL. FRANCHISOR AND DEVELOPER IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.

(d) WAIVER OF PUNITIVE DAMAGES. THE PARTIES HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.

(e) Intellectual Property, Confidential Information and Security Interests. Notwithstanding Section 15(a)(ii) and Section 15(a)(iii), Franchisor will not be obligated to mediate or arbitrate any claim arising from Developer's alleged infringement of the Marks, or disclosure of Confidential Information. The parties agree that any action based on infringement of any of the Marks will be governed by and interpreted and enforced in accordance with the United States Trademark (Lanham) Act or the United States Copyright Act, as applicable, and will be litigated in any federal District Court sitting in Union County, New Jersey. The parties further agree to submit to the jurisdiction and venue of any such federal District Court and that service of process by certified mail, return receipt requested, will be sufficient to confer in personam jurisdiction over them in connection with any such trademark or copyright litigation. Further, Developer and Franchisor agree that the provisions of this Section 15(c) will not be applicable to the exercise of rights and remedies under any other agreements and contracts executed by and between Developer and any third parties, Franchisor or Affiliates of Franchisor, an Association or an administrator of the Advertising Fund in connection with or relating to the Shop (including, without limitation any notes, guaranties, real, personal property or equipment leases, etc.) unless expressly provided in such agreements and contracts.

(f) Nonexclusivity of Remedy. No right or remedy conferred upon or reserved to Franchisor or Developer by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy in this Agreement or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

(g) Contractual Limitations Period. No legal action or proceeding may be brought against Franchisor or its officers, directors, agents, or employees, for any claim or cause of action (whether sounding in contract, tort, or otherwise) unless such action or proceeding is instituted within two years and one day from the date the claim or cause of action accrued. This provision is intended to shorten any applicable statute of limitations to the extent permitted by law.

16. MISCELLANEOUS

(a) Choice of Law. This Agreement is accepted by Franchisor in the State of New Jersey. Unless preempted by applicable federal or state law, or as contemplated by or as otherwise provided in Article 15,

this Agreement will be governed by and interpreted and enforced exclusively in accordance with the laws of the State of New Jersey, except that its conflicts of law rules will not apply.

(b) Independent Contractors. In performing this Agreement, the parties specifically agree that Franchisor and Developer's relationship is and always will be solely that of independent contractors. Neither Franchisor nor Developer will not represent itself or permit any of its employees, agents, servants, or representatives to represent itself as an employee, agent, servant, or joint venturer of the other. Neither party will have any right to and will not attempt to enter into contracts or commitments in the name of or on behalf of the other in any respect whatsoever.

(c) Compliance with Laws. Developer will comply, at its sole expense, with all laws and regulations applicable to this Agreement and the development and operation of the Shop. Copies of all inspection reports, warnings, certificates and ratings, issued by any governmental entity during the Term of this Agreement in connection with the conduct of the Shop which indicate Developer's failure to meet or maintain the highest governmental standards (such as, without limitation, a Grade A sanitation rating or its equivalent) or less than full compliance by Developer with any applicable law, rule or regulation, will be forwarded to Franchisor by Developer immediately upon Developer's receipt thereof.

(d) Further Assurances. Franchisor and Developer will execute and deliver any and all additional papers, documents, and other assurances and will do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

(e) Judgment; Discretion. DEVELOPER AND FRANCHISOR ACKNOWLEDGE THAT VARIOUS PROVISIONS OF THIS AGREEMENT SPECIFY CERTAIN MATTERS THAT ARE WITHIN THE SOLE DISCRETION OR JUDGMENT OF FRANCHISOR OR ARE OTHERWISE TO BE DETERMINED UNILATERALLY BY FRANCHISOR. IF THE EXERCISE OF FRANCHISOR'S SOLE DISCRETION OR JUDGMENT AS TO ANY SUCH MATTER IS SUBSEQUENTLY CHALLENGED, THE PARTIES TO THIS AGREEMENT EXPRESSLY DIRECT THE TRIER OF FACT THAT FRANCHISOR'S RELIANCE ON A BUSINESS REASON IN THE EXERCISE OF ITS SOLE DISCRETION OR JUDGMENT IS TO BE VIEWED AS A REASONABLE AND PROPER EXERCISE OF SUCH SOLE DISCRETION OR JUDGMENT, WITHOUT REGARD TO WHETHER OTHER REASONS FOR ITS DECISION MAY EXIST, WITHOUT REGARD TO WHETHER THE TRIER OF FACT WOULD INDEPENDENTLY ACCORD THE SAME WEIGHT TO THE BUSINESS REASONS, AND WITHOUT REGARD TO WHETHER SUCH SOLE DISCRETION OR JUDGMENT IS EXERCISED IN THE BEST INTERESTS OF DEVELOPER.

(f) Approvals. If the approval, consent or agreement of a party is required in this Agreement, the request for such approval shall be in writing, shall be accompanied by reasonable detail if the circumstances require and shall refer to the Article 16 pursuant to which such approval is requested and may not be unreasonably withheld, delayed or condition, except to the extent that this Agreement expressly provides for another standard to apply, in which event such standard shall apply.

(g) No Waiver. Either party's failure to exercise any right or remedy or to enforce any obligation, covenant or agreement herein will not constitute a waiver by, or estoppel of, such party's right to enforce strict compliance with any such obligation, covenant or agreement. No custom or practice will modify or amend this Agreement. Either party's waiver of, or failure or inability to enforce, any right or remedy will not impair such party's rights or remedies with respect to subsequent default of the same, similar or different nature. Acceptance of any payment will not waive any default.

(h) Notice. All notices, requests, demands and claims required or desired to be given hereunder will be in writing and will be served in person, by Express Mail, by certified mail, by private overnight delivery, or electronic mail (email). Such notices, requests, demands and claims will be deemed conclusively given:

(i) at the time of service, if personally served;

- (ii) twenty-four (24) hours (exclusive of weekends and national holidays) after deposited in the United States mail, properly addressed and postage prepaid, if served by Express Mail;
- (iii) upon the earlier of actual receipt or three (3) calendar days after deposit in the United States mail, properly addressed and postage prepaid, return receipt requested, if served by certified mail;
- (iv) twenty-four (24) hours after delivery if served by private overnight delivery; or
- (v) twenty-four (24) hours after delivery if served by electronic mail (email).

All notices, requests, demands and claims will be given to the intended party at the location set forth below; provided, however, either party may change its location for the purpose of receiving notices, requests, demands and claims by giving written notice to the other party in the manner set forth above:

Notices to Franchisor:

President
 Cookies Franchise Holdings LLC
 110 Hillside Avenue, Suite 304
 Springfield, New Jersey 07081 Tel.
 (972) 746-2681
 Email. franchise@cookiesbydesign.com

Notices to Developer:

 Tel. () _____
 Email. _____

With a copy to:

dpolonitza@cookiesbydesign.com

(i) Severability. If all or any portion of any covenant contained herein are held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Developer and Developer’s Principals expressly agree to be bound by any lesser covenant subsumed within the terms of the covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement. Notwithstanding the above, should any term, covenant or provision hereof, or the application thereof, be determined by a valid, final, non-appealable order to be invalid or unenforceable, the remaining terms, covenants or provisions hereof will continue in full force and effect without regard to the invalid or unenforceable provision. In such event such term, covenant or provision will be deemed modified to impose the maximum duty permitted by law and such term, covenant or provision will be valid and enforceable in such modified form as if separately stated in and made a part of this Agreement. Notwithstanding the foregoing, if any term hereof is so determined to be invalid or unenforceable and such determination adversely affects, in Franchisor’s reasonable judgment, Franchisor’s ability to preserve its rights in, or the goodwill underlying, the Intellectual Property, the System and/or the Confidential Information, or materially affects Franchisor’s other rights hereunder, Franchisor may terminate this Agreement upon notice to Developer.

(j) Counterparts. This Agreement may be executed in any number of counterparts each of which when so executed will be an original, but all of which together will constitute one (1) and the same instrument.

(k) References and Headings. All references in this Agreement to Articles or Sections refer to corresponding Articles or Sections of this Agreement unless expressly provided otherwise. Headings appearing at the beginning of any of such Articles or Sections are for convenience only and shall not constitute part of such Article or Section and shall be disregarded in construing the language contained in such Article or Section. The words “this Agreement,” “herein,” “hereof,” “hereby,” “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular Article or Section unless expressly so limited. Pronouns in masculine, feminine and neuter genders shall be construed to include any

other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(l) Entire Agreement. This Agreement and the attachments hereto constitute the entire agreement between Franchisor, Developer and Developer's Principals concerning the subject matter hereof. All prior agreements, discussions, representations, warranties and covenants are merged herein. THERE ARE NO WARRANTIES, REPRESENTATIONS, COVENANTS OR AGREEMENTS, EXPRESS OR IMPLIED, BETWEEN THE PARTIES EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. Except those permitted to be made unilaterally by Franchisor, any amendments or modifications of this Agreement will be in writing and executed by Franchisor and Developer. Nothing in this Agreement or in any related agreement is intended to disclaim the representations made by Franchisor in the franchise disclosure document.

(m) Rules of Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

(n) Business Judgment. Notwithstanding any contrary provisions contained in this Agreement, the parties acknowledge and agree that: (i) this Agreement (and the relationship of the parties which arises from this Agreement) grants Franchisor the discretion to make decisions, take actions and/or refrain from taking actions not inconsistent with Developer's explicit rights and obligations hereunder that may affect favorably or adversely Developer's interests; (ii) Franchisor will use its business judgment in exercising such discretion based on Franchisor's assessment of Franchisor's own interests and balancing those interests against the interests, promotion and benefit of the System and Shops generally (including Franchisor, and its Affiliates and other franchisees), and specifically without considering Developer's individual interests or the individual interests of any other particular developer or franchisee (examples of items that will promote or benefit the System and Shops generally include, without limitation, enhancing the value of the Marks and/or the COOKIES BY DESIGN brand, improving customer service and satisfaction, improving project quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the System); (iii) Franchisor will have no liability to Developer for the exercise of its discretion in this manner; and (iv) even if Franchisor has numerous motives for a particular action or decision, so long as at least one motive is a reasonable business justification no trier of fact in any legal action shall substitute its judgment for Franchisor's judgment so exercised and such action or decision will not be subject to challenge for abuse of discretion. IF FRANCHISOR TAKES ANY ACTION OR CHOOSES NOT TO TAKE ANY ACTION IN ITS DISCRETION WITH REGARD TO ANY MATTER RELATED TO THIS AGREEMENT AND ITS ACTION OR INACTION IS CHALLENGED FOR ANY REASON, THE PARTIES EXPRESSLY DIRECT THE TRIER OF FACT THAT FRANCHISOR'S RELIANCE ON A BUSINESS REASON IN THE EXERCISE OF ITS DISCRETION IS TO BE VIEWED AS A REASONABLE AND PROPER EXERCISE OF ITS DISCRETION, WITHOUT REGARD TO WHETHER OTHER REASONS FOR OUR DECISION MAY EXIST AND WITHOUT REGARD TO WHETHER THE TRIER OF FACT WOULD INDEPENDENTLY ACCORD THE SAME WEIGHT TO THE BUSINESS REASON.

(o) No Representations; No Reliance. You acknowledge, expressly represent, and warrant that, except for representations made in Franchisor's franchise disclosure document, Franchisor has made no representations, warranties, or guarantees, express or implied, as to the potential revenues, profits or services of the business venture contemplated under this Agreement, and that you have not relied on any such representations in making your decision to purchase a COOKIES BY DESIGN franchise or area. You further acknowledge, expressly represent, and warrant that neither Franchisor nor its representatives have made any statements inconsistent with the terms of this Agreement.

(p) Electronic Signature. This Agreement, including all Attachments, may be signed with full force and effect using electronic signatures. By signing via your electronic signature, you consent to the legally binding terms and conditions of this Agreement and represent that you are the authorized signatory indicated in each signature block.

17. ACKNOWLEDGMENTS

Developer hereby acknowledges the following:

(a) Commercial Relationship. Developer and Developer’s Principals acknowledge that this Agreement creates an arm’s length commercial relationship that cannot and will not be transformed into a fiduciary or other “special” relationship by course of dealing, by any special indulgences or benefits that Franchisor bestows on Developer, or by inference from a party’s conduct.

Developer’s Principals Initials,
individually and on behalf of
Developer _____

(b) Compliance with Anti-Corruption and Anti-Money Laundering Laws. Developer and Developer’s Principals represent, covenant and warrant to Franchisor that, to the best of their knowledge, neither Developer nor any of Developer’s Principals or managerial employee thereof is identified, either by name or an alias, pseudonym or nickname, on the lists of “Specially Designated Nationals” or “Blocked Persons” maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (texts currently available at www.treas.gov/offices/enforcement/ofac/). Further Developer and Developer’s Principals represent, covenant and warrant that, to the best of their knowledge, they have not violated and agree that they will not violate any law (in effect now or which may become effective in the future) prohibiting corrupt business practices, money laundering or the aid or support of persons or entities who conspire to commit acts of terror against any person or government, including acts prohibited by the U.S. Patriot Act, Public Law No. 107-56 (text currently available at <http://www.epic.org/privacy/terrorism/hr3162.html>), U.S. Executive Order 13244 (text currently available at <http://treas.gov/offices/enforcement/ofac/sanctions/terrorism.html>), or similar law. The foregoing constitutes continuing representations and warranties, and Developer shall notify Franchisor immediately in writing of the occurrence of any event or the development of any circumstance that might render the foregoing representation and warranty false, inaccurate or misleading.

Developer’s Principals Initials,
individually and on behalf of
Developer _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

FRANCHISOR:
COOKIES FRANCHISE HOLDINGS LLC

DEVELOPER:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE 1A
STATEMENT OF OWNERSHIP INTERESTS
AND DEVELOPER’S PRINCIPALS

A. The following is a list of stockholders, partners or other investors in Developer, including all investors who own or hold a direct or indirect interest in Developer, and a description of the nature of their interest. All such individuals and entities will be deemed to be “Developer’s Principals” described in and designated pursuant to the Franchise Agreement, each of whom will execute the Guaranty of Developer’s Principals:

Name	Percentage of Ownership

B. The following is a list of all other of “Developer’s Principals” not described in “A”, above, described in and designated pursuant to the Franchise Agreement, each of whom will execute the Guaranty of Developer’s Principals attached to this Agreement as Attachment C.

Name	Percentage of Ownership

SCHEDULE 1B
DEVELOPMENT AREA MAP

The Development Area consists of the U.S. Postal Zip Codes set forth in Section 1 as of the Effective Date, and is further identified by the area highlighted in the map below:

ATTACHMENT A
FRANCHISE AGREEMENT

ATTACHMENT B
CONFIDENTIALITY AGREEMENT

This Employee’s Confidentiality and Non-Competition Agreement (“**Agreement**”) is made and entered into this ___ day of _____, 20___, by and between Cookies Franchise Holdings LLC (“**Franchisor**”), _____ (“**Developer**”), and _____ (“**Covenantor**”).

RECITALS

WHEREAS, Franchisor and Developer have entered into an Area Development Agreement dated _____ (“**Area Development Agreement**”), pursuant to which Franchisor has granted Developer the right to develop and establish Cookies by Design Shops (“**Shops**”) that use the trade names, trademarks, service marks, trade dress, logos, symbols, proprietary marks and other indicia of origin that are now or later designated by Franchisor for Developer’s use in the operation of the Shops (“**Marks**”) which produce cookies, cookie arrangements and related products for sale to the general public, other businesses or governmental entities (“**System**”);

WHEREAS, Franchisor has provided, or will provide to Developer, a confidential operations manual and such other written or printed material to explain the operation of the System and aid in its use (“**Documentation**”) and certain confidential information, knowledge, and know-how concerning the construction and methods of operation of the Shops relating to the System, including the Documentation, drawing, materials, equipment, techniques, products, recipes, and other materials marked as confidential data of Franchisor (“**Confidential Information**”);

WHEREAS, the Marks and Confidential Information provide economic advantages to Franchisor and the Confidential Information is not generally known to, and are not readily ascertainable by proper means by, Franchisor’s competitors who could obtain economic value from knowledge and use of the Confidential Information; and

WHEREAS, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor or herein.

NOW, THEREFORE, as a condition of Employee’s employment and in consideration of Employee’s further employment by the Company, and in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

Confidentiality Agreement

1. Franchisor and Developer will disclose to Covenantor some or all of the Confidential Information. All information and materials, including, without limitation, the Documentation, which Franchisor provides to Developer and/or Covenantor will be deemed Confidential Information for purposes of this Agreement.
2. Covenantor will at all times treat as confidential, and will not at any time disclose, distribute, copy, duplicate, record, or otherwise reproduce, in whole or in part, or otherwise make available to any person or source or otherwise use in any manner except for the operation of the Shops, the contents of the Confidential Information without the prior written consent of Franchisor.
3. Covenantor agrees that any goodwill that may arise from Covenantor’s use of the Confidential Information will at all times remain the sole and exclusive property of Franchisor and will inure to the sole benefit of Franchisor.
4. Covenantor agrees to notify Franchisor and Developer promptly in writing of any loss, theft, or unauthorized disclosure or use of any of the Confidential Information of which Covenantor has knowledge.
5. Covenantor will surrender any material containing some or all of the Confidential Information, including the Documentation, to Developer or Franchisor, upon request, or upon termination of

employment by Developer, or upon conclusion of the use for which such information or material may have been furnished to Covenantor.

Miscellaneous

1. Developer and Covenantor agree that in the event of a breach of this Agreement, Franchisor and/or Developer will be entitled to enforce the provisions of this Agreement and will be entitled, in addition to any other remedies which are made available to it at law or in equity, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

2. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Developer in enforcing this Agreement.

3. THIS AGREEMENT WILL BE INTERPRETED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF _____, WITHOUT REFERENCE TO _____ CHOICE OF LAW PRINCIPLES.

4. This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

5. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision shall be fully severable and/or construed in remaining part to the full extent allowed by law, with the remaining provisions of this Agreement continuing in full force and effect.

5. Any and all notices required or permitted under this Agreement will be in writing and will be personally delivered or mailed by certified mail, return receipt requested, to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to Franchisor:

Notices to Developer:

Director of Operations
Cookies Franchise Holdings LLC
110 Hillside Avenue, Suite 304
Springfield, New Jersey 07081
Tel. (972) 746-2681
Email. franchise@cookiesbydesign.com

Tel. () _____
Email. _____

With a copy to:

dpolonitza@cookiesbydesign.com

Notices to Covenantor:

Any notice by certified mail will be deemed to have been given at the date and time of mailing.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

FRANCHISOR:
COOKIES FRANCHISE HOLDINGS LLC

By: _____
Name: _____
Title: _____

COVENANTOR:

By: _____
Name: _____

DEVELOPER:

By: _____
Name: _____
Title: _____

ATTACHMENT C

GUARANTY OF DEVELOPER'S PRINCIPALS

This Guaranty of Developer's Principals is made and entered into _____, 20__ ("Guaranty"), in accordance with the terms and conditions of that certain Area Development Agreement dated _____, 20__ ("Area Development Agreement"), by and between Cookies Franchise Holdings LLC, a Delaware limited liability company ("Franchisor") and _____ ("Developer").

WHEREAS, Developer's Principals (each a "Guarantor") are required to execute this Guaranty as a condition to entering into the Area Development Agreement.

NOW, THEREFORE, in consideration of the undertakings and commitments of Developer set forth in the Area Development Agreement, each of the undersigned Guarantors acknowledge and agree as follows:

1. Guarantor is included in the term "Developer's Principals."
2. Guarantor has read the terms and conditions of the Area Development Agreement and acknowledges that the execution of this Guaranty and the undertakings of Developer and the Guarantors in the Area Development Agreement are in partial consideration for, and a condition to, the granting of the development rights, and that Franchisor would not have granted the development rights without the execution of this Guaranty and the other undertakings by each of the undersigned.
3. Each Guarantor individually, jointly, and severally, makes all of the covenants, representations, warranties and agreements of Guarantors set forth in the Area Development Agreement and is obligated to perform thereunder.
4. Each Guarantor individually, jointly and severally, unconditionally, and irrevocably guarantees to Franchisor and its successors and assigns that all of Developer's obligations under the Area Development Agreement will be punctually paid and performed. Upon default by Developer or upon notice from Franchisor, each will immediately make each payment and perform each obligation required of Developer under the Area Development Agreement.
5. Without affecting the obligations of any Guarantors under this Guaranty, Franchisor may, without notice to the Guarantors, waive, renew, extend, modify, amend, or release any indebtedness or obligation of Developer or settle, adjust, or compromise any claims that Franchisor may have against Developer.
6. Each Guarantor waives all demands and notices of every kind with respect to the enforcement of this Guaranty, including notices of presentment, demand for payment or performance by Developer, any default by Developer or any guarantor, and any release of any guarantor or other security for this Guaranty or the obligations of Developer.
7. Further, each Guarantor hereby waives all other rights or benefits otherwise provided to sureties or guarantors under any state or federal law or common law, except as provided in this Guarantee. This waiver is expressly intended to waive any and all benefits and defenses available under the laws of any state that may be deemed to be applicable to this Guaranty, including, without limitation, the right to require Franchisor to (i) obtain Guarantor's consent to any modification of the Area Development Agreement or any other agreement between Franchisor and any party other than Guarantor, (ii) proceed against any collateral that may be given for any of Developer's obligations, or (iii) pursue any other right or remedy for Guarantor's benefit, and agrees that Franchisor may proceed against Guarantor for the obligations guaranteed herein without taking any action against Developer or any other guarantor or pledgor. Each Guarantor agrees that Franchisor may unqualifiedly exercise, in its sole discretion, any or all rights and remedies available to it against Developer or any other guarantor or pledgor without impairing Franchisor's rights and remedies in enforcing this Guarantee, under which Guarantor's liabilities will remain independent and unconditional. Each Guarantor acknowledges that Franchisor's exercise of certain of such

rights or remedies may affect, or eliminate Guarantor's right of subrogation or recovery against Developer and that Guarantor may incur a partially or totally nonreimbursable liability under this Guarantee.

8. On Franchisor's request, each Guarantor will promptly deliver to Franchisor complete and current financial statements and tax returns and such other financial information about Guarantor as Franchisor may reasonably request. Each Guarantor further agrees to keep Franchisor fully informed on all aspects of Developer's financial condition and the performance of Developer's obligations to Franchisor and that Franchisor has no duty to disclose to Guarantor any information pertaining to Developer or to notify Guarantor of Developer's default under the Area Development Agreement or any Related Agreement.

9. Franchisor may pursue its rights against any Guarantor without first exhausting its remedies against Developer and without joining any other Guarantor and no delay on the part of Franchisor in the exercise of any right or remedy will operate as a waiver of the right or remedy, and no single or partial exercise by Franchisor of any right or remedy will preclude the further exercise of that or any other right or remedy.

10. Upon receipt by Franchisor of notice of the death of any Guarantor, the estate of the deceased will be bound by the foregoing Guaranty, but only for defaults and obligations under the Area Development Agreement existing at the time of death, and in that event, the obligations of the remaining Guarantors will continue in full force and effect.

11. If this Guaranty is executed by more than one party, each Guarantor agrees that Franchisor may enforce the provisions of this Guaranty against one or more of the parties without seeking to enforce this Guaranty as to all or any other parties to this Guaranty and each Guarantor waives any requirement of joinder of all or any other of the parties to this Guaranty in any suit or proceeding to enforce the provisions of this Guaranty.

12. The provisions of this Guaranty are severable, and, in the event that any of them is held void and unenforceable as a matter of law, the remainder will be deemed modified so as to impose the maximum duty permitted by law and such provision will be valid and enforceable in such modified form as if separately stated in and made a part of this Guaranty.

13. All disputes concerning the validity, interpretation, or performance of this Guaranty and any of its terms or provisions, or any rights or obligations of the parties hereto, will be governed by and resolved in accordance with the laws of the State of New Jersey, and be resolved in the courts located within Union County, New Jersey.

14. Any capitalized term used herein and not defined in this Guaranty will have the meaning defined in the Area Development Agreement.

15. If any arbitration or other legal action is initiated by either of the parties hereto, the prevailing party will be entitled to recover from the other party reasonable attorneys' fees and costs in addition to any other relief that may be awarded.

[Signature Page to Follow.]

EXHIBIT D

[RESERVED]

EXHIBIT E
FINANCIAL STATEMENTS

THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAD AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO THE CONTENT OR FORM.

Cookies USA LLC
Statement of Cash Flows
January - December 2024

	Total
OPERATING ACTIVITIES	
Net Income	-90,569.81
Adjustments to reconcile Net Income to Net Cash provided by operations:	
1800 Accounts Receivable	-4,773.93
1620 POS Clearing	5,763.96
1710 Prepaid Insurance	4,228.46
1712 Prepaid Rent	2,699.63
1715 Supplies	-3,014.65
1717 Build-A-Bear Supplies	-3,882.11
2100 Accounts Payable (A/P)	83,191.61
2300 Bill Spend & Expense	20,431.60
1650 AfterPay Due to Stores	-347.74
1655 National - Corporate Gifting Due to Stores	9,964.47
1665 Sales from Tuesday Morning Website Due to Stores	0.00
1670 State and Sales Tax	2.67
2200 Payroll Clearing	0.00
2205 Tips Due to Employees	0.00
Total Adjustments to reconcile Net Income to Net Cash provided by operations:	\$ 114,263.97
Net cash provided by operating activities	\$ 23,694.16
FINANCING ACTIVITIES	
2500 Long Term Liabilities:Due from Corp to/from CRH	-1,938.17
2502 Long Term Liabilities:Due to/from Cosi, Inc xx8539	166.48
2507 Long Term Liabilities:Due to/from Tuesday Morning	-8,625.05
Capital Investment	15,000.00
Net cash provided by financing activities	\$ 4,603.26
Net cash increase for period	\$ 28,297.42
Cash at beginning of period	11,984.78
Cash at end of period	\$ 40,282.20

Cookies USA LLC
Balance Sheet
As of December 31, 2024

	Total
ASSETS	
Current Assets	
Bank Accounts	
1000 Bank Accounts	0.00
1002 Cash in Drawer	4,219.72
1100 Bento Checking	0.00
1105 Store18 xx3351	5,461.89
1110 5588 Franchise Account	6,382.13
1115 6701 Ad Fund Account	18,284.93
1120 8963 Main Operating Account	5,933.53
1190 Bill.com Money Out Clearing	0.00
Total Bank Accounts	\$ 40,282.20
Accounts Receivable	
1800 Accounts Receivable	15,033.93
Total Accounts Receivable	\$ 15,033.93
Other Current Assets	
1430 Undeposited Funds	0.00
1620 POS Clearing	-3,398.07
1710 Prepaid Insurance	0.00
1712 Prepaid Rent	0.00
Total Other Current Assets	-\$ 3,398.07
Total Current Assets	\$ 51,918.06
Other Assets	
1715 Supplies	38,219.46
1717 Build-A-Bear Supplies	5,978.51
1720 Goodwill	391,000.00
Total Other Assets	\$ 435,197.97
TOTAL ASSETS	\$ 487,116.03
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2100 Accounts Payable (A/P)	219,044.83
Total Accounts Payable	\$ 219,044.83
Credit Cards	
2300 Bill Spend & Expense	20,431.60
Total Credit Cards	\$ 20,431.60

Other Current Liabilities	
1650 AfterPay Due to Stores	10,441.45
1655 National - Corporate Gifting Due to Stores	61,431.40
1665 Sales from Tuesday Morning Website Due to Stores	0.00
1670 State and Sales Tax	2.67
2200 Payroll Clearing	0.00
2205 Tips Due to Employees	0.00
Total Other Current Liabilities	\$ 71,875.52
Total Current Liabilities	\$ 311,351.95
Long-Term Liabilities	
2700 Long Term Liabilities	
2500 Due from Corp to/from CRH	15,528.86
2501 Due from Ad fund to/from Store #018	3,057.42
2502 Due to/from Cosi, Inc xx8539	166.48
2507 Due to/from Tuesday Morning	-8,625.05
Total 2700 Long Term Liabilities	\$ 10,127.71
Total Long-Term Liabilities	\$ 10,127.71
Total Liabilities	\$ 321,479.66
Equity	
Capital Investment	65,000.00
Opening Balance Equity	500,001.66
Retained Earnings	-308,795.48
Net Income	-90,569.81
Total Equity	\$ 165,636.37
TOTAL LIABILITIES AND EQUITY	\$ 487,116.03

Cookies USA LLC
Profit and Loss
January - December 2024

	Total
Income	
3000 Sales Store18	
3010 Sales of Product Income	358,988.86
3020 Delivery Charges	30,679.75
3025 Service Fee	4,215.00
Total 3000 Sales Store18	\$ 393,883.61
3900 Sales Discounts, Promos & Returns	-21,278.77
5000 Franchise Revenues	
5011 Franchise Royalties (deleted)	0.00
5015 License Fees	428,757.31
5020 CJ Loyalty & Promo Fees	58,323.41
5025 HD Sales Fees	18,244.80
5030 State Ship Fees	47,465.57
5035 Website Service Fees	151,684.34
5036 CBD POS Maintenance Fee	17,500.00
5045 Ad Fund	220,317.30
5055 Square Sales License Fee Due	14,924.54
5065 Franchise Transfer Fee	10,000.00
5070 Franchise Renewal Fee	13,200.00
Total 5000 Franchise Revenues	\$ 980,417.27
Total Income	\$ 1,353,022.11
Cost of Goods Sold	
5200 Food Purchases	
5201 Amazon	100.33
5203 Merchants Bakery Supplies	767.03
5204 KopyKake	1,427.01
5205 Pollock	13,948.95
5206 Ben E. Keith	23,236.84
5207 Food Purchases-Misc	314.40
Total 5200 Food Purchases	\$ 39,794.56
Total Cost of Goods Sold	\$ 39,794.56
Gross Profit	\$ 1,313,227.55
Expenses	
6000 Store Labor, Taxes & Benefits	
6005 Store Wages	154,786.70
Store - Taxes & Benefits	
6110 Store - Payroll Taxes	11,890.04

Total Store - Taxes & Benefits	\$ 11,890.04
Total 6000 Store Labor, Taxes & Benefits	\$ 166,676.74
6200 Store - Controllables	
6205 Helium	495.00
6210 Paper & Packaging Purchases	13,981.91
6220 Delivery Costs	33,184.00
6250 Office Supplies	1,844.45
6270 Cleaning Supplies	394.46
6280 Smallwares	4,319.10
6290 Postage & Freight	633.94
6310 Repairs & Maintenance	5,035.61
6380 Travel Expense	
6410 Meals	167.14
Total 6380 Travel Expense	\$ 167.14
Total 6200 Store - Controllables	\$ 60,055.61
6450 Store - Fixed Expenses	
6455 Rent - Paid	23,497.72
6466 Personal Property Taxes	4,715.81
6467 CAM	2,779.68
6470 Utilities - Electricity	5,523.91
6472 Utilities - Sewer & Water	2,280.00
Total 6450 Store - Fixed Expenses	\$ 38,797.12
7100 G&A - Labor & Benefits	
7110 Salaries	241,140.92
7115 401k Admin Principal Life	12,088.34
7120 Benefits	5,492.96
7130 Taxes	17,354.14
7135 State Taxes	1,949.64
Total 7100 G&A - Labor & Benefits	\$ 278,026.00
7200 Admin Expenses	
7300 Office Supplies & Expenses - G&A	504.54
7315 Postage & Freight - G&A	3,143.29
7320 Dues, Subscriptions & Publications - G&A	
7320.01 Klaviyo	63,363.92
7320.04 Shopify	1,894.85
7320.22 Adobe	639.60
7320.99 Dues & Subscriptions Other	147.00
Total 7320 Dues, Subscriptions & Publications - G&A	\$ 66,045.37
7322 Marketing Expense	
7322.03 Google Ads	119,374.06
7322.04 Facebook	28,045.27
7322.05 CJ Affiliate	64,909.02

7322.07 Amanda Nesco	14,400.00
7322.09 Natasha Bandoquillo	45,000.00
7322.11 One Click Holdings	90,701.55
7322.12 Verity	28,397.28
7322.13 Microsoft Ads	112.96
7322.14 4overInternational	1,759.43
7322.15 Canva	120.00
7322.16 Sinch Mailgun	411.47
7322.17 Viralsweep Starter	294.00
7322.99 Marketing Expense - Other	5,324.52
Total 7322 Marketing Expense	\$ 398,849.56
7325 IT, Telephone & Internet	
7325.02 Microsoft	43,735.75
7325.03 Network Solutions	1,830.51
7325.04 7SHIFTS	923.88
7325.05 Softworks Technologies	112,000.00
7325.09 GoDaddy	299.03
7325.10 CloudFlare	10,581.00
7325.11 Twilio	120.40
7325.12 Live Chat	720.38
7325.13 Frontier	1,323.23
7325.14 AC4 Media	5,000.00
7325.15 Ring Central	679.80
7325.99 IT, Telephone & Internet Other	322.49
Total 7325 IT, Telephone & Internet	\$ 177,536.47
7355 Merchant Fee's	27,889.79
Total 7200 Admin Expenses	\$ 673,969.02
7324 Moving & Storage	3,084.00
7330 Insurance	
7335 Insurance-Utica Worker Comp&Business Owners	18,723.32
7340 Insurance-Crisp Ins. Adv Errors&Omissions	3,151.32
7350 Insurance- IPFS	1,050.44
Total 7330 Insurance	\$ 22,925.08
7356 Service Fee	357.75
7363 Smallwares for testing	74.62
7370 Penalty & Late Fees	1,381.79
7500 Professional Fees	
7501 Irene Malfregeot	11,000.00
7520 Legal	16,470.30
7530 Accounting & Tax Services	77,974.45
7535 Denis Carter	56,000.36
7540 Payroll Fees	4,407.03
7541 Dunbar, Bender & Zapf	1,870.00

7545 Other Professional Fees	934.72
Total 7500 Professional Fees	<u>\$ 168,656.86</u>
9999 Ask my Accountant	0.00
Total Expenses	<u>\$ 1,414,004.59</u>
Net Operating Income	-\$ 100,777.04
Other Income	
4600 Other Income	
4610 Prior Period Adjustment	10,207.23
Total 4600 Other Income	<u>\$ 10,207.23</u>
Total Other Income	<u>\$ 10,207.23</u>
Net Other Income	<u>\$ 10,207.23</u>
Net Income	-\$ 90,569.81

Cookies USA LLC

**Independent Auditor's Report
And
Financial Statements
May 31, 2024**

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Metwally CPA PLLC

CERTIFIED PUBLIC ACCOUNTANT

1312 Norwood Dr STE 100, Bedford, Texas 76022

Cell: 214-200-5434 (Mohamed Metwally) Mmetwally@metwallycpa.com

Independent Auditor's Report

To the Members of
Cookies USA LLC

Opinion

We have audited the accompanying financial statements of Cookies USA LLC (the Company), which comprise the balance sheet as of May 31, 2024 and the related statements of operations, members' equity (deficit), and cash flows for the year then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Cookies USA LLC as of May 31, 2024, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Cookies USA LLC and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Emphasis of Matter

The accompanying financial statements are based on the assumption of the Company's continued operations as a going concern. However, as detailed in Note 9, the Company incurred a net loss of \$599,505 for the fiscal year ending May 31, 2024, and faces liquidity constraints, working capital deficiencies, and negative operating cash flows. These factors raise substantial doubt about the Company's ability to continue as a going concern. Management's plan to address these challenges is outlined in Note 9. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

As discussed in note 4 to the financial statements, the Company has extensive transactions and relationships with its affiliates. Accordingly, the accompanying financial statements may not be indicative of the results of operations that would have been achieved if the Company had operated without such affiliations.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Cookies USA LLC's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Cookies USA LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Cookies USA LLC's ability to continue as a going concern for a reasonable period.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Metwally CPA PLLC

Metwally CPA PLLC
Bedford, Texas
December 18, 2024

Cookies USA, LLC
Balance Sheet
May 31, 2024

	2024
ASSETS	
Current Assets	
Cash and cash equivalents	\$ 31,968
Due from related parties	837,096
Other assets	4,000
Total Current Assets	873,064
Non-Current Assets	
Goodwill, net	450,000
Intangible assets, net	328,375
Total Non-Current Assets	778,375
Total Assets	\$ 1,651,439
LIABILITIES AND MEMBERS' EQUITY (Deficit)	
Current Liabilities	
Accounts payable and accrued liabilities	\$ 89,729
Notes payable	469,000
Due to related parties	1,145,395
Total Current Liabilities	1,704,124
Total Liabilities	1,704,124
Members' Equity (Deficit)	
Members' equity (Deficit)	(52,685)
Total Members' Equity (Deficit)	(52,685)
Total Liabilities and Members' Equity (Deficit)	\$ 1,651,439

The accompanying notes are an integral part of the financial statements.

Cookies USA, LLC
Statement of Operations
Year Ended May 31, 2024

	2024
Revenues	
Company owned stores sales	308,413
Total Revenues	308,413
Operating Expenses	
Wages and salaries	481,706
Cost of goods sold	110,259
General and administrative	101,296
Legal and professional	86,132
Amortization expense	81,625
Total Operating Expenses	861,018
Operating Income / (Loss)	(552,605)
Other Income (Expense)	
Interest expense	(46,900)
Total Other Income (Expense)	(46,900)
Net Income / (Loss)	\$ (599,505)

The accompanying notes are an integral part of the financial statements.

Cookies USA, LLC
Statement of Members' Equity (Deficit)
Year Ended May 31, 2024

Members' Equity (Deficit) At June 1, 2023	<u>\$ -</u>
Net income / (loss)	(599,505)
Members' contribution	550,002
Members' distributions	(3,182)
Members' Equity (Deficit) At May 31, 2024	<u>\$ (52,685)</u>

The accompanying notes are an integral part of the financial statements.

Cookies USA, LLC
Statement of Cash Flows
Year Ended May 31, 2024

	2024
Cash Flows From Operating Activities	
Net income / (loss)	\$ (599,505)
Adjustments to reconcile net income to net cash provided by operating activities	
Amortization expense	81,625
Change in assets and liabilities	
Due from related parties	(837,096)
Other assets	(4,000)
Accounts payable	89,729
Due to related parties	1,145,395
Net Cash Flows Provided By (Used In) Operating Activities	(123,852)
Cash Flows From Investing Activities	
Business acquisition	(391,000)
Net Cash Flows Provided By (Used In) Investing Activities	(391,000)
Cash Flows From Financing Activities	
Members' contributions	550,002
Members' distributions	(3,182)
Net Cash Flows Provided By (Used In) Financing Activities	546,820
Net Change In Cash And Cash Equivalent During The Year	31,968
Cash and cash equivalents - beginning of the year	-
Cash And Cash Equivalent - End of The Year	\$ 31,968
Supplemental Cash Flow Information Noncash investing and financing activities	
Note in exchange of stores acquisition	\$ (469,000)

The accompanying notes are an integral part of the financial statements.

Cookies USA LLC
May 31, 2024
Notes To Financial Statements

1. COMPANY AND NATURE OF OPERATIONS

Cookies USA LLC (the Company) was established in the state of Florida as a limited liability Company on May 22, 2023, for the purpose of the retail sale of products under the tradename "COOKIES BY DESIGN", along with owning Cookies Franchise Holdings LLC, a Delaware limited liability company offering franchise opportunities (directly or through a wholly-owned subsidiary) to entrepreneurs who want to develop and operate retail "shops" under the tradename "COOKIES BY DESIGN" that produces decorated cookies, gourmet cookies, fanciful cookie arrangements, and related products for retail sale to the general public, and related activities.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

This summary of significant accounting policies is presented to assist the reader in understanding and evaluating the Company's financial statements. The financial statements and notes are representations of the Company's management, which is responsible for their integrity and objectivity. These accounting policies conform to generally accepted accounting principles and have been consistently applied in the preparation of financial statements.

A. Basis of Accounting

The Company's financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP").

B. Cash and Cash Equivalents

For purposes of the Statement of cash flows, cash equivalents include bank accounts and cash in transit for bank deposits with maturities of three months or less to be cash equivalents.

C. Federal Income Taxes

As a limited liability Company, the Company's taxable income or loss is allocated to members in accordance with their respective percentage ownership. Therefore, no provision for income taxes has been included in the financial statements.

D. Concentration of Credit Risk

The Company maintains cash and cash equivalents with major financial institutions. At various times during the year, the total amount on deposit might exceed the \$250,000 limit insured by the Federal Deposit Insurance Corporation (FDIC). The Company believes that it mitigates credit risk by depositing cash with financial institutions having high credit ratings.

E. Use of Estimates

The preparation of our Company's financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues, costs, and expenses during the reporting period. Actual results could differ significantly from those estimates. It is at least reasonably possible that a change in the estimates will occur in the near term.

F. Intangible Assets

In accordance with Financial Standards Accounting Board ("FASB") Accounting Standards Codification ("ASC") 805, Business Combinations, the Company accounts for finite lived intangibles at fair value upon acquisition and amortizes this intangible asset on a straight-line basis over the life of the asset. The Company's acquired intangible assets include trademark, domains, and franchise contracts, made in conjunction with the Cookies by Design, Inc. acquisition in 2023. The useful lives of these assets are as follows:

Franchise contracts	10 years
Domains	8 years

The tradename is not subject to amortization. The tradename has an indefinite life, is recorded at cost, is not amortized and is tested for impairment annually, or more frequently should events or changes in circumstances indicate that it might be impaired.

G. Goodwill

Goodwill represents the excess purchase price over the fair value of the net assets of the business acquired. Goodwill is amortized on a straight-line basis over a period of ten years in accordance with Financial Standards Accounting Board ("FASB") Accounting Standards Codification ("ASC") 350 Intangibles—Goodwill and Other. The Company tests its goodwill for impairment only upon the occurrence of an event or circumstance that may indicate the fair value of the Company is less than its carrying amount. As of May 31, 2024, the Company determined that there was no impairment of goodwill.

H. Debt

The Company accounts for debt as current if the debt is due within one year of the balance sheet date or is cancelable or callable. The Company accounts for debt as noncurrent if the obligation does not expire or is due within one year.

I. Revenue Recognition

The Company adopts Accounting Standards Codification 606, Revenue from Contracts with Customers ("ASC 606") to recognize its revenue. Revenue is recognized when performance obligations under the terms of the contracts with customers are satisfied. The Company generates revenues by charging fees for product sales which are generally collected as earned. Revenue is recognized when we satisfy the performance obligation by transferring promised goods to the customer (the customer obtains control of the good or service). The amount of revenue recognized is the amount allocated to the satisfied performance obligation. The performance obligation may be satisfied at a point in time (transferring goods to a customer) or over time. The revenue is recognized once the sale is complete.

J. Recent Accounting Pronouncements

FASB ASU No. 2016-02 – Leases (Topic 842) is effective for the calendar year 2022. The standard requires lessees to recognize right-of-use assets and liabilities for most leases with terms longer than twelve months. The Company has evaluated the impact of this standard on its financial statements and determined that it doesn't have any lease that meet the requirement to recognize a right-of-use asset and liability because the Company doesn't have any long-term leases.

3. CASH AND CASH EQUIVALENTS

The Company maintains cash and cash equivalents with major financial institutions. The account is insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000. On May 31, 2024, the Company's cash balance didn't exceed the FDIC insurance limit.

The Company considers all cash in the bank and investments in highly liquid debt instruments with maturities of three months or less to be cash equivalents. As of May 31, 2024, the Company had approximately \$31,968 in cash in its bank accounts.

4. RELATED PARTY TRANSACTIONS

Cookies USA LLC and Cookies By Design, Inc. are affiliated entities under common ownership. As of May 31, 2024, the Company owes its affiliate \$1,128,661 for shared revenue collected on the affiliate's behalf, while the affiliate owes the Company \$837,096 for shared expenses incurred. Furthermore, Cookies USA LLC and Cosi Restaurant Holdings LLC are affiliated entities, with the Company owing its affiliate \$16,734 for shared expenses.

As of May 31, 2024 the company had amounts due to/from related parties as follows

	<u>2024</u>
Due from related parties	\$ 837,096
Due to related parties	\$ (1,145,395)

5. ACQUISITIONS

On June 1, 2023, Cookies USA LLC entered into an asset purchase agreement with Cookies by Design, Inc. to acquire substantially all of the assets and business operations of the latter's franchised system. The total consideration for the acquisition amounted to \$900,000, comprising \$431,000 in cash and the assumption of \$469,000 in debt. Assets acquired consisted of approximately \$50,000 trademarks, \$25,000 Domains, \$285,000 franchise agreements and inventory \$40,000 that were fully expensed during the year. The excess of the purchase price over the estimated fair value of net tangible and intangible assets acquired was allocated to goodwill for approximately \$500,000. Goodwill is attributable to the workforce of the acquired business, expected synergies from combining operations, and franchise agreement intangibles that do not qualify for separate recognition.

6. GOODWILL AND INTANGIBLE ASSETS

Goodwill represents the excess purchase price over the fair value of the net assets of the business acquired. Trademarks represent intangible assets with infinite lives valued at the total cost of developing the trademarks. Goodwill, Domains and Franchise agreements are amortized over their estimated useful life. Trademarks are not amortized but are tested annually for impairment or more frequently if indicators of potential impairment exist. As of May 31, 2024, there was no impairment identified for goodwill or trademarks.

Intangible assets with an indefinite life consisted of the following:

	<u>2024</u>
Trademarks	\$ 50,000
	<u>\$ 50,000</u>

Intangible assets with a definite life consisted of the following:

	<u>31-May-24</u>			
	<u>Amortization Period (Years)</u>	<u>Gross Amount</u>	<u>Accumulated Amortization</u>	<u>Net Amount</u>
Franchise Agreements	10	\$ 285,000	\$ (28,500)	\$ 256,500
Domains	8	25,000	(3,125)	21,875
Goodwill	10	500,000	(50,000)	450,000
		<u>\$ 810,000</u>	<u>\$ (81,625)</u>	<u>\$ 728,375</u>

Amortization expenses for the year ended May 31, 2024 were \$81,625 and are included in operating expenses on the accompanying statement of operations.

Estimated amortization expense for each year of intangible assets and goodwill is as follows:

	<u>May 31,</u>
2025	\$ 81,625
2026	81,625
2027	81,625
2028	81,625
2029	81,625
Thereafter	320,250
Total future amortization expense	<u>\$ 728,375</u>

The remaining useful life for Goodwill was approximately 9 years, Domains were approximately 7 years and Franchise Agreements were approximately 9 years as of May 31, 2024.

7. NOTES PAYABLE

As part of the Company's 2023 acquisition, the Company assumed a one-year promissory note in the amount of \$469,000. The note, which bears a 10% annual interest rate, is due within a year from the agreement's date. As of May 31, 2024, an amount of \$46,900 in interest had accrued on the note. The principal amount of the note, along with the accrued interest, is due within the next twelve months

8. REVENUE FROM CONTRACTS WITH CUSTOMERS

The Company's revenues consist primarily of products sold to customers. Revenue is recognized when the performance obligation is satisfied by transferring promised goods to the customer (customer obtains control of the good or service). The amount of revenue recognized is the amount allocated to the satisfied performance obligation. The performance obligation may be satisfied at a point in time (transferring goods to a customer) or over time. The revenue is recognized once the sale is complete, and the customers have control over products.

Disaggregated revenues

The Company derives its revenues from the sale of products. The Company recognizes revenues once its customers have control over products which are generally collected as earned. The economic risks of the Company's revenues are dependent on the strength of the economy in the United States. Product sales are considered a distinct performance obligation. The Company's sales are spread over numerous customers, reducing the risk of loss.

	<u>2024</u>
Revenue recognized over time	\$ -
Revenue recognized at a point in time	<u>308,413</u>
Total Revenue	<u>\$ 308,413</u>

9. LIQUIDITY

As shown in the accompanying financial statements, the Company had a net loss of \$599,505 for the year ended May 31, 2024, the Company also had low liquidity level in comparison to its short-term obligations, working capital deficiencies, and negative cash flows from operations. The future of the Company is dependent upon its ability to obtain financing from its owner and upon future profitable operations. The financial statements do not include any adjustments related to the recoverability and classification of recorded assets, or the amounts of and classification of liabilities that might be necessary in the event the Company cannot continue in existence. Management's plans in connection with such concerns include implementing operations modification to increase franchise sales and reduce operating costs. The Company's members are also capable and willing of contributing more funds if needed. Barring any force majeure or extraordinary event, the Company's members have guaranteed the ongoing operation of the Company for the next twelve months.

10. SUBSEQUENT EVENTS

Management has evaluated subsequent events through December 18, 2024 which is the date the financial statements were available to be issued. The Company did not have any material recognizable subsequent events that would require adjustment to, or disclosure in, the financial statements.

GUARANTEE OF PERFORMANCE

For value received, Cookies USA LLC, a Delaware Limited Liability Company (the "Guarantor"), located at 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081, absolutely and unconditionally guarantees to assume the duties and obligations of Cookies Franchise Holdings LLC, located at 110 Hillside Avenue, Suite 304, Springfield, New Jersey 07081 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2024 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee at 110 Hillside Ave, Suite 304, Springfield NJ 07081 on the 31 day of 2025

Guarantor: Cookies USA LLC

By:



Name:

David Polonitza

Title:

EVP

EXHIBIT F

STATE ADMINISTRATORS

LIST OF STATE ADMINISTRATORS

California

Department of Financial Protection and Innovation
320 West 4th Street, Suite 750
Los Angeles, California 90013
(866) 275-2677

Hawaii

Commissioner of Securities of the State of Hawaii
Department of Commerce and Consumer Affairs
Business Registration Division
Securities Compliance Branch
335 Merchant Street, Room 203
Honolulu, Hawaii 96813
(808) 586-2722

Illinois

Office of Attorney General
500 S. Second Street
Springfield, Illinois 62706
(217) 782-4465

Indiana

Franchise Section
Securities Division
302 W. Washington St., Room E-111
Indianapolis, Indiana 46204
(317) 232-6681

Maryland

Office of Attorney General
Securities Division
200 St. Paul Place
Baltimore, Maryland 21202
(410) 576-6360

Michigan

Michigan Department of Attorney General
Consumer Protection Division
Attention: Franchise Section
525 W. Ottawa St.
G. Mennen Williams Bldg., 1st Floor
PO Box 30212
Lansing, Michigan 48909
(517) 373-7117

Minnesota

Department of Commerce
85 7th Place East, Suite 280
St. Paul, Minnesota 55101
(651) 539-1600

New York

NYS Department of Law
Investor Protection Bureau
28 Liberty Street, 21st Floor
New York, New York 10005
212-416-8222

North Dakota

North Dakota Securities Department
600 East Boulevard Avenue
State Capitol, 14th Floor, Dept. 414
Bismarck, North Dakota 58505-0510
(701) 328-4712

Rhode Island

Securities Division
Department of Business Regulation
1511 Pontiac Avenue, Building 69-1
Cranston, Rhode Island 02920
(401) 462-9500

South Dakota

Department of Labor and Regulation
Divisions of Securities
124 S. Euclid, 2nd Floor
Pierre, South Dakota 57501
(605) 773-3563

Virginia

State Corporation Commission
Division of Securities and Retail Franchising
1300 East Main Street, 9th Floor
Richmond, Virginia 23219
(804) 371-9051

Washington

Director of Department of Financial
Institutions
Securities Division – 3rd Floor
150 Israel Road, S.W. Tumwater, Washington
98501
(360) 902-8760

Wisconsin

Division of Securities
Department of Financial Institutions
201 W. Washington Ave., Suite 300
Madison, Wisconsin 53703
(608) 266-8559

EXHIBIT G

LIST OF CURRENT AND FORMER FRANCHISED SHOPS

EXHIBIT G
LIST OF FRANCHISED SHOPS AS OF MAY 31, 2024

Franchisee	Address	Telephone
Arizona		
Bryan & Andrea Rodgers Cookies by Design - 045 (7/92) (8/16)	Park Scottsdale Shopping Center 8435 E. McDonald Dr. Scottsdale, AZ 85250	480-991-2737
California		
Renee Kim Cookies by Design - 184 (4/98)	5205-A East Pacific Coast Hwy Long Beach, CA 90804	562-961-9161
Mary Muzio Cookies by Design - 006 (12/88) (7/10)	4247-15 Rosewood Dr. Pleasanton, CA 94588	925-847-9491
Florida		
Rosita Zdravkova and Hristo Gyaurov Cookies by Design – 077 (12/93) (11/00) (8/12) (5/17) (11/20)	1903 NW 2nd Ave, Boca Raton, FL 33432	954-800-7500
Georgie Chatham Cookies by Design - 095 (12/94) (10/14)	1141 N. Federal Highway Ft. Lauderdale, FL 33304	954-565-8522
Juan Suarez Cookies by Design - 246 (11/00) (7/01) (6/14) (8/15)	9401 West Colonial Dr. Suite 312 Ocoee, FL 34761	407-903-0230
Juan Suarez Cookies by Design – 312 (1/13) (6/14) (8/15)	11740 N. Dale Mabry Tampa, FL 33618	813-418-6418
Georgia		
Stephanie Williams Cookies by Design – 192 (11/97) (09/10) (3/18) (1/20)	3101 Roswell Rd., Ste 307 Marietta, GA 30062	770-578-0200
Illinois		
Tammy Sublon Cookies by Design - 113 (4/95) (7/14)	902 Meijer Dr. Suite #2 Champaign, IL 61822	217-344-3911
Adam & Stacy Swartz Cookies by Design - 111 (7/95)	Ogden Mall 1219 E. Ogden Ave., Suite 143 Naperville, IL 60563	630-369-1054
Maria Alvarez Cookies by Design – 099 (9/22)	1520 E. College Ave., Suite F Normal, IL 61761	309-452-8439

Franchisee	Address	Telephone
Selena Kay Dunne Cookies by Design - 148 (10/96)	317 Main St. Peoria, IL 61602	309-673-2606
Natasha Nafranowicz Cookies by Design - 107 (1/95) (9/04)	6415 E. Riverside Blvd. Rockford, IL 61114	815-282-5400
Adam & Stacy Swartz Cookies by Design - 059 (1/93)	1332 N. Roselle Rd. Schaumburg, IL 60195	847-290-1443
Indiana		
Kelci & Jason Warford Cookies by Design - 076 (10/93) (4/04) (7/12)	419 Metro Ave. Evansville, IN 47715	812-426-1599
Iowa		
Cody Dexter Cookies by Design - 080 (07/13)	3382 Middle Rd. Bettendorf, IA 52722	563-332-4311
Kansas		
Emmanuel Mathew and John Abraham Cookies by Design - 029 (7/91) (5/17) (6/23)	7106 W. 199 th St. Overland Park, KS 66213	913-338-1420
Louisiana		
Gene & Teresa Consterdine Cookie Bouquet - 079 (3/94)	7970 Jefferson Hwy, Ste. D Baton Rouge, LA 70809	225-216-7006
Jessica Thurman Cookie Bouquet - 064 (2/93) (6/97) (8/15)	3535 Severn Avenue, Suite 5 Metairie, LA 70002	504-455-8777
Maryland		
Ahmed Shafie Cookies by Design - 172 (3/97) (9/07)	7698-B Belair Rd. Baltimore, MD 21236	410-663-1388
Massachusetts		
Kaio Moreto Cookies by Design - 204 (7/98) (1/23)	54 Highland Ave. Needham Heights, MA 02494	781-444-8230
Michigan		
Katie & William Galbraith Cookies by Design - 256 (2/01) (10/18) (3/24)	3080 44th St. SW Grandville, MI 49418	616-523-3067
Cheryl Champine-King Cookies by Design - 043 (2/92) (5/00) (5/22)	48917 Hayes Shelby Township, MI 48315	586-566-7462
Tom & Connie Carlson Cookies by Design - 171 (2/97)	33250 W. 14 Mile Rd. W. Bloomfield, MI 48322	248-539-4029

Franchisee	Address	Telephone
Minnesota		
Michelle Rice Cookies by Design – 120 (10/95) (5/19) (8/23)	Waterford Shopping Plaza, Ste. 121 10100 6th Avenue North Plymouth, MN 55441	763-545-5777
Missouri		
Stan and Kelly Hasty Cookies by Design - 025 (12/90) (2/15)	11453 Olive Street Rd. Saint Louis, MO 63141	314-997-8800
Nevada		
Mark Stainer Cookies by Design - 038 (10/91) (6/97)	4001 S. Decatur Blvd., Ste. 17 Las Vegas, NV 89103	702-259-0020
New Jersey		
Joe & Donna Cheringal Cookies by Design - 070 (8/93) (2/19)	125 N. Dean St. Englewood, NJ 07631	201-567-1206
New Mexico		
Barbara Arias and Leslie Arias Cookies by Design - 009 (9/89) (1/20) (9/23)	Park Square Center 2125 Louisiana N.E. #170 Albuquerque, NM 87110	505-881-4822
New York		
Sean Lomonaco Cookies by Design - 159 (6/97) (1/20)	1969 Jericho Turnpike East Northport, NY 11731	631-493-1285
Ohio		
Dianne and Duane Brown Cookies by Design - 053 (1/93) (12/15)	9873 Montgomery Rd, Cincinnati, OH 45242	513-793-9997
Judy & Leonard Roetzer and Larry Ondercin Cookies by Design - 110 (4/95)	24509 Lorain Rd. North Olmsted, OH 44070	440-777-8800
Oklahoma		
David & Barbara Moore Cookie Bouquet – 278 (9/02) (1/14) (10/18)	2801 S. Douglas Blvd., Suite 101 Midwest City, OK 73130	405-610-6444
Pennsylvania		
Lorena Versteegh Cookies by Design - 105 (12/94) (6/99) (6/12) (1/15)	Heritage Center 56 E. Uwchlan Ave. (Rt. 113) Exton, PA 19341	610-594-0122
Texas		
Joshua Tooley and Tracy & Juan Lima Cookie Bouquet – 048 (9/92) (10/20)	4455 Camp Bowie Blvd. Fort Worth, TX 76107	817-732-0109
Alma Lopez Cookie Bouquet - 048 (9/92) (10/20)	Seville Commons 2131 No. Collins, Ste. 421 Arlington, TX 76011	817-861-1110

Franchisee	Address	Telephone
Travis Richards and Sonja Richards Cookie Bouquet – 264 (10/01) 2/24)	4709 S. Alameda Corpus Christi, TX 76011	361-993-9700
Wisconsin		

*Area Developer services two franchises from the same location.

LIST OF FORMER FRANCHISEES AS OF MAY 31, 2023

Franchisees who have had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year, as of May 31, 2024, or who have not communicated with us within 10 weeks of the date of this disclosure document:

100% Transfer of Interest:

Franchisee	City	State	Telephone
Rosie Decker	Overland Park	KS	816-304-3327
Rachel Berg	Grandville	MI	616-240-6372
Ellie and Rich Woodward	Plymouth	MN	612-220-7653
Loren Lujan	Albuquerque	NM	505-362-0153
Pam Massad	Corpus Christi	TX	361-877-5725

Terminations:

Franchisee	City	State	Telephone
Prue Lotharius	Madison	WI	608-215-9873

Non-Renewals:

Franchisee	City	State	Telephone
None.			

Reacquired by Franchisor:

Franchisee	City	State	Telephone or E-Mail
None.			

Ceased Operations Other:

Franchisee	City	State	Telephone or E-Mail
None.			

EXHIBIT H

STATE EFFECTIVE DATES

STATE EFFECTIVE DATES

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

STATE	EFFECTIVE DATE
Michigan	

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

EXHIBIT I
RECEIPTS

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 Cookies Franchise Holdings LLC offers you a franchise, it must provide this disclosure document to you 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 Cookies Franchise Holdings LLC 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 law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the applicable state agency listed in Exhibit F. Exhibit A to this disclosure document lists our agents for service of process.

Issuance Date: January 2, 2025

Franchise sellers' name and contact information: David Polonitza, Cookies Franchise Holdings LLC, 110 Hillside Avenue, Suite 304, Springfield, NJ 07081, (972) 746-2681, dpolonitza@cookiesbydesign.com, and Clay Keeter, Cookies Franchise Holdings LLC, 110 Hillside Avenue, Suite 304, Springfield, NJ 07081, (972) 746-2681, ckeeter@cookiesbydesign.com.

I received a disclosure document issued January 2, 2025, that included the following Exhibits:

- A. Agents for Service of Process
- B. Franchise Agreement (with Guaranty and all Attachments)
- C. Area Development Agreement (with Guaranty and all Attachments)
- D. [Reserved]
- E. Financial Statements
- F. State Administrators
- G. List of Current and Former Franchised Shops
- H. State Effective Dates
- I. Receipts

Date: _____
Franchisee: _____
By: _____
Title: _____

[RETAIN THIS COPY FOR YOUR RECORDS]

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 Cookies Franchise Holdings LLC offers you a franchise, it must provide this disclosure document to you 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.

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- G. List of Current and Former Franchised Shops
- H. State Effective Dates
- I. Receipts

Date: _____
Franchisee: _____
By: _____
Title: _____

[RETURN THIS COPY TO DESIGNED COOKIES, INC.]

You may return the signed receipt either by signing, dating, and either mailing it to Cookies Franchise Holdings LLC at 110 Hillside Avenue, Suite 304, Springfield, NJ 07081, or by emailing a copy to franchise@cookiesbydesign.com.