

EILEEN'S COLOSSAL COOKIES®

FRANCHISE DISCLOSURE DOCUMENT



Information for Prospective Franchisees
Required by Federal Trade Commission

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

(A Nebraska Corporation)

2727 W. 2nd Street, Ste. 322

Hastings, Nebraska 68901

Telephone (402) 462 5983

Fax (402) 462 6990

To protect you, we've required your franchisor to give you this information. We haven't checked it, and don't know if it's correct. It should help you make up your mind. Study it carefully. While it includes some information about your contract, don't rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor, like a lawyer or accountant. If you find anything you think may be wrong or anything important that's been left out, you should let us know about it. It may be against the law.

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

FEDERAL TRADE COMMISSION
Washington, D.C.

Date of issuance of this Disclosure Document is:

March 7, 2018

EILEEN'S COLOSSAL COOKIES®

STATE COVER PAGE

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(A Nebraska Corporation)
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Telephone (402) 462 5983
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Eileen's Colossal Cookies Franchising, Inc., offers franchises for stores featuring cookies, confections and related food specialties. The stores operate according to a System that includes the service mark Eileen's Colossal Cookies®. The System features a distinctive selection of competitively priced cookies and related food specialties.

Risk Factors:

1. THE FRANCHISE AGREEMENT PROVIDES THAT DISAGREEMENTS MAY BE SETTLED BY INFORMAL DISPUTE RESOLUTION, MEDIATION, OR LITIGATION IN NEBRASKA. OUT OF STATE INFORMAL DISPUTE RESOLUTION, MEDIATION, OR LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO MEDIATE OR LITIGATE WITH US IN NEBRASKA THAN IN YOUR HOME STATE.

2. THE FRANCHISE AGREEMENT PROVIDES THAT NEBRASKA LAW GOVERNS THE AGREEMENT, EXCEPT TO THE EXTENT THAT THE LANHAM ACT OR FEDERAL ARBITRATION ACT GOVERNS. NEBRASKA LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

3. THE PARTIES WAIVE THEIR RIGHT TO A JURY TRIAL WITH RESPECT TO DISPUTES RELATING TO THE FRANCHISE AGREEMENT.

4. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE

Information about comparisons of franchisors is available. Contact your state administrator or your public library for sources of information. Registration of this franchise with the state does not mean the state recommends it or has verified the information in this Disclosure Document. If you learn that anything in this Disclosure Document is untrue, contact the Federal Trade Commission or, the State Administrator listed in FDD Exhibit "A".

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EXHIBIT A - STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS
EXHIBIT B - TABLE OF CONTENTS- OPERATING MANUAL

ITEM 1. THE FRANCHISOR, ANY PARENTS,PREDECESSORS, AND AFFILIATES

Franchisor's Corporate Information

We are a Nebraska corporation and were organized on 4/23/1998. We do business under the name Eileen's Colossal Cookies Franchising, Inc. To simplify the language in this Disclosure Document, Eileen's Colossal Cookies Franchising, Inc. will be referred to as "We" or "ECC". "You" means the person, partnership or corporation who buys the Franchise.

Our agent for service of process is listed on the Acknowledgment of Receipt on the last page of this Disclosure Document.

Predecessors and Affiliates

We do not have a predecessor. Nor do we have any affiliates that offer franchises in any line of business. We do have an affiliate which operates three Eileen's Colossal Cookies® stores in Hastings, Grand Island and Kearney, Nebraska.

Franchisor's Business

Our only business is selling franchises to operate Eileen's Colossal Cookies specialty stores and servicing those franchises. We are not involved in any other business activities. We do currently operate a business similar to the franchise being offered to you.

We franchise the operation of a retail store which specializes in the production and sale of a variety of cookies sold primarily by the dozen and in special assortments. All cookies are made fresh from scratch and produced throughout the business day. The primary marketing thrust is the sale of twelve varieties of cookies sold by the dozen. Customer service is also a major component in the operation. All staff is trained on customer relations and expected to provide prompt and friendly service to all patrons.

ECC's business activities include the grant to qualified persons to own and operate one or more Eileen's Colossal Cookies franchise(s). The grant includes the right to use all trademarks and service marks of ECC in accordance with the terms of the Franchise Agreement.

Your customers want high quality cookies and related items. You would open a store and train personnel to service local customers. You must utilize our trade name, service mark, trademarks and related logos ("Names and Marks") as we prescribe. The Franchised Business is referred to as "Franchised Location", or "Franchised Business". High quality and reasonable pricing create the market differentiation.

General Market and Competition

The market for your store is the general public. This market is developed and competitive. Your competitors include other retailers who offer such products.

Industry Regulations

Stores, Restaurants, Delicatessens are subject to various special-industry regulations, such as food-service, health, and sanitation codes. Employees may need food-handler licenses. Many municipalities regulate the use of restaurant grease traps for cooking and require special sewer hook-ups. Regulations vary widely from place to place. Federal laws such as the Americans with Disabilities Act may apply to the design and construction of your restaurant premises. Your Manager must acquire any food-safety-program certification that the state or municipality where the Franchised Business is located may require. You should consult an advisor in your area to determine all applicable laws and regulations.

Prior Business Experience

We have never operated an Eileen's Colossal Cookies® store, although companies sharing common ownership with us have operated Eileen's Colossal Cookies® stores for several years. We have never sold franchises in any other line of business.

ITEM 2. BUSINESS EXPERIENCE

EILEEN M. HARMAN, PRESIDENT, CEO

Eileen Harman is President and Chief Executive Officer. Ms. Harman founded the first "Eileen's Colossal Cookies" operation in Hastings, Nebraska in 1983 and operated it as a proprietorship until 1989 when the proprietorship incorporated as Eileen's Colossal Cookies, Inc. She remains as the Chief Executive Officer of that company. She assumed her current position with ECC upon its incorporation.

TONY HARMAN, VICE PRESIDENT - SALES

After obtaining his bachelor's degree in Business Administration from the University of Nebraska at Lincoln in 2003, Tony Harman joined Cash-Wa Distributing, Inc. in Lincoln, Nebraska in 2004 and held several positions within that company until he joined Eileen's Colossal Cookies, Inc. in 2007 as Franchise Director, his current position with ECC.

GABE HARMAN, VICE PRESIDENT – OPERATIONS

Gabe joined the company in 2009, working in the Hastings location. He is now responsible for tax, accounting, and financial operations as well as assisting with franchise development.

ITEM 3. LITIGATION

No litigation is required to be disclosed in this Disclosure Document.

ITEM 4. BANKRUPTCY

No person previously identified in Items 1 or 2 of this Disclosure Document has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

ITEM 5. INITIAL FEES

The fees discussed in this Item are uniform to all franchisees and non-refundable.

The Initial Franchise Fee is \$20,000.

(A Franchise Territory consists of a boundary with a radius of six miles (6 miles) from the center point of the approved location of the franchised business.

You must pay the entire fee for the territory at the time you sign a Franchise Agreement. The Initial Franchise Fee is fully earned by ECC at the time ECC executes a Franchise Agreement and is not refundable.

ITEM 6. OTHER FEES

See Table on the following page.

TABLE OF OTHER FEES

| NAME OF FEE | AMOUNT | WHEN DUE | REMARKS |
|---|--|--|--|
| ONGOING ROYALTY | 6% of gross sales | Payable weekly on or before Wednesday of each week for previous week. See Note 7 | See Note 1 |
| ADVERTISING | No Advertising Fees | N/A | Advertising is done on a local basis only at the discretion of the Franchisee. |
| RENEWAL FEE | None | | |
| TRAINING | NONE See Note 2. Special Training is available. See Note 3 | N/A | Travel, room & board expenses must be paid by you. |
| TERMINATION FEE | N/A | | |
| INTEREST or PENALTIES FOR LATE PAYMENTS | Imposed only when payments are 10 or more days late \$50 or interest, whichever is greater | When required | |
| TESTING FEE | Cost of inspection and evaluation of new supplier product(s) | When required | On demand |
| LOST MANUALS | \$200 for each lost manual | If any operating manual is stolen, lost, or a replacement destroyed, you must pay us this amount | Before we loan you another manual |
| TRANSFER FEE | \$7500 | UPON TRANSFER | ADJUSTMENT FOR COST OF LIVING |
| SEE NOTE 4 | | | |
| AUDIT | Our costs and expenses connected with the inspection (including reasonable accounting and attorneys' fees) | On demand | If any inspection discloses an understatement of two percent or more of Gross Revenues, you must reimburse us for the costs and expenses connected with the inspection |
| NAME OF FEE | AMOUNT | WHEN DUE | REMARKS |

| | | | |
|-------------------|---|-----------|---|
| ENFORCEMENT COSTS | Reasonable attorneys' fees, arbitration costs, court costs and all expenses | On demand | Due if any legal action or other proceeding is instituted to enforce the Franchise Agreement or any other Dispute |
|-------------------|---|-----------|---|

SEE NOTES THAT FOLLOW:

Note 1.

Royalty Fee

“Gross Sales” means: All revenues from all sales, whether for cash or credit and regardless of collection in the case of credit. You must agree to pay the fees described in the following paragraphs.

Note 2.

Training

You must attend and successfully complete the ECC training satisfactorily prior to opening for business. This may include a training and familiarization course of up to 10 business days in duration to be conducted at ECC’s headquarters or at another place as ECC may designate, and will include working in an ECC retail location for approximately 10 days. The training sessions will take place prior to the Franchised Business’ opening. The training program will cover all material aspects of the operation of the Franchised Business, including introduction and orientation to the System, financial controls, promotion and sales methods, other marketing techniques, service and operational techniques, systems and methods, deployment of sales people and other personnel, and maintenance of quality standards. All expenses incurred by you and your employees in attending the program, including, travel, room and board expense, are your sole responsibility.

If your requests for additional training are reasonable, ECC shall provide the training at your expense, including training fees, travel, lodging, meals and other related costs.

Note 3
Special and Additional Training

Training for new managers or partners is mandatory. The company's current charge for training for a new manager or partner for the initial training is \$3000 plus the travel, food and lodging expense of the trainer. This training is conducted in your store.

Note 4
Transfer Fee

If the transferee is your spouse, son, or daughter and the transfer is for estate planning purposes, no transfer fee is charged, but you must reimburse us for the out-of-pocket expenses (including attorneys' fees) we incur in connection with reviewing and approving the transfer.

Note 5
Enforcement Costs

The successful or prevailing party or parties is entitled to recover these amounts

Note 6

You may be required to sign a "Draft Agreement", which allows ECC to arrange with your financial institution or credit card company to honor drafts submitted for payment by ECC of royalty fees. On Wednesday of each week, a draft will be submitted for an amount equal to your Royalty Fee amount which is due for the previous week.

ALL FEES ARE UNIFORM, AND ARE NON-REFUNDABLE

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ITEM 7. ESTIMATED INITIAL INVESTMENT

| <u>CATEGORY</u> | <u>AMOUNT</u> | | <u>METHOD OF PAYMENT</u> | <u>WHEN DUE</u> | <u>TO WHOM PAYMENT IS TO BE MADE</u> |
|--|---------------------|---------------------|--------------------------------------|---------------------------------|---|
| | <u>From</u> | <u>To</u> | | | |
| INITIAL FEE (Note 1) | \$20,000.00 | \$20,000.00 | LUMP SUM CASH OR CASH/NOTE | UPON SIGNING OF AGREEMENT | ECC |
| INITIAL RENT & DEPOSIT (Note 2) | \$6,000.00 | \$7,000.00 | AS INCURRED | AS INCURRED | LESSOR |
| OPENING CASH (Note 3) | \$7,000.00 | \$8,000.00 | AS INCURRED | AS INCURRED | VENDORS |
| STORE IMPROVEMENTS (Note 4) | \$68,900.00 | \$92,150.00 | AS INCURRED | AS INCURRED | CONTRACTOR LANDLORD |
| BUSINESS LICENSES (Note 5) | \$800.00 | \$800.00 | AS INCURRED | WHEN REQUIRED | STATE, MUNIC. AGENCIES |
| INSURANCE (Note 6) | \$3,000.00 | \$3,300.00 | VARIES | AS ARRANGED AND REQUIRED | BROKER OR INSURANCE CO. |
| INITIAL START UP PKG. (Note 7) | \$10,080.00 | \$12,350.00 | AS INCURRED | AS ARRANGED | APPROVED SUPPLIERS and LOCAL VENDORS |
| LEGAL & ACCT'G FEES (Note 8) | \$1,500.00 | \$2,000.00 | AS INCURRED | AS ARRANGED | ATTORNEYS ACCOUNTANTS |
| INITIAL INVENTORY EQUIP. PKG (Note 9) | \$61,296.00 | \$64,806.00 | AS INCURRED | AS ARRANGED | VENDOR OR LENDER OR LEASING FIRM |
| START UP ADVERTISING (Note 10) | \$3,500.00 | \$4,000.00 | 4 WEEKS PRIOR TO STORE OPENING | AS ARRANGED | LOCAL PRINTER AND/OR AD COMPANY |
| <u>TOTALS</u> | \$182,076.00 | \$214,406.00 | | | |

See Notes that follow

Note 1

Initial Fee

The Franchise Fee is Twenty Thousand Dollars (\$20,000.00). The geographic size of the Protected Territory granted to the Franchise Owner will consist of a boundary of a six (6) mile radius from the Franchised Business location. It may be part of a city or consist of several towns.

Note 2

Initial Rent and Deposit

Your estimated space should be approximately 1800 square feet. ECC will assist you in planning the conversion of a potential location for the Franchised Business.

Note 3

Opening Cash

Your Opening Cash Needs are for initial promotion and pre-operation expenses but you must determine the amount necessary to cover cash short fall in the initial six months of operation. These amounts are estimated between Seven Thousand Dollars (\$7,000.00) and Eight Thousand Dollars (\$8,000.00).

Note 4

Leasehold Improvements

Eileen's Colossal Cookies Franchising, Inc. estimates that the leasehold improvements will cost from \$68,900.00 to as much as \$92,150.00 in order to convert a space in a strip center into this Franchised Business. You may require improvements including floor coverings, interior cosmetics, plumbing, electrical work, etc. The cost of the improvements will vary from location to location. If the landlord makes all necessary leasehold improvements, it is possible that the costs will be included in or added to the monthly lease payment, and no front-end out-of-pocket expenses need be paid by you; however there is no guarantee the a landlord would enter into such an arrangement.

Note 5

Business Licenses

Several local business licenses may be needed in order to open the Franchised Business or you may already be covered under business licenses you hold now. The costs of the business licenses will vary from location to location and are estimated to be Eight Hundred Dollars (\$800.00).

Note 6

Insurance

Insurance costs are estimated between \$3,000 and \$3,300 and may include premiums for Workmen's Compensation, general liability, product liability, fire, vandalism, theft, business interruption and automobile coverage. Insurance Expenditures are described more full in Section 15 of the Franchise Agreement, but you must obtain an insurance policy or policies protection you and ECC, and the officers, directors, partners, agents, and employees of both you and ECC against any loss, liability, personal injury, death, property damage, or expense whatsoever arising or occurring upon or in connection with operating the Franchised Business. All insurance policies required by the Agreement must be written by an insurance company

satisfactory to Eileen's Colossal Cookies Franchising, Inc. The coverage will be provided in accordance with standards and specifications set forth in the Manuals or otherwise specified in writing.

You must also purchase Workmen's Compensation and employer's liability insurance as prescribed by state law and any such other insurance that may be required by ECC or by the statutes or other laws of the state in which the Office is located and operated. You also must purchase an umbrella insurance policy to provide excess limits over the above liability policies.

You also may maintain such additional insurance as you may consider advisable.

Upon obtaining the insurance required by the Agreement and on each policy renewal date thereafter, you must promptly submit evidence of satisfactory insurance and proof of payment to ECC, along with copies of all policies and policy amendments and endorsements. The evidence of insurance must 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 Eileen's Colossal Cookies Franchising, Inc.

If you should fail to obtain the insurance required by the Agreement or the Manual, ECC may procure the insurance and to bill it to you along with reasonable fee for ECC's expenses in so acting.

Note 7

Initial Start Up Package

Printing, Signs and Graphics costs will vary depending upon location and the amount of initial stock of material that you have printed with your local Eileen's Colossal Cookies® number. The printing and supply package must conform to the artwork and layout approved by ECC and includes business cards, flyers, contract forms, brochures, sales forms, and invoices. For the sake of consistency of names and marks and quality control, the printing and supply package must conform to the artwork and layout approved by ECC.

Note 8

Legal and Accounting Fees

Legal and accounting fees may include incorporating your company and setting up its books and records. These fees are estimated to be \$1,500 - \$2,000, and include monies needed to create the new Franchise Owner's business entity (e.g., L.L.C.) and to set up its books and records. Section 12 of the Franchise Agreement has considerable detail relating to the record keeping requirements. You will be required to keep accurate records of customer inquiries, sales, marketing activities, closeout sheets, payroll, and accounts payable in accordance with the standard accounting system described by ECC in the Manual.

Note 9

Initial Inventory, Equipment Package

Your initial inventory, supplies and related items must be purchased and on hand prior to the store opening. We estimate this investment to be between \$61,296 and \$64,806. ECC has an approved supplier list and specs for all required equipment, inventory, and supplies.

Note 10
Start-up Advertising

ECC requires that you hold an official grand opening when you open your store. The amount spent on a Grand Opening will vary from one market to another. ECC estimates that the Grand Opening expenditure will be from \$3,500.00 to \$4,000.00.

Note 11

ECC does not offer any direct or indirect financing for any item listed in the above table.

THERE ARE NO OTHER DIRECT OR INDIRECT PAYMENTS IN CONJUNCTION WITH THE PURCHASE OF THE FRANCHISE AND SUCH PAYMENTS ARE, FOR THE MOST PART, NON-REFUNDABLE.

These figures are estimates and we cannot guaranty that you will not have additional expenses starting the business.

We relied on the historical experience of existing Eileen's Colossal Cookies restaurants to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise. We do not offer direct or indirect financing for any items.

ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

General Requirements

To insure high quality and a uniformity of product by all franchisees, you must purchase all products that are used in producing Eileen's Colossal Cookies sold through your store and all equipment, printing, supplies and fixtures in accordance with the standards and specifications described in our Operations Manual.

Authorized Suppliers and Specifications

You must purchase all required products, other products and materials for the operation of the Franchised Business solely from suppliers (including manufacturers and distributors) who demonstrate, to our continuing reasonable satisfaction, the ability to meet ECC's standards and specifications for those items; who possess adequate quality control and capacity to meet your needs, properly and reliably; and who are currently approved in writing by us. Upon written

request, we will provide the specifications and standards we use in selecting approved suppliers. Currently, we do not negotiate prices and terms with any suppliers.

We, nor anyone affiliated with us, do not act as approved suppliers. If you desire to purchase any items from an unapproved supplier, you or the supplier must submit a written request for our approval which will be acted upon within 30 days. ECC will not unreasonably withhold its approval of any supplier, manufacturer or distributor. ECC may require an inspection of the supplier's facility and/or that samples from the supplier be delivered to ECC or to our independent consultant for testing. You or the supplier must pay the reasonable cost of the inspection and the actual cost of the testing. ECC may re-inspect the facilities and products of the approved suppliers and to revoke its approval upon supplier's failure to continue to meet any of ECC's criteria for standards and specifications. ECC may charge a fee of up to 10% of the dollar volume of orders by Franchisees to approved suppliers for the cost of maintaining its approved supplier program. ECC in no way guarantees the performance of any approved supplier through its approved supplier program.

Specific Requirements

You must set up your own accounts and payment arrangements with approved suppliers. If you desire to purchase any items from an unapproved supplier, you or the supplier must submit a written request for our approval which will be acted upon within 30 days.

Site and Lease Approval

You must select the site for the Premises. The site must meet our standards for environmental impact, demographic characteristics, traffic patterns, parking, predominant character of the neighborhood, competition from other businesses providing similar services within the area, proximity to other businesses and the nature of such businesses, size, appearance, and other physical characteristics of the site, and any other factors we may consider relevant to approving or disapproving a site. Your lease or sublease of the Premises must have certain provisions described in the Franchise Agreement and be approved by us. If you want to purchase the site, you must submit the purchase agreement to us for our approval.

Architect, Contractors, and Construction

You or your Landlord must prepare a site plan and plans and specifications adapting our standard plans and specifications to your approved location and to applicable laws and lease requirements and restrictions and market conditions.

You or your Landlord must comply with all, zoning, signage, seating capacity, parking requirements and storage requirements. Any material modification to the standard plans and specifications must be approved by us. You must obtain professional supervision, satisfactory to us, where applicable, for preparing the site layout and plan and over construction of the Premises.

You must construct the Premises in accordance with the plans we approved and the Design Specifications. We may recommend using a construction project manager for constructing the

Premises. If you choose not to use our recommended construction manager, your general contractor must have the insurance coverage described in the Franchise Agreement.

Signage

You must purchase and install at the Premises all interior and exterior signage, from suppliers using designs that we designate (the “Signage”).

Operating Standards

To ensure that the highest degree of quality and service is uniformly maintained, you must operate the Franchised Business in conformity with any uniform methods, standards, and specifications that we may prescribe in the Eileen’s Colossal Cookies® Manual or otherwise. These include, among other things: the recording all Gross Revenues, complying with the procedures and systems instituted by us both now and in the future, including those relating to sales, good business practices, advertising and other obligations and restrictions; maintaining in sufficient supply (as we may prescribe in the Eileen’s Colossal Cookies® Manual or otherwise in writing), and using at all times, only inventory, equipment, materials, advertising methods and formats, and supplies that conform with our standards and specifications, if any, at all times sufficient to meet the anticipated volume of business;

1. Using menu boards and menus and product brochures that comply with our prescribed specifications for content, materials, finish, style, pattern and design;
2. Selling and offering for sale only goods and services that meet our uniform standards of quality and quantity, and that have been expressly approved for sale in the Eileen’s Colossal Cookies Manuals or otherwise in writing by us at retail to consumers from and through the Franchised Business and not selling those items for redistribution or resale;
3. Selling and offering for sale all goods and services that we may approve from time to time (including alcoholic beverages); and without our consent, not deviating from our standards and specifications for providing or selling such goods and services;
4. Purchasing and installing all fixtures, furnishings, signs and equipment that we specify and maintaining that equipment in a condition that meets the operational standards specified in the Eileen’s Colossal Cookies Manuals.

P.O.S. System

An ECC approved P.O.S. system will be required to operate the Franchised Business. You will be given the necessary specifications, including the required ability to keep sales records. The system shall include a cash drawer, receipt printer, as well as any other required hardware, software, and peripherals and related services. You shall also be required to offer a credit-card swipe reader.

Secret Recipes

The recipes that are used to make Eileen's Colossal Cookies® are proprietary to us and we insist that you keep such recipes, and any that we should develop in the future, secret and confidential.

Secret Recipe Products include dough, icing, and other recipes and products we create and consider secret. Because of the importance of quality control and uniformity and the significance of these proprietary products to the System, we closely control the production and distribution of the Secret Recipe Products.

Insurance

You must purchase and maintain the types of insurance, in amounts, that we may require. This insurance is in addition to any other insurance that may be required by applicable law, the Franchisee's landlord, or otherwise. Your insurance policies must be written by an insurance company reasonably satisfactory to us with a Best rating of "A" or better.

Revenues Derived from Required Purchases and Leases

ECC may derive revenues from required purchases or leases.

Supplier Rebates

ECC may receive supplier rebates, including securing said rebates for franchised locations.

Purchasing or Distribution Cooperatives

Purchasing or distribution cooperatives may exist between ECC and suppliers. This may include negotiating purchase arrangements (including price terms) with suppliers.

Material Benefits for Use of Approved Sources

We may provide material benefits to you based upon your use of designated or approved sources.

ITEM 9. FRANCHISEE'S OBLIGATIONS

TABLE OF FRANCHISEE OBLIGATIONS

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AGREEMENT AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED

INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS IN THIS DISCLOSURE DOCUMENT.

| <u>OBLIGATION</u> | <u>SECTION IN AGREEMENT</u> | <u>ITEM IN DISCLOSURE DOCUMENT</u> |
|--|-------------------------------------|---|
| a. Site Selection and acquisition/lease | Section 3 also see R. E. Lease | Item 11 |
| b. Pre-opening Purchase Leases | Not applicable | Not applicable |
| c. Site Development and other pre-opening requirements | Section 3 also see R.E. Lease | Item 6,7,11 |
| d. Initial and On-going Training | Section 5 | Item 11 |
| e. Opening | Section 3C | Items 11D, 11G |
| f. Fees | Section 1B Section 11 | item 5, 6 |
| g. Compliance with standards and policies/ Operating Manual | Section 7,12,13 | Item 11 see also FDD "Exhibit B" |
| h. Trademarks and Proprietary Information | Section 6 | Items 13 and 14 |
| i. Restrictions on Products and services offered | Section 14 | Item 16 |
| j. Warranty and Customer Service | Operations Manuals (Proprietary) | Item 11 |
| k. Territorial Development and sales quotas | Section 13 | Item 12 |

| <u>OBLIGATION</u> | <u>SECTIONIN AGREEMENT</u> | <u>ITEM INDISCLOSURE DOCUMENT</u> |
|--|----------------------------|-----------------------------------|
| l. Ongoing product service purchases | Section 14 | Item 8 |
| m. Maintenance, appearance and remodeling requirements | Section 13B | Item 11A, 11C |
| n. Insurance | Section 15 | Item 7 |
| o. Advertising | Sections 10, 14 | Item 6 |
| p. Indemnification | Section 21 | Item 7 |
| q. Owners participation management, staffing | Section 13H | Item 15 |
| r. Records, Reports | Section 12 | Item 6 |
| s. Inspections, Audits | Sections 12 | item 11 |
| t. Transfer | Section 19 | Item 17 |
| u. Renewal | Section 2 | Item 17 |
| v. Post Termination obligations | Section 17, 18 | Item 17 |
| w. Non-competition | Section 18 | Item 17 |
| x. Dispute Resolution | Section 23 | Item 17 |

ITEM 10. FINANCING

ECC does not offer any direct or indirect financing.

Other financing/leasing on signs, kiosks, computers, office and store equipment and other equipment may be available to you in your local market.

Except as disclosed above, we do not arrange financing from other sources.

We do not receive direct or indirect payments for placing financing.

We do not guarantee your obligations to third parties.

ITEM 11. FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING.

EXCEPT AS LISTED BELOW, EILEEN'S COLOSSAL COOKIES FRANCHISING, INC. NEED NOT PROVIDE ANY ASSISTANCE TO YOU.

Before you open your business, we will provide you with the following assistance and services:

A. Implementation of Franchised Business (Section 14, Franchise Agreement)

We will:

1. designate your protected territory;
2. advise you concerning the opening inventory;
3. assist you with suggestions for the layout and design of your store (the costs of renovations, signs, printing, furniture and fixtures are your responsibility);
4. provide information and suggestions to establish your franchised area;
5. provide you with samples of approved apparel for your Franchised Business.

B. Home Office Training (Section 14, Franchise Agreement)

You must attend and successfully complete to ECC's satisfaction, before opening for business, a training and familiarization course of up to ten business days to be conducted at ECC's headquarters or at another ECC designated place. The training sessions must take place before you open. The training program will include approximately 10 days of working in an Eileen's Colossal Cookies® store and will also cover all material aspects of the operation of the Franchised Business, including introduction and orientation to the System, financial controls, promotion and sales methods, other marketing techniques, service and operational techniques, systems and methods, and maintenance of quality standards. All expenses incurred by you and your employees in attending the training programs, including travel and room and board is your sole responsibility.

C. Time of Training/Pre-opening Advertising/Training Materials (Section 14, Franchise Agreement)

We arrange and put on training classes throughout the year and the training must be completed between the date of your Franchise Agreement, and opening date.

You must begin the Grand Opening and a recommended advertising program to start during the month that you open your store which will require arrangements and commitments to be made at least 30 days prior to the start of your local recommended advertising program. You should have completed your training so you will know what local advertising plans to implement.

The instructional materials that are used in your training are primarily the manuals that are listed in "Exhibit B" which is attached to this Disclosure Document.

TABLE SUMMARIZING TRAINING

| SUBJECT | MANUAL | TRAINING HOURS | INSTRUCTOR |
|---------------------------|------------------------------|-----------------------|-------------------------|
| Baking | Operations Manual | 16 | ECC Training Specialist |
| Customer Service | Operations Manual | 32 | ECC Training Specialist |
| Making dough and frosting | Operations Manual | 8 | ECC Training Specialist |
| Hiring and Scheduling | Hiring and Scheduling Manual | 1 | ECC Training Specialist |
| Decorating | Operations Manual | 24 | ECC Training Specialist |
| Keeping records | Reports & Records | 2 | ECC Training Specialist |
| Review | | 1 | ECC Training Specialist |

The instructional materials that are used in your training are primarily the manuals that are listed in "Exhibit B" which is attached to this Disclosure Document.

D. Pre-Opening Obligations

Before you open your business:

1. If, when you sign your Franchise Agreement, we have not approved the site for the Franchised Business's Premises, we will supply you with our site-selection criteria. We may also provide any on-site evaluation that we consider advisable.
2. We will loan you information regarding building plans and specifications or standard recommended floor plans and specifications of our requirements for design, decoration, layout, equipment, furniture, fixtures and signs for the Franchised Business.
3. We will provide specifications for Eileen's Colossal Cookies uniforms for your employees to be purchased by you directly from our approved suppliers.
4. We will provide you with standardized accounting, cost-control, portion-control, and inventory-control systems.
5. We will provide you with a list of required equipment, supplies, materials, inventory and other items necessary to operate the Franchised Business and a list of approved suppliers of all such items.
6. We will provide you with an initial set of forms, including the standard brochures and various operational forms, such as standardized periodic reporting forms for reporting accounting information, and purchase-order forms.
7. We will provide you with a schedule of items that you may purchase from us. Such items may include customer bags, brochures and other items.
8. We will provide you with a schedule of recommended items such as equipment and supplies that you may purchase from third-party suppliers.
9. We will loan you one registered copy of the Eileen's Colossal Cookies® Manual (with periodic revisions as required). Our customary practice is to deliver the Eileen's Colossal Cookies® Manual to you at or shortly before the training program begins. The table of contents for the manual is attached to this Disclosure Document as Exhibit B.

E. Post-Opening Obligations

During the operation of your business:

1. We will always be available for informational telephone assistance during normal business hours.
2. We will provide advice on Local Advertising.
3. We will provide you with any promotional methods and materials we may periodically develop for the System.

4. We may provide continuing advisory assistance in the operation and promotion of the Franchised Business. This assistance may include communicating new developments, improvements in equipment and supplies, and new techniques in advertising, service, and management that are relevant to operating the Franchised Business.
5. If you request, and we can reasonably accommodate that request, we will furnish non-routine guidance and assistance to deal with your unusual or unique operating problems for the fees and charges described in Item 6.
6. We may continue to research and develop new products, services, and techniques.

Local Advertising

You must engage in Local Advertising. The amounts you must spend on Local Advertising are described in Item 6. You must submit, for our prior approval, all materials used for Local Advertising. If, within 10 days from the date we receive submitted materials, you do not receive our written approval, they are considered disapproved. If we believe that advertising materials may injure or harm the System, we may require you to withdraw or discontinue the using previously approved advertising materials.

Grand Opening Advertising Program

During the first four weeks after opening your Franchised Business, you must conduct a grand-opening advertising and promotional program (the "Grand Opening Advertising Program"), on which you may spend up to \$2500 to \$3,000 (the "Grand Opening Advertising Expenditure"). All activities in which you will engage, and all materials you will use for that program (as well as the amounts of money you will spend on it) must be pre-approved by us. The Grand Opening Advertising Expenditure is in addition to the on-going local advertising expenditures you make.

Regional Advertising Cooperative

We or a group of our Franchisees may create a regional advertising cooperative in any ADI, and establish rules and regulations for it. An ADI is Area of Dominant Influence; this is a geographic survey-area created and defined by Arbitron, based on measurable patterns of television viewing. An ADI also takes into account the other available media within the geographic area designated by the ADI.

Should that occur, you must become a member of such a cooperative and make the contributions to the cooperative according to the vote of the required majority. The following provisions apply to the cooperative in which you participate:

1. The cooperative will be organized and governed by its members but, we must be notified and approve the form and organization in advance in writing;
2. The cooperative will be organized for the exclusive purpose of administering advertising programs and developing, subject to our approval, standardized

promotional materials for the members' use in Local Advertising within the cooperative's ADI ;

3. The cooperative may adopt its own rules and procedures, but those rules or procedures must be approved by us and may not restrict nor expand your rights or obligations under your franchise Agreement.
4. Except as otherwise provided in the Franchise Agreement, and subject to our approval, any lawful action of the cooperative (including imposing assessments for Local Advertising) shall be binding on all members of the Cooperative. Such actions must be voted upon at a meeting attended by members possessing more than 50% of the total voting power in the cooperative and approved by a majority of 50% of the total voting power possessed by members in attendance, with each Franchised Business and Company-Owned Unit having one vote, but no franchisee (or commonly controlled group of franchisees) may have more than 25% of the vote in the Cooperative regardless of the number of Franchised Businesses owned.
5. Without our prior written approval, the Cooperative may not use, nor furnish to its members, any advertising or promotional plans or materials; all such plans and materials must be submitted to us for review.
6. The Cooperative may require its members to periodically contribute to it in such amounts as it determines.
7. The cooperative must provide quarterly advertising expenditure reports to us.
8. Advertising Contributions to the cooperative belong to the cooperative. The cooperative may request our assistance in collection of the funds and we will send a "cure letter" to the delinquent franchisee/s advising them that they are committing a default under the Franchise Agreement and must cure such default within 30 days or their franchise may be subject to termination. Upon collection, we will forward amounts due to the cooperative to its treasurer.
9. Company-Owned Units shall contribute to any Cooperative on the same basis as franchisees.

Other Advertising Programs

In addition to the foregoing advertising requirements and programs described in this ITEM 11 you must, at your expense, participate in any other advertising, marketing, and promotional activities and programs (including coupon programs and free-menu-item programs) we may require.

Internet Advertising Restrictions

Without our prior written consent, you must not register, create, or operate a website or domain name containing the words Eileen's Colossal Cookies®.

Advertising Council

We do not have any advertising council.

Selecting the Location of Your Franchised Business

You are solely responsible for selecting the site for the Premises. We merely approve your site if it is acceptable. When reviewing proposed sites, we consider factors such as environmental impact, demographic characteristics, traffic patterns, parking, the predominant character of the neighborhood, competition from other businesses providing similar services within the area, the proximity to other businesses and the nature of such businesses, and the size, appearance, and other physical characteristics of the site, as well as any other factors that we consider relevant to approving or disapproving a site.

Our approval of a site is not a representation or warranty that the Franchised Business will be profitable or that your sales will attain any predetermined levels. Approval is intended only to indicate that the proposed site meets our minimum criteria for identifying sites.

We will review site approval submissions on a first-in basis. If we do not approve the proposed site, you have 30 days after we disapprove the proposed site to submit a new site within the Protected Territory for our approval. In any event, however, if a site has not been approved within 90 days of the Agreement Date, we may terminate your Franchise Agreement. In such event, we need not refund to you the Initial Franchise Fee or any other money paid to us.

Time between Signing the Franchise Agreement and Opening the Franchised Business

The typical length of time between your signing of the Franchise Agreement and the opening of your business is expected to be 270 days. Factors that may affect this typical time period include your ability to negotiate and obtain a lease at a satisfactory location, negotiate and obtain financing, procure the requisite building permits, comply with zoning and local ordinances, install equipment, fixtures, and signage, recruit competent staff, and schedule and complete training.

Failure to Complete Initial Training

If we determine, in our sole discretion, that you are unable to satisfactorily complete the training program described above, we have the right to terminate the Franchise Agreement. If the Franchise Agreement is terminated because we make such a determination, we will return the initial Franchise Fee to you, minus the expenses we incur as of the date of termination. When we return said amount, we shall be fully and forever released from any claims or causes of action that you may have under or pursuant to the Franchise Agreement and you shall have no

further right, title or interest in the Names and Marks and you agree to return all Manuals, and any other items that we have provided to you.

National Sales Conferences

We may conduct annual National Sales Conferences and Continuing Education Seminars. If we do, we may require the Franchise Owner and employees that we designate to attend.

ITEM 12. TERRITORY

Grant for a Specific Area

Your franchise is granted for a specific location that you select and we approve if acceptable. Our approval of a location is not a representation or warranty that the Franchised Business will be profitable or that your sales will attain any predetermined levels. Approval is intended only to indicate that the proposed location meets our minimum criteria for identifying sites. This location may not be changed. You may operate the Franchised Business only at the approved location.

Protected Territory

We grant you a Protected Territory. The Protected Territory is generally defined in terms of a geographic radius of six miles, generally containing at least 25,000 people. You may not solicit customers inside the Protected Territory of another Eileen's Colossal Cookies® business. For so long as you are not in default, we will not operate, or grant a third party the right to operate another Eileen's Colossal Cookies® business using the System within your Protected Territory. We do, however, retain the reserved rights and national accounts rights described below.

Reserved Rights

In addition to our right to use and grant others the right to use the Proprietary Marks outside the Protected Territory (regardless how closely located to your Premises), we reserve all rights not expressly granted to you in the Franchise Agreement.

National Accounts

We may provide you with referral customers through a national-accounts system or with special-order customers. You must service these customers according to the provisions in the Eileen's Colossal Cookies Manuals concerning national-accounts and special order customers. If you fail to service any of these customers as required, we may refer that customer and any other national-account and special-order customers in your area to another Franchisee.

Sales of Products or Services under a Different Trademark

Neither Eileen's Colossal Cookies® nor any affiliate has established or has any present plan to establish other franchises or company-owned outlets or other channels of distribution selling or leasing similar products or services under a different trademark.

Continuation of Territorial Exclusivity

Except as described above in this Item 11:

1. The continuation of your territorial rights does not depend on achieving a certain sales volume, market penetration, or other contingency; and;
2. Your Protected Territory may not be altered during the term of your Franchise Agreement.

ITEM 13. TRADEMARKS

Principal Trademarks

You will have the right to operate the Franchised Business in accordance with the System under certain trademarks, service marks, trade names, logo types and emblems, including the Name and Mark "Eileen's Colossal Cookies®", and any that we might develop in the future. The Operations Manual contains specifics on how our name and Logos must be used. ECC claims the right to the Trademark and has registered the Trademark with the United States Patent and Trademark Office Principal Register as follows:



Issued September 23, 1997
Registration # 2099142

Additionally, the Trademark and all associated service marks have been registered with the Secretary of State in the state of Nebraska.

You must follow our rules when you use our marks. You cannot use a name or mark as part of a corporate name or with modifying words, designs or symbols except for those which ECC Franchises to you. You may not use our name or registered marks in connection with the sale of an unauthorized product or service or in a manner not authorized by Eileen's Colossal Cookies Franchising, Inc.

You must notify us immediately when you learn about an infringement of or challenge to your use of our trademark. ECC will take the action we think appropriate. While ECC is not required to defend you against your use of our trademark, ECC will reimburse you for your liability and reasonable cost in connection with defending ECC's trademark. To receive reimbursement, you must have notified ECC immediately when you learned of an infringement or challenge. You

must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

There are no currently effective material determinations of the Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court of any jurisdiction in the United States; pending infringement, opposition or cancellation; and pending material litigation involving the principal trademarks ECC does not know of any infringing uses that could materially affect your use of our trademarks.

Currently Effective Trademark Determinations

There are no currently effective material determinations of the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board, the trademark administrator of this state or any court; pending infringement, opposition or cancellation proceedings; or pending material litigation involving the principal trademark.

Agreements Significantly Limiting Your Rights to Use the Marks

There are no agreements that significantly limit our right to use or license the use of our principal trademark in a manner material to you.

Protection of Your Right to Use the Trademarks

If any claim of infringement, unfair competition, or other challenge to your rights to use any Proprietary Property is made, or if you become aware of any use of, or claims to, any Proprietary Property by persons other than us or our franchisees, you must notify us in writing no later than seven days afterwards. We alone determine whether to take any action in connection with any infringement, challenge or claim, and exclusively control any litigation or other proceeding arising out of any infringement, challenge or claim relating to any Proprietary Property. This includes determining whether or not to settle any infringement, challenge, or claim, and on what terms. If we decide to modify or discontinue using any Proprietary Mark and use any additional names or marks, for any reason, you must do so, at your expense. In that event, we have no liability of any nature to you.

Knowledge of Superior Rights or Infringing Uses

We have no actual knowledge of superior prior rights or infringing uses that could materially affect your use of the principal trademarks in any state in which the Franchised Business is to be located.

ITEM 14. PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION.

You do not receive the right to use an item covered by a patent or copyright, but you may use our Proprietary Property to operate the Franchised Business. The Proprietary Property includes Confidential Information. "Confidential Information" includes any recipes, knowledge, know-how, technologies, processes, techniques, and any other information that we designate as confidential, proprietary, or trade secrets or that is not readily available in the public domain through any breach of duty to us. Confidential Information includes your Customer List, the Eileen's Colossal Cookies® Manual, and Secret Recipe Products, as well as information relating to recipes and suppliers. The Eileen's Colossal Cookies Manuals are described in Item 11. Although we have not filed an application for a copyright registration for the Eileen's Colossal Cookies® Manual, we claim copyright in it and the information in it is proprietary. You must promptly tell us when you learn about unauthorized use of our proprietary information. We are not obligated to take any action but will respond to this information as we think appropriate. We need not indemnify you for losses arising from your use of our proprietary information.

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

The Franchised Business requires the Manager's day-to-day supervision. The Manager must devote, on a full-time basis, his or her best efforts to managing and operating the Franchised Business. The Manager must be the Franchise Owner unless we permit otherwise. The Franchise Owner is:

1. If the franchisee is an individual, that individual;
2. If the franchisee is a corporation, the individual who owns a majority of the voting and ownership interests in such corporation;
3. If the franchisee is a partnership, any individual who is, or owns a majority of the voting and ownership interests in an entity that is a general partner of such partnership; or
4. If the franchisee is a limited liability company, the individual who owns a majority of the voting and ownership interests in such limited liability company.

Before the Manager, or any successor Manager, may manage the Franchised Business, he or she must complete our Training Program to our satisfaction and acquire any food-safety-program certification that the state or municipality where the Franchised Business is located may require, as well as any other licenses, permits, and certifications that we may require from time to time. Your Manager must sign our standard confidentiality and non-competition agreement. If we permit the Manager to be an individual other than the Franchise Owner, and that Manager fails to satisfy his or her management obligations due to death, disability, termination of employment, or for any other reason, the Franchise Owner must satisfy those obligations until you designate a new Manager acceptable to us, who has successfully completed Basic Management Training.

ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

Approved Goods and Services

You may sell only goods and services we have approved. You must sell all goods and services we have approved. We may change the types of authorized goods and services that you must sell and the Franchise Agreement does not restrict our right to do so.

Customer Restrictions

You may not solicit customers inside the Protected Territory of another Eileen's Colossal Cookies location. We may provide you with referral customers through our national-accounts system or with special-order customers. You must service these customers according to the provisions in the Eileen's Colossal Cookies® Manual concerning national accounts and special-order customers. If you fail to service any of these customers as required, we may refer that customer and any other national-account and special-order customers in the Protected Territory to other Eileen's Colossal Cookies locations and may forbid you from soliciting or servicing those customers.

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ITEM 17. RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

THIS TABLE LISTS IMPORTANT PROVISIONS OF THE FRANCHISE AND RELATED AGREEMENTS. YOU SHOULD READ THESE PROVISIONS IN THE AGREEMENTS ATTACHED TO THIS DISCLOSURE DOCUMENT.

| <u>PROVISION</u> | <u>SECTION IN FRANCHISE AGREEMENT</u> | <u>SUMMARY</u> |
|--|---------------------------------------|--|
| a. Term of Franchise | Section 2 | Term is equal to 10 years |
| b. Renewal or Extension of Term | Section 2 | If you are in good standing you can renew for 10 years |
| c. Requirements for Renewal or Extension | Section 2 | Notify 6 months prior, Sign then current agreement |
| d. Termination by you | Section 16 | None |
| e. Termination by ECC without cause | None | None |
| f. Termination by ECC with cause | Section 16 | ECC can terminate only if you default |
| g. "Cause" defined Defaults which can Be cured | Section 16 | You have 10 days to cure: Non-payment of fees, Non-submission of reports |
| h. "Cause" defined Defaults which cannot be cured. | Section 16 | Non-curable Defaults: abandonment, bankruptcy unauthorized transfer |
| i. Your obligations on Termination/ Non-renewal | Section 17 | Obligations include: de-identification and payments of amounts due. (Also see "r" below). |
| j. Assignment by ECC | Section 19 | No restrictions |
| k. "Transfer" by you Definition: | Section 19 | Includes transfer of contracts or assets or ownership of 51% or more. |
| l. ECC 's approval of Transfer by Franchisee | Section 19 | ECC has the right to approve all transfers but will not unreasonably withhold approval |
| <u>PROVISION</u> | <u>SECTION IN FRANCHISE AGREEMENT</u> | <u>SUMMARY</u> |

| | | |
|--|------------|---|
| m. Conditions for ECC 's Transfer approval | Section 19 | New Franchisee/owner must qualify, transfer fee paid, agreements approved, training arranged, release from your current agreement signed by new owner Franchisee (Also see 'r' below) |
| n. ECC 's right of first refusal | Section 19 | ECC has the right to match any offer for your business |
| o. ECC 's option to purchase | Section 19 | ECC has the right to purchase your inventory and equipment at fair market value |
| p. Your death or disability | Section 19 | Franchise may be sold or terminated. Acceleration provision is canceled if terminated |
| q. Non-competition Covenants during Franchise term | Section 18 | No involvement in a competing business anywhere |
| r. Non-competition Covenants after termination/expires | Section 18 | No competing within 2 years or within 50 miles |
| s. Modification of Agreement | Section 23 | None, except Manuals may be subject to change |
| t. Integration/Merger | None | No Provision |
| u. Dispute resolution by Arbitration or Mediation | Section 23 | No provision for Arbitration. Private Mediation must be pursued before judicial action for any dispute except monies owed. |
| v. Choice of Forum | Section 23 | Litigation must be in Adams County, Nebraska |
| w. Choice of Law | Section 23 | Nebraska Law applies |

The following states have statutes which may supersede the Franchise Agreement in your relationship with us, including the areas of termination and renewal of your Franchise: ARKANSAS [Stat. Section 70-807], CALIFORNIA [Bus. & Prof. Code Sections 20000-20043], CONNECTICUT [Gen. Stat. Section 42-133e et seq.], DELAWARE [Code, tit.], HAWAII [Rev. Stat. Section 482E-1], ILLINOIS [815 ILCS 705/1 - 44], INDIANA [Stat. Section 23-2-2.7], IOWA [Code Section 523H.1-523H.17], MICHIGAN [Stat. Section 19.854(27)], MINNESOTA [Stat. Section 80C.14], MISSISSIPPI [Code Section 75-24-51], MISSOURI [Stat. Section 407.400], NEBRASKA [Rev. Stat. Section 87-401], NEW JERSEY [Stat. Section 56:10-1], VIRGINIA [Code 13.1-557-574-13.1-564], WASHINGTON [Code Section 19.100.180], and WISCONSIN [Stat. Section 135.03].

These and other states may have court decisions that may supersede the Franchise Agreement in your relationship with us, including the areas of termination and renewal of your franchise.

The following states have statutes which limit our ability to restrict your activity after the Franchise Agreement has ended: California Business and Professional Code Section 16,600, Florida Statutes Section 542.33, Michigan Compiled Laws Section 445.771 et seq., Montana Codes Section 30-14-201, North Dakota Century Code Section 9-08-06, Oklahoma Statutes Section 15-217-19, Washington Code Section 19.86.030. Other states have court decisions limiting our ability to restrict your activity after the Franchise Agreement has ended.

The following states have statutes which restrict or prohibit the imposition of liquidated damage provisions: California [Civil Code Section 1671], Indiana [1C 23-2-2.71-1(10)], Minnesota [Rule 2860.4400J], South Dakota [Civil Law 53-9-5]. Some state courts also restrict the imposition of liquidated damages. The imposition of liquidated damages may also be restricted by fair practice laws, contract law, and state and federal court decisions.

With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, and Subds. 3, 4, and 5, which require (except in certain specified cases) that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement; and that consent to the transfer of the franchise will not be unreasonably withheld.

ITEM 18. PUBLIC FIGURES

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

ITEM 19. FINANCIAL PERFORMANCE REPRESENTATIONS

ECC does 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 Tony Harman, 2727 W. 2nd Street, Ste. 322 – Hastings, NE 68901. 402-462-5983, the Federal Trade Commission, and the appropriate state regulatory agencies.

ITEM 20. OUTLETS AND FRANCHISEE INFORMATION

| <u>System Wide Outlet Summary</u> | | | | |
|--|-------------|---|---------------------------------------|-------------------|
| For years 2015 to 2017 | | | | |
| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
| Franchised | 2015 | 18 | 19 | +1 |
| | 2016 | 19 | 22 | +3 |
| | 2017 | 22 | 24 | +2 |
| Company Owned | 2015 | 3 | 3 | |
| | 2016 | 3 | 3 | |
| | 2017 | 3 | 3 | |
| Total Outlets | 2015 | 21 | 22 | +1 |
| | 2016 | 22 | 25 | +3 |
| | 2017 | 25 | 27 | +2 |

| <u>Transfers of Franchised Outlets to New Owners (other than the Franchisor)</u> | | |
|---|-------------|----------------------------|
| For years 2015 to 2017 | | |
| State | Year | Number of Transfers |
| Wyoming | 2015 | 1 |
| | 2016 | 0 |
| | 2017 | 0 |
| Iowa | 2015 | 0 |
| | 2016 | 0 |
| | 2017 | 1 |
| Total | 2015 | 1 |
| | 2016 | 0 |
| | 2017 | 1 |

Status of Franchised Outlets
For Years 2015 to 2017

| State | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations (Other Reasons) | Outlets at End of the Year |
|-------|------|--------------------------|----------------|--------------|--------------|--------------------------|-----------------------------------|----------------------------|
| NE | 2015 | 6 | | | | | | 6 |
| | 2016 | 6 | | | | | | 6 |
| | 2017 | 6 | | | | | | 6 |
| CO | 2015 | 3 | | | | | | 3 |
| | 2016 | 3 | | | | | | 3 |
| | 2017 | 3 | | | | | | 3 |
| IA | 2015 | 0 | | | | | | 0 |
| | 2016 | 0 | 1 | | | | | 1 |
| | 2017 | 1 | | | | | | 1 |
| KS | 2015 | 1 | | | | | | 1 |
| | 2016 | 1 | | | | | | 1 |
| | 2017 | 1 | | | | | | 1 |
| MN | 2015 | 1 | | | | | | 1 |
| | 2016 | 1 | | | | | | 1 |
| | 2017 | 1 | | | | | | 1 |
| MO | 2015 | 0 | | | | | | 0 |
| | 2016 | 0 | 1 | | | | | 1 |
| | 2017 | 1 | 1 | | | | | 2 |
| OK | 2015 | 2 | 1 | | | | | 3 |
| | 2016 | 3 | 1 | | | | | 4 |
| | 2017 | 4 | 1 | | | | | 5 |
| SD | 2015 | 2 | | | | | | 2 |
| | 2016 | 2 | | | | | | 2 |
| | 2017 | 2 | | | | | | 2 |
| TX | 2015 | 1 | | | | | | 1 |
| | 2016 | 1 | | | | | | 1 |

| | | | | | | | | |
|---------------------|-------------|---------------------------------|-----------------------|---------------------|---------------------|---------------------------------|--|-----------------------------------|
| | 2017 | 1 | | | | | | 1 |
| WY | 2015 | 2 | | | | | | 2 |
| | 2016 | 2 | | | | | | 2 |
| | 2017 | 2 | | | | | | 2 |
| State Totals | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations (Other Reasons) | Outlets at End of the Year |
| | 2015 | 18 | 1 | | | | | 19 |
| | 2016 | 19 | 3 | | | | | 22 |
| | 2017 | 22 | 2 | | | | | 24 |

| Status of Company-Owned Outlets | | | | | | | |
|--|-------------|------------------------------|----------------|-------------------------------------|----------------|-----------------------------|----------------------------|
| For years 2015 to 2017 | | | | | | | |
| State | Year | Outlets at Start of the Year | Outlets Opened | Outlets Reacquired from Franchisees | Outlets Closed | Outlets Sold to Franchisees | Outlets at End of the Year |
| NE | 2015 | 3 | | | | | 3 |
| | 2016 | 3 | | | | | 3 |
| | 2017 | 3 | | | | | 3 |
| Totals | 2015 | 3 | | | | | 3 |
| | 2016 | 3 | | | | | 3 |
| | 2017 | 3 | | | | | 3 |

Projected New Franchised Outlets
As of December 31, 2017

| State | Franchise Agreements signed But Outlet Not Opened | Projected New Franchised Outlets in the Next Fiscal Year | Projected New Company-Owned Outlets in the Current Fiscal Year |
|-------|---|--|--|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Eileen's Colossal Cookies® Franchisees as of December 31, 2017

| ADDRESS,CITY STATE | CONTACT NAME COMPANY NAME | DATE SOLD | PHONE | STATUS |
|--|--|-----------|----------------|---------------------------|
| 3757 E. Lincolnway SteB05 Cheyenne, WY 82001-6343 | Keith Bellis Bell-Hall Enterprises | 12/13/93 | (307) 638-2121 | Operational |
| 5500 Old Cheney Rd. Lincoln, NE 68516 | Molly and Brandon Kircher MGGB Enterprises | 12/24/94 | (402) 421-6609 | Operational |
| 2146 35 th Ave Greeley, CO 80631 | Virginia Koenig Virginia L. Koenig, L.L.C | 2/22/96 | (970) 330-8363 | Operational |
| 14532 West Center Omaha, NE 68144 | Pat and Andrew Holt Cookies, Inc. | 6/12/96 | (402) 697-5155 | Operational |
| L&M Enterprises 2614 S. Timberline Ft. Collins, CO 80525 | LaVaughn & Marty Gilbert | 5/26/98 | (970) 266-9151 | Operational |
| Littleton, CO 80123 | Denise Rose | 7/11/98 | not known | Closed: April 28, 2000 |

| ADDRESS,CITY STATE | CONTACT NAME COMPANY NAME | DATE SOLD | PHONE | STATUS |
|---|---|-----------|----------------|--------------------------|
| Cheyenne Montana Shopping Center 115 & Academy Colorado Springs, CO 80906 | William & Norma Parsons Birch Hollow Drive Lincoln, NE 68516 | 5/6/99 | not known | Closed August 5, 2000 |
| 2829 King Avenue West, Suite D Billings, MT 59102 | Cal & Mary Bretz Cookie Dream | 4/9/02 | (406) 652-0434 | Closed Jan 27, 2007 |
| 1333 North Santa Fe, Suite 103 Edmond, Oklahoma 73003 | Linda and Rick Engel | 6/23/03 | 405-216-0244 | Operational |
| 8244 Northern Lights Dr. Suite 100 Lincoln, NE 68504 | Molly and Brandon Kircher MGGB Enterprises | 3/23/04 | 402- 477-6609 | Operational |
| 1110 S. 71 st , #M Omaha, NE 68124 | Carol Godbout Kyle Godbout | 6/3/05 | 402-932-3262 | Operational |
| 1109 W. Omaha Rapid City, SD 57701 | Jill and Mark Eisenbraun | 4/12/06 | 605-718-2842 | Operational |
| 213 N. Stephanie St. Henderson, NV 89074 | Norah & Todd George | 1/09/07 | 702-333-0591 | Closed April 5, 2008 |
| 4931 W. 6 th Street, #124 Lawrence, KS 66049 | Becky and Rodney Johansen | 9/05/08 | 785-856-2253 | Operational |
| 8410 S. 73 rd Plaza Papillion, NE 68046 | Brian Speer | 8/28/09 | 402-933-1555 | Operational |
| 2201 Wildcat Reserve Pkwy Highlands Ranch, CO 80129 | Joyce and Tim Carnes | 6/1/11 | 303-683-0002 | Operational |
| 210 S. 16 th St. #109 Omaha, NE 68102 | Carol Godbout Kyle Godbout | 6/6/12 | 402-932-2282 | Operational |
| 401 W. Whitestone Blvd Cedar Park, TX 78613 | Sunnie and Jason Fox | 6/21/12 | 512-456-7110 | Operational |

| ADDRESS,CITY STATE | CONTACT NAME COMPANY NAME | DATE SOLD | PHONE | STATUS |
|---|------------------------------|-----------|--------------|-------------|
| 4801 E. 2 nd Street Casper, WY 82609 | Joe and Susan Schilling | 2/19/13 | 307-333-4525 | Operational |
| 6880 Boudin St. Prior Lake, MN 55372 | Colleen and Sean O'Malley | 7/30/13 | 952-226-2253 | Operational |
| 9044 S. Sooner Rd. Oklahoma City, OK 73165 | Lauri Hess | 1/21/14 | 405-255-1970 | Operational |
| 2101 W. 41 st Street Sioux Falls, SD 57105 | Kristi & Jim Westra | 8/19/14 | 605-275-2014 | Operational |
| 1231 Garth Brooks Blvd. Yukon, OK 73099 | Steven Shell | 3/18/15 | 405-350-2076 | Operational |
| 1851 Madison Ave, Ste. 702 Council Bluffs, IA 51503 | Dan & Jodi Mouw | 1/7/16 | 712-256-1910 | Operational |
| 925 W. Liberty Dr. Liberty, MO 64068 | John & Kristen Uhlman | 10/30/15 | 816-429-5150 | Operational |
| 222 W. Main Street Ardmore, OK 73401 | Ted & Ronda Shell | 4/26/16 | 580-798-5292 | Operational |
| 7700 N. May Ave. Oklahoma City, OK 73116 | Linda & Rick Engel | 7/10/17 | 405-242-4121 | Operational |
| 6206 NW Barry Rd Kansas City, MO 64154 | Denise & Lew Carpenter | 3/8/17 | 816-321-1386 | Operational |

**Eileen's Colossal Cookies® Company Owned Stores as of
December 31, 2017**

| ADDRESS,CITY STATE | CONTACT NAME | DATE OPENED | PHONE | STATUS |
|---|--------------|----------------|--------------|-------------|
| 730 West 2 nd Street Hastings, NE 68901 | Tony Harman | 10/01/1983 | 402-462-2572 | Operational |
| 2418 N. Webb Rd Grand Island, NE 68803 | Tony Harman | 04/13/1987 | 308-382-0462 | Operational |
| 224 W. 42 nd Street Kearney, NE 68845 | Tony Harman | 05/31/1991 | 308-237-4000 | Operational |

ITEM 21. FINANCIAL STATEMENTS



| | | | | | | |
|---|---|--|---|---|--|--|
| 615 West 1 st St. P.O. Box 700 Grand Island, NE 68802 308-382-5720 Fax: 308-382-5945 | 5807 Osborne Drive West P.O. Box 2026 Hastings, NE 68902 402-463-6711 Fax: 402-463-6713 | 315 W. 60 th , Ste 500 P.O. Box 1746 Kearney, NE 68848 308-237-5930 Fax: 308-234-4410 | 707 East Pacific P.O. Drawer H Lexington, NE 68850 308-324-2368 Fax: 308-324-2360 | 1001 West 27 th P.O. Box 2246 Scottsbluff, NE 69363 308-635-7705 Fax: 308-635-0599 | 1611 16 th St. P.O. Box 191 Central City, NE 68826 308-946-3870 Fax: 308-946-3870 | 826 G St. Geneva, NE 68361 402-759-3002 Fax: 402-463-6713 |
|---|---|--|---|---|--|--|

Independent Auditors' Consent

Contryman Associates, P.C. consents to the use in the Franchise Disclosure Document issued by Eileen's Colossal Cookies Franchising, Inc. ("Franchisor") on March 7, 2018, as it may be amended, of our report dated March 6, 2018, relating to the financial statements of Franchisor for the periods ending December 31, 2017, 2016, and 2015.

Contryman Associates, P.C.

Certified Public Accountants
Grand Island, Nebraska
March 6, 2018

www.capc.com

Members: American Institute of Certified Public Accountants - CPAmerica International

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

FINANCIAL STATEMENTS

December 31, 2017, 2016, and 2015

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

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CONTRYMAN ASSOCIATES, P.C.

Certified Public Accountants

| | | | | | | |
|---|---|--|---|---|--|--|
| 615 West 1 st St. P.O. Box 700 Grand Island, NE 68802 308-382-5720 Fax: 308-382-5945 | 5807 Osborne Drive West P.O. Box 2026 Hastings, NE 68902 402-463-6711 Fax: 402-463-6713 | 315 W. 60 th , Ste 500 P.O. Box 1746 Kearney, NE 68848 308-237-5930 Fax: 308-234-4410 | 707 East Pacific P.O. Drawer H Lexington, NE 68850 308-324-2368 Fax: 308-324-2360 | 1001 West 27 th P.O. Box 2246 Scottsbluff, NE 69363 308-635-7705 Fax: 308-635-0599 | 1611 16 th St. P.O. Box 191 Central City, NE 68826 308-946-3870 Fax: 308-946-3870 | 826 G St. Geneva, NE 68361 402-759-3002 Fax: 402-463-6713 |
|---|---|--|---|---|--|--|

Independent Auditors' Report

To the Stockholders
Eileen's Colossal Cookies Franchising, Inc.
Hastings, Nebraska

Report on the Financial Statements

We have audited the accompanying financial statements of Eileen's Colossal Cookies Franchising, Inc. (an S Corporation), which comprise the balance sheets as of December 31, 2017, 2016, and 2015, and the related statements of income and retained earnings, and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes 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.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

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CONTRYMAN ASSOCIATES, P.C.

Certified Public Accountants

| | | | | | | |
|---|---|--|---|---|--|--|
| 615 West 1 st St. P.O. Box 700 Grand Island, NE 68802 308-382-5720 Fax: 308-382-5945 | 5807 Osborne Drive West P.O. Box 2026 Hastings, NE 68902 402-463-6711 Fax: 402-463-6713 | 315 W. 60 th , Ste 500 P.O. Box 1746 Kearney, NE 68848 308-237-5930 Fax: 308-234-4410 | 707 East Pacific P.O. Drawer H Lexington, NE 68850 308-324-2368 Fax: 308-324-2360 | 1001 West 27 th P.O. Box 2246 Scottsbluff, NE 69363 308-635-7705 Fax: 308-635-0599 | 1611 16 th St. P.O. Box 191 Central City, NE 68826 308-946-3870 Fax: 308-946-3870 | 826 G St. Geneva, NE 68361 402-759-3002 Fax: 402-463-6713 |
|---|---|--|---|---|--|--|

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Eileen's Colossal Cookies Franchising, Inc., as of December 31, 2017, 2016, and 2015, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Contryman Associates, P.C.

Certified Public Accountants
Grand Island, Nebraska

March 6, 2018

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.**BALANCE SHEETS**

December 31, 2017, 2016, and 2015

ASSETS

| | <u>2017</u> | <u>2016</u> | <u>2015</u> |
|---|----------------|----------------|----------------|
| CURRENT ASSETS: | | | |
| Cash | 256,487 | 225,964 | 305,145 |
| Royalties receivable | 50,974 | 53,845 | 36,067 |
| Other receivables | 16,941 | 879 | 1,551 |
| Related party receivables | 1,106 | 6,361 | 14,221 |
| Inventory | 24,565 | 14,462 | 11,374 |
| Prepaid insurance | 2,749 | 2,749 | 0 |
| TOTAL CURRENT ASSETS | <u>352,822</u> | <u>304,260</u> | <u>368,358</u> |
| PROPERTY AND EQUIPMENT: | | | |
| Equipment | 28,803 | 28,803 | 28,803 |
| Vehicle | 0 | 0 | 56,265 |
| Leasehold improvements | 12,240 | 12,240 | 0 |
| Accumulated depreciation and amortization | (30,687) | (28,813) | (30,272) |
| NET PROPERTY AND EQUIPMENT | <u>10,356</u> | <u>12,230</u> | <u>54,796</u> |
| OTHER ASSETS: | | | |
| Intangible assets | 11,897 | 11,897 | 11,897 |
| Accumulated amortization | (5,820) | (3,610) | (1,400) |
| TOTAL OTHER ASSETS | <u>6,077</u> | <u>8,287</u> | <u>10,497</u> |
| TOTAL ASSETS | <u>369,255</u> | <u>324,777</u> | <u>433,651</u> |

LIABILITIES AND STOCKHOLDERS' EQUITY

| | | | |
|--|----------------|----------------|----------------|
| CURRENT LIABILITIES: | | | |
| Accounts payable | 12,288 | 7,788 | 2,101 |
| Accrued payroll tax | 2,032 | 3,641 | 0 |
| TOTAL LIABILITIES | <u>14,320</u> | <u>11,429</u> | <u>2,101</u> |
| STOCKHOLDERS' EQUITY: | | | |
| Common stock (5,000 shares authorized @ \$1 par; 1,000 shares issued and outstanding) | 1,000 | 1,000 | 1,000 |
| Retained earnings | 353,935 | 312,348 | 430,550 |
| TOTAL STOCKHOLDERS' EQUITY | <u>354,935</u> | <u>313,348</u> | <u>431,550</u> |
| TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY | <u>369,255</u> | <u>324,777</u> | <u>433,651</u> |

See accompanying notes

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

STATEMENTS OF INCOME AND RETAINED EARNINGS

Years Ended December 31, 2017, 2016, and 2015

| | <u>2017</u> | <u>2016</u> | <u>2015</u> |
|--|----------------|-----------------|----------------|
| OPERATING INCOME: | | | |
| Royalties | 689,266 | 636,749 | 531,035 |
| Franchising fees | 27,500 | 40,000 | 47,500 |
| Items sold to franchises, net | 4,124 | 1,582 | 3,414 |
| Supplier rebates | 91,237 | 59,774 | 52,631 |
| Other franchising income | 12,140 | 1,697 | 4,863 |
| TOTAL OPERATING INCOME | <u>824,267</u> | <u>739,802</u> | <u>639,443</u> |
| OPERATING EXPENSES: | | | |
| Officer salaries | 60,000 | 43,846 | 0 |
| Other salaries | 61,200 | 49,514 | 0 |
| Payroll taxes | 9,687 | 7,837 | 0 |
| Employee benefits | 16,874 | 1,462 | 0 |
| Advertising | 252 | 1,611 | 239 |
| Auto expense | 7,557 | 5,151 | 6,293 |
| Amortization expense | 3,959 | 2,501 | 553 |
| Depreciation expense | 125 | 7,627 | 5,993 |
| Dues and subscriptions | 2,624 | 3,742 | 3,132 |
| Insurance | 2,734 | 576 | 1,326 |
| Meals and entertainment | 9,191 | 10,232 | 5,587 |
| Miscellaneous | 2,286 | 1,774 | 6,198 |
| Office supplies | 16,548 | 24,293 | 10,742 |
| Postage | 3,614 | 2,805 | 3,013 |
| Professional fees | 16,807 | 12,706 | 8,415 |
| Reimbursed wages | 0 | 38,473 | 150,060 |
| Rent | 27,480 | 14,985 | 12,600 |
| Repairs and maintenance | 593 | 417 | 299 |
| Supplies | 83 | 0 | 4,283 |
| Telephone | 7,367 | 7,611 | 2,015 |
| Travel expenses | 14,488 | 19,366 | 7,870 |
| Utilities | 0 | 2,465 | 2,230 |
| TOTAL OPERATING EXPENSES | <u>263,469</u> | <u>258,994</u> | <u>230,848</u> |
| OTHER INCOME (EXPENSE): | | | |
| Other income | 85 | 42 | 128 |
| Gain (loss) on sale of asset | 0 | (16,678) | 5,594 |
| TOTAL OTHER INCOME (EXPENSE) | <u>85</u> | <u>(16,636)</u> | <u>5,722</u> |
| NET INCOME | 560,883 | 464,172 | 414,317 |
| Retained earnings-beginning of year | 312,348 | 430,550 | 292,569 |
| Distributions to stockholders | (519,296) | (582,374) | (276,336) |
| RETAINED EARNINGS - END OF YEAR | <u>353,935</u> | <u>312,348</u> | <u>430,550</u> |

See accompanying notes

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

STATEMENTS OF CASH FLOWS

Years Ended December 31, 2017, 2016, and 2015

| | <u>2017</u> | <u>2016</u> | <u>2015</u> |
|--|-----------------------|-----------------------|-----------------------|
| OPERATING ACTIVITIES: | | | |
| Net income | 560,883 | 464,172 | 414,317 |
| Items not requiring cash: | | | |
| Depreciation and amortization | 4,084 | 10,128 | 6,546 |
| (Gain) loss on sale of asset | 0 | 16,678 | (5,594) |
| (Increase) decrease in assets: | | | |
| Royalties receivable | 8,126 | (9,918) | 2,483 |
| Franchisees receivable | (16,062) | 672 | (1,159) |
| Inventory | (10,103) | (3,088) | (1,648) |
| Prepaid insurance | 0 | (2,749) | 0 |
| Increase (decrease) in liabilities: | | | |
| Accounts payable | 4,500 | 5,687 | (5,442) |
| Accrued payroll tax | (1,609) | 3,641 | 0 |
| NET OPERATING ACTIVITIES | <u>549,819</u> | <u>485,223</u> | <u>409,503</u> |
| INVESTING ACTIVITIES: | | | |
| Proceeds from sale of equipment | 0 | 30,210 | 0 |
| Purchase of equipment and leasehold improvements | 0 | (12,240) | (57,062) |
| NET INVESTING ACTIVITIES | <u>0</u> | <u>17,970</u> | <u>(57,062)</u> |
| FINANCING ACTIVITIES: | | | |
| Distribution to stockholder | (519,296) | (582,374) | (276,336) |
| NET INCREASE (DECREASE) IN CASH | 30,523 | (79,181) | 76,105 |
| Cash - beginning of year | <u>225,964</u> | <u>305,145</u> | <u>229,040</u> |
| CASH - END OF YEAR | <u><u>256,487</u></u> | <u><u>225,964</u></u> | <u><u>305,145</u></u> |

See accompanying notes

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS

December 31, 2017, 2016, and 2015

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIESNature of Business

Eileen's Colossal Cookies Franchising, Inc., (the Company) is the franchisor of Eileen's Colossal Cookies which grants to franchisees the use of the name, logo, and recipes and receives franchise fees and royalties.

Receivables

The Company extends unsecured credit to its franchisees and periodically reviews the accounts receivable to determine those accounts deemed uncollectible. Receivables are carried at their estimated collectible amounts. The Company does not assess finance charges on unpaid balances. Management has determined that an allowance for doubtful accounts is not necessary.

Inventory

The inventory is valued at the lower of cost (average cost) and net realizable value.

Property and Equipment

Property and equipment are stated at historical cost and depreciated over the estimated useful life of each asset. Annual depreciation is primarily computed using the straight-line methods with lives from 5-7 years. Amortization of leasehold improvements is computed using the straight-line methods over the shorter of the remaining lease term or the estimated useful lives of the improvements.

Advertising Costs

The Company expenses advertising costs as incurred.

Income Taxes

The Company has elected to be an S Corporation for federal and state income tax purposes, under the Internal Revenue Code and the State of Nebraska. In lieu of corporation income taxes, the stockholders of an S corporation are taxed on their proportionate share of the Company's taxable income, therefore no liability for income taxes has been included in these financial statements.

(Continued on next page)

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2017, 2016, and 2015

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)Reclassification of Prior Year Amounts

Certain items previously presented for 2015 and 2016 have been reclassified in the accompanying financial statements to conform to the 2017 presentation.

Use of Estimates

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America 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 and expenses during the reporting period. Actual results could differ from those estimates.

Change in Accounting Principle

In July 2015, the FASB issued ASU No. 2015-11, *Inventory (Topic 330): Simplifying the Measurement of Inventory*, requiring an entity to measure in-scope inventory at the lower cost and net realizable value. Net realizable value is the estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal and transportation. This ASU is effective for the Company for fiscal years beginning after December 15, 2016. The Company adopted this standard as of January 1, 2017, which has been applied prospectively. There was no impact to the financial statements as a result of this change.

Recent Accounting Pronouncements

On May 28, 2014 the FASB issued ASU 2014-09, *Revenue from Contracts with Customers*. The standard's core principle is that a company will recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. This standard also includes expanded disclosure requirements that result in an entity providing users of financial statements with comprehensive information about the nature, amount, timing and uncertainty of revenue and cash flows arising from the entity's contracts with customers. This standard will be effective for the calendar year ending December 31, 2019. The Company is currently in the process of evaluating the impact of adoption of this ASU on the financial statements.

(Continued on next page)

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2017, 2016, and 2015

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)Subsequent Events

The Company has evaluated subsequent events through March 6, 2018, the date which the financial statements were available to be issued.

NOTE 2: FRANCHISES

The Company executes franchise agreements that set the terms of its arrangement with each store opened. Initial franchise fees of up to \$20,000 are recognized when conditions relating to the franchise have been performed. Continuing fees for royalties are charged based upon 5% or 6% of sales depending on the date the franchise agreement was signed. Transfer fees of up to \$7,500 may be charged when stores are sold or transferred to a new location.

The Company sold two franchises in each of the years ending December 31, 2017, 2016, and 2015. The Company had a total of 26 franchises in 2017, 24 franchises in 2016 and 22 franchises in 2015. Of these franchises, three are owned by Eileen's Colossal Cookies, Inc., a corporation who has the same stockholders as the Company.

NOTE 3: ITEMS SOLD TO FRANCHISES

The Company maintains an inventory of standard operating supplies for resale to its franchises to promote consistent brand recognition. Sales of these items are reported net of their cost on the Statement of Income and Retained Earnings. For the years ending December 31, 2017, 2016, and 2015, gross sales and cost of sales are as follows:

| | 2017 | 2016 | 2015 |
|-------------------------------|--------------|--------------|--------------|
| Items sold to franchises | 42,889 | 37,122 | 24,669 |
| Cost of items sold | (38,765) | (35,540) | (21,255) |
| Items sold to franchises, net | <u>4,124</u> | <u>1,582</u> | <u>3,414</u> |

NOTE 4: OPERATING LEASE

In August, 2016, the Company entered into a new operating lease agreement for office space for a term of seven years beginning in November, 2016 at a monthly rate of \$2,290. The lease contains a single option to extend the initial term of the lease for an additional seven years at a monthly rate of \$2,475 by providing notice to the lessor at least six months prior to the end of the initial term.

(Continued on next page)

EILEEN'S COLOSSAL COOKIES FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2017, 2016, and 2015

NOTE 4: OPERATING LEASE (CONTINUED)

Prior to November, 2016, the Company leased office space on a month to month basis at a monthly rate of \$1,050. Total rent payments were \$27,480, \$14,985, and \$12,600 for the years ending December 31, 2017, 2016 and 2015, respectively.

Future minimum rental payments under the lease agreement are as follows:

| Year ending December 31: | | |
|------------------------------------|------|----------------|
| | 2018 | 27,480 |
| | 2019 | 27,480 |
| | 2020 | 27,480 |
| | 2021 | 27,480 |
| | 2022 | 27,480 |
| | 2023 | 22,900 |
| Total minimum payments required | | <u>160,300</u> |

NOTE 5: RELATED PARTY TRANSACTIONS

The Company engages in business with Eileen's Colossal Cookies, Inc., a corporation who has the same stockholders and has transactions as follows:

| | <u>2017</u> | <u>2016</u> | <u>2015</u> |
|---------------------------|-------------|-------------|-------------|
| Royalties | 119,697 | 121,244 | 115,392 |
| Royalties receivable | 1,018 | 6,361 | 14,221 |
| Franchisees receivable | 88 | 0 | 100 |
| Reimbursed wages | 0 | 38,473 | 150,060 |

NOTE 6: CONCENTRATION OF CREDIT RISK

The Company maintains its cash balance in one financial institution. The balance is insured by the Federal Deposit Insurance Corporation up to \$250,000. At December 31, 2017, the Company had \$6,600 in uninsured cash balance.

ITEM 22. CONTRACTS

FRANCHISE AGREEMENT

FRANCHISE AGREEMENT

BETWEEN

Eileen's Colossal Cookies Franchising, Inc.

(A Nebraska Corporation)

and

Phone Number (_____) _____ - _____

Fax Number (_____) _____ - _____

Date _____

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Eileen's Colossal Cookies®
FRANCHISE AGREEMENT

Franchisee(s) Name _____

Address _____

City _____ State _____ Zip _____

THIS AGREEMENT is made by and between Eileen's Colossal Cookies Franchising, Inc., a Nebraska Corporation located at 2727 W. 2nd Street, Ste. 322, Hastings, Nebraska, 68901; hereinafter known as "Franchisor" or "ECC", and the persons listed above and referenced herein individually or collectively as "Franchisee", to evidence the agreement and understandings between the parties as follows:

WHEREAS, ECC, under its trade names, trademarks, logos and service marks (the "Names and Marks") has developed expertise (including confidential information) and a unique and comprehensive system (the "System") for the promotion and identification of the mark "Eileen's Colossal Cookies®" for the sale of cookies and related products, and;

WHEREAS, ECC has developed and licenses or franchises a system or business program (the "Eileen's Colossal Cookies® System"), including expertise and technical know-how and other skills for operating such a system under the mark "Eileen's Colossal Cookies®"; and

WHEREAS, ECC provides a uniform system for the establishment and operation of Eileen's Colossal Cookies® Systems including sales development programs, unique sales techniques, special training techniques, and other related benefits for use of Franchisee under the Names and Marks; and

WHEREAS, ECC has established substantial goodwill and business value in its Names and Marks, expertise and Program; and

WHEREAS, Franchisee recognizes the benefits to be derived from being identified with and receiving a franchise from ECC; and

WHEREAS, Franchisee desires to obtain a Franchise from ECC for the right to use the Names and Marks and the expertise for operating a Eileen's Colossal Cookies® business and to obtain the benefits and knowledge of ECC's System including, without limitation, operating methods, advertising, signs, control

systems, and in general a style, method and procedure of business operation utilizing the Names and Marks as a Franchisee of ECC.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth subject to the terms and conditions hereof, the parties agree as follows:

1. **GRANT AND FRANCHISE FEE**

A. **Grant of Franchise and Territory**

(1) **Grant of Franchise**

ECC hereby grants to Franchisee and Franchisee hereby accepts a Franchise under the terms and conditions as set forth herein for the right to operate an Eileen's Colossal Cookies® retail store in an area to be agreed upon between ECC and Franchisee within a territory described in Franchise Agreement Exhibit "A" (the "Territory"). ECC also hereby grants, and the Franchisee hereby accepts, a limited license to use the Eileen's Colossal Cookies® Names and Marks, and the Eileen's Colossal Cookies® System and related advertising and sales methods, provided the Franchisee shall adhere to the terms and conditions hereof.

(2) **Territory**

A Franchise Territory a boundary of a radius of six miles (6 miles) from the center point of the approved location of the franchised business.

B. Reservation of Rights

ECC, on behalf of itself and its affiliates, reserves all rights not specifically granted to Franchisee pursuant to this Agreement, all without compensation to Franchisee, including but not limited to the following:

(1) ECC and its affiliates may own or operate, or license or franchise others to own or operate, Eileen's Colossal Cookies® stores adjacent to the Territory or anywhere outside of the Territory.

(2) ECC and its affiliates are allowed to own, open, franchise, operate, and/or manage any businesses within the Territory or outside of the Territory under trademarks or service marks different than the Marks.

(3) ECC and its affiliates may develop, merchandise, sell and license others to sell within the Territory or outside of the Territory products, whether bearing the Marks or otherwise, through other channels of distribution such as the Internet, print catalogues, direct marketing media and through wholesale or retail sales (other than retail sales through a dedicated Eileen's Colossal Cookies® store). In addition, ECC and its affiliates may promote products bearing the Marks at special events, athletic contests, etc., through temporary locations and mobile units.

(4) ECC and its affiliates have the right, now or in the future, to purchase, merge, acquire, be acquired or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of that chain's or business' facilities, and to operate, franchise or license those businesses and/or facilities as Eileen's Colossal Cookies® stores operating under the Marks following such purchase, merger, acquisition or affiliation, regardless of the location of these facilities (which Franchisee acknowledges may be within the Territory or close to the Territory).

(5) ECC and its affiliates may sell themselves, their assets, their proprietary marks, the Marks, their systems and/or the System to a third party; may go public; may engage in a private placement of some or all of their securities; may merge, acquire other corporations or entities, or be acquired by another corporation or entity; and/or may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. With regard to any of the above transfers, Franchisee expressly and specifically waives any claims, demands or damages arising from or related to the loss of ECC's name, the Marks (or any variation thereof), the System and/or the loss of being identified as a franchisee under this Agreement. If ECC assigns its rights in this Agreement, nothing will be deemed to require ECC to remain in the baking business or to offer or sell any products or services to Franchisee.

C. Franchisee's Initial Franchise Fee**(1) Payment of Fee**

By executing this Agreement, Franchisee agrees to become a Franchisee and pay an Initial Franchise Fee to ECC as follows:

Twenty Thousand Dollars (\$20,000.00). Payment shall be made in a form acceptable to ECC.

(2) Location and Opening of Eileen's Colossal Cookies® Business by Franchisee

Within ninety (90) days after execution hereof, Franchisee must select a location and submit such location to ECC for its approval and comments. ECC shall not unreasonably withhold its approval and will provide its approval or rejection of the site in addition to its comments in writing within 10 business days of submission by Franchisee. ECC is not responsible for and does not make any warranty regarding the suitability of the site. Its consent to a site means only that the site meets ECC's minimum standards for an acceptable location of a Eileen's Colossal Cookies® store. Franchisee is solely responsible for investigating the site and having any leases or sale contract for the site reviewed.

Upon approval, Franchisee must secure all necessary occupational licenses and/or zoning approvals for the location; and shall have commenced to install leasehold improvements and signage according to a plan furnished by ECC. Franchisee hereby agrees that leasehold improvements, ordering and installation of necessary equipment, training, the purchase and stocking of opening inventory and opening the Franchised Business shall be completed within 180 days of receiving approval on a site submission unless otherwise approved in writing by ECC. In the event Franchisee does not meet each of the obligations described above within the time period allowed, then this Agreement may be deemed terminated by ECC.

(3) Franchise Fee Is Non-Refundable

Except as otherwise provided herein, the Franchise Fee described in this section of the Agreement is fully earned by ECC upon its execution of this Agreement and is non-refundable.

2. TERM AND RENEWAL**A. Term**

This Agreement shall be effective and binding from the date of its execution for an initial term equal to ten (10) years from the date of this Agreement.

B Renewal

Franchisee shall have the right to renew this franchise at the expiration of each term for 2 additional successive terms of Ten (10) years each, and provided that all of the following conditions have been fulfilled:

- (1) Franchisee has, during the entire term of this Agreement, substantially complied with all material provisions hereof;
- (2) Franchisee has satisfied all monetary obligations owed by Franchisee to ECC and any of its subsidiaries, affiliates, and approved suppliers and has in a timely manner met these obligations throughout the term of this Agreement;
- (3) Franchisee has executed ECC's then-current form of Franchise Agreement (with appropriate modifications to reflect the fact that the said agreement relates to the grant of a renewal franchise), which agreement shall supersede in all respects this Agreement the terms of which may differ from the terms of this Agreement, including, without limitation, higher continuing Fees; provided, however, Franchisee has notified ECC in writing of Franchisee's intent to renew the franchise not less than six (6) months prior to the expiration of the initial term of this Agreement;
- (4) Franchisee (and its owners) signs a general release, in a form satisfactory to ECC, of any and all claims against Franchisor and its affiliates and their respective owners, officers, directors, employees, representatives, agents, successors and assigns; and
- (5) Franchisee has complied with ECC's then-current qualification and training requirements.

3. FRANCHISED BUSINESS LOCATION

A. Operation of Franchised Business

Franchisee may operate the Franchised Business servicing customers only within the area specified in Section 1 and "Exhibit A" hereof.

B. Selection of Location by Franchisee

ECC will assist Franchisee in selecting a location to operate. ECC is not responsible for and does not make any warranty regarding the suitability of the site. Its consent to a site means only that the site meets ECC's minimum standards for an acceptable location of an Eileen's Colossal Cookies® store. Franchisee is solely responsible for investigating the site and having any leases or sale contract for the site reviewed.

C. Opening of Franchised Business

Within two hundred seventy (270) days after execution of this Agreement, Franchisee must have opened the Franchised Business and commenced operations. Prior to opening, Franchisee shall

complete to ECC's satisfaction all preparations of the Eileen's Colossal Cookies® System in accordance with specifications set forth in the Manuals, including the acquisition of supplies and inventory as required by ECC and the completion of the required training program.

4. EQUIPMENT AND MATERIALS

A. Use of Proper Equipment and Materials

ECC will provide Franchisee with specifications for brands and types of any equipment, printed forms, and promotional materials, required for the Franchised Business, all of which may be amended from time to time.

B. Specification Standards for Equipment

Franchisee shall comply with all specifications for types of equipment used in the Franchised Business as provided in Section 13 herein and shall purchase all equipment, printed forms, promotional materials and other items and supplies only from vendors who have been designated "Approved Suppliers" by ECC.

5. TRAINING REQUIREMENTS AND ASSISTANCE BY ECC

A. Technical Support

ECC shall make training available to Franchisees, prior to opening for business, a training and familiarization course of up to two (2) weeks in duration to be conducted at ECC's headquarters or at such other location as ECC shall designate. The training sessions will take place prior to the Franchised Business' opening. Said training program shall cover all material aspects of the operation of the Franchised Business, including introduction and orientation to the System, financial controls, promotion and sales methods, other marketing techniques, service and operational techniques, systems and methods. Except as provided below, ECC will provide the training program at no expense to Franchisee, but Franchisee shall pay for all transportation, food and lodging incurred during the training period. Should Franchisee desire to have a non-owner attend the initial training program, Franchisee agrees to pay a charge of Three Thousand Dollars (\$3000.00) for each additional attendee.

B. Non-Completion of Training by Franchisee

If ECC determines in its reasonable discretion that Franchisee is unable to satisfactorily complete the training program described above, ECC shall have the right to terminate this Agreement in the manner herein provided. If this Agreement is terminated pursuant to this paragraph, ECC shall return to Franchisee the initial Franchise Fee paid by Franchisee to ECC minus the expenses incurred by ECC as of such date for providing training to Franchisee and other expenses incurred by ECC. Upon return of said amount, ECC shall be fully and forever released from any claims or causes of action the Franchisee may have under or pursuant to the Franchise Agreement and Franchisee shall have no further right, title or interest in the Names and Marks and Franchisee further agrees to return all Manuals, computer software, and any other items provided by ECC.

C. Additional Training Requirements

ECC requires and Franchisee acknowledges and agrees that Franchisee or an employee must attend any convention or continuing education seminar which ECC may reasonably require during the entire term of this Agreement. Additionally, from time to time, ECC may require that previously trained and experienced Franchisees, their managers, contractors or employees attend and successfully complete refresher training programs or seminars to be conducted at ECC's headquarters or at such other location as may be designated by ECC, at Franchisee's expense.

6. PROPRIETARY NAMES AND MARKS**A. ECC's Ownership of Names and Marks**

Franchisee acknowledges and agrees that ECC is the owner of the Names and Marks and Franchisee's right to use the Names and Marks is derived solely from this Agreement and is limited to the conduct of business by Franchisee pursuant to and in compliance with this Agreement and all applicable standards, specifications, and operating procedures prescribed by ECC from time to time during the term of this Agreement. Any unauthorized use of the Names and Marks by Franchisee is a breach of this Agreement and an infringement of the rights of ECC in and to the Names and Marks. Franchisee acknowledges and agrees that all usage of the Names and Marks by Franchisee and any goodwill established by Franchisee's use of the Names and Marks shall inure to the exclusive benefit of ECC and that this Agreement does not confer any goodwill or other interests in the Names and Marks upon Franchisee. Franchisee shall not, at any time during the term of this Agreement, or after its termination or expiration, contest the validity or ownership of any of the Names and Marks or assist another person in contesting the validity or ownership of any of the Names and Marks. All provisions of this Agreement applicable to the Names and Marks apply to any additional trademarks, service marks, and commercial symbols authorized for use by and licensed to Franchisee by ECC after the date of this Agreement.

B. Franchisee's Use of Names and Marks

Franchisee shall not use any Name or Mark as part of any corporate or trade name, or with any prefix, suffix, or other modifying words, terms, designs, symbols, or in any modified form, nor may Franchisee use any Name or Mark in connection with the sale of any unauthorized product or service or in any other manner not expressly authorized in the Manuals or otherwise in writing by ECC. Franchisee agrees to give such notices of trademark and service mark registrations as ECC specifies and to obtain such fictitious or assumed name registrations as may be required under applicable law. Franchisee shall not use any of the Names and Marks in any manner which has not been specified or approved by ECC. Franchisee agrees that this Agreement does not convey any right or property interest in the Name or Mark, except for the license granted hereunder.

C. Unauthorized Use of Names and Marks

Franchisee shall immediately notify ECC in writing of any apparent infringement of or challenge to Franchisee's use of the Names and Marks and of any claim by any person of any right in the Names

and Marks or any similar trade name, trademark, or service mark of which Franchisee becomes aware. Franchisee shall not directly or indirectly communicate with any person other than ECC and its counsel in connection with any such infringement, challenge, or claim. ECC shall have sole discretion to take such action as it deems appropriate and the right to exclusively control any litigation, U.S. Patent and Trademark proceeding or other administrative proceeding arising out of such infringement, challenge or claim or otherwise relating to the Names and Marks. Franchisee agrees to take all commercially reasonable actions that may, in the opinion of ECC's counsel, be necessary or advisable to protect and maintain the interests of ECC in any such litigation, U.S. Patent and Trademark proceeding, or other administrative proceeding or to otherwise protect and maintain the interests of ECC in the Names and Marks, provided that such actions will not violate any statute, ordinance, law, administrative order, regulation, or similar requirement applicable to Franchisee.

D. ECC's Right to Modify

If it becomes advisable at any time in ECC's reasonable discretion, for ECC and/or Franchisee to modify or discontinue use of the Names and Marks, and/or use one or more additional or substitute trade name, trademark, service mark, or other commercial symbol, Franchisee agrees to comply with ECC's directions within a reasonable time after notice to Franchisee by ECC. ECC shall have no liability or obligation whatsoever with respect to Franchisee's modification or discontinuance of the Names and Marks.

E. ECC's Right to Inspect Franchised Business

In order to preserve the validity and integrity of the Names and Marks and copyrighted materials licensed herein, and to assure that Franchisee is properly employing the same in the operation of its Franchised Business, ECC or its agents shall have the right of entry and inspection of Franchisee's premises at all reasonable times. Additionally, ECC shall have the right to observe the manner in which Franchisee is rendering its services and conducting its operations, to confer with Franchisee's employees and customers, and to inspect equipment, trademarked items, other materials or printed matter inventory for test of content and evaluation purposes to make certain that all trademarks and names are satisfactory and meet the quality control provisions and standards established by ECC.

7. CONFIDENTIAL OPERATIONS MANUALS

ECC shall loan to Franchisee one copy of Manual and other materials which may cover such topics as Pre-Opening Procedures, Daily Operations, Recipes, Marketing, and additional topics as may be incorporated in such Manual from time to time, as ECC deems necessary. The Manual will remain confidential and the property of ECC and may not be duplicated, loaned out, or copied in whole or in part in any manner. ECC will have the right to add to and otherwise modify the Manual from time to time, as it deems necessary, provided that no such addition or modification will alter the Franchisee's fundamental status and rights under this Agreement. Franchisee agrees to follow the directives of the Manual, as may be amended by ECC from time to time.

8. **CONFIDENTIALITY OF PROPRIETARY INFORMATION**

A. **Franchisee Will Learn Proprietary Matters**

Franchisee acknowledges that he or she will obtain knowledge of proprietary matters, techniques and business procedures of ECC that are necessary and essential to the operation of the Franchised Business without which information Franchisee could not effectively and efficiently operate such business, including, without limitation, knowledge regarding the System, Recipes, marketing techniques, financial controls, training, and usage of the Manual. Franchisee further acknowledges that such proprietary information was not known to Franchisee prior to execution of this Agreement and that the methods of ECC are unique and novel to the System.

During the term of this Agreement and for a period of five (5) years following the expiration or termination of this Agreement, Franchisee agrees not to, other than as reasonably required in the ordinary course of business, divulge, directly or indirectly, any Proprietary Information, without the prior written consent of ECC.

B. **Injunctive Relief Available to ECC**

Franchisee acknowledges that any failure to comply with the requirements of this Section of the Agreement will cause ECC irreparable injury and ECC shall be entitled to obtain specific performance of, or an injunction against any violation of, such requirements. Franchisee agrees to pay all court costs and reasonable attorneys' fees incurred by ECC in obtaining specific performance of, or an injunction against, violation of requirements of this Section. The foregoing remedies shall be in addition to any other legal or equitable remedies which ECC may possess.

C. **Disclosure of Proprietary Information**

The Franchisee may disclose the Proprietary Information only to such of its employees, agents and representatives as must have access to it in order to operate the Franchised Business.

D. **ECC's Patent Rights and Copyrights**

ECC owns rights in or to copyrights that are material to the Franchise and ECC intends to continue to obtain copyright protection for any additions to the Manuals and certain marketing, sales, and operations literature. Furthermore, ECC claims rights to certain trade secrets and confidential information as discussed above.

9. **MODIFICATION OF THE SYSTEM**

Franchisee recognizes and agrees that from time to time hereafter ECC may change or modify any components of the System as presently described in the Manuals, and the Names and Marks, including the adoption and use of new or modified trade names, trademarks, service marks or copyrighted materials, new computer programs, computer hardware and systems, new equipment or new techniques, and deleting from or modifying the products and services which Franchisee's Franchised Business is authorized and required to offer. Franchisee will accept and use for the purpose of this Agreement any such changes in the System, as if they were part of this Agreement at the time of execution hereof. Franchisee will make

such expenditures as such changes or modifications in the System may reasonably require. Franchisee shall not change, modify or alter in any way the System, without the prior written consent of ECC.

10. ADVERTISING AND PROMOTION

Recognizing the value of advertising and the importance of the standardization of advertising and promotion to the furtherance of the goodwill and the public image of the Franchised Business, Franchisee agrees as follows:

Franchisee shall place local advertising in any media it desires, provided that such advertising conforms to the standards and requirements of ECC as set forth in ECC's Manuals or otherwise designated by ECC. Franchisee shall obtain ECC's prior approval of all unapproved advertising and promotional plans and materials that Franchisee desires to use thirty (30) days before the start of any such plans. Franchisee shall submit such unapproved plans and materials to ECC. Franchisee shall promptly discontinue use of any advertising or promotional plans or materials upon the request of ECC. Any plans or materials submitted by Franchisee to ECC which have not been approved or disapproved in writing within thirty (30) days of receipt thereof by ECC, shall be deemed approved.

Further, Franchisee agrees to participate in any national, regional or local advertising or promotional program that has been approved by a majority of ECC's Franchisees and to promptly remit the required funds to an advertising account which shall be maintained by ECC for such purpose.

11. ONGOING FEES

The parties also agree that the term "Gross Sales" shall mean: All revenues from any type of sales which are generated by the Eileen's Colossal Cookies™ System, whether for cash or credit and regardless of collection in the case of credit; provided however that "Gross Sales" shall not include any sales tax collected by the Franchised Business and paid to the appropriate sales taxing authority.

The Franchisee agrees to pay the fees described in the following paragraphs.

A. Royalty Fees

In consideration of the franchise granted, Franchisee agrees to pay ECC a Royalty Fee as follows:

Six Percent (6%) of the Gross Sales (as defined herein) of the Franchised Business each and every week payable by each and every Wednesday for the previous week's Gross Sales amount for the entire term of this Agreement.

B. Interest for Late Payments

If any payment pursuant to this section of the Agreement is overdue or if a draft is dishonored by the Franchisee's financial institution, Franchisee shall pay to ECC immediately upon demand, the overdue amount plus a Fifty Dollars (\$50.00) late fee for any payments over ten days past due or

the maximum interest rate permitted by law, whichever is greater. The foregoing shall be in addition to any other remedies ECC may possess. Franchisee acknowledges that this paragraph shall not constitute agreement by ECC to accept such payments after same are due or a commitment by ECC to extend credit to or otherwise finance Franchisee's operation of the Franchised Business. Further, Franchisee acknowledges that his or her failure to pay all amounts when due shall constitute grounds for termination of this Agreement, as provided in this Agreement.

12. **ACCOUNTING AND BOOKKEEPING RECORDS**

A. **Bookkeeping, Accounting and Records**

Franchisee shall maintain, during the term of this Agreement, and shall preserve for a minimum of five (5) years, full, complete, and accurate records of sales, marketing activities, and accounts payable in accordance with the standard accounting system described by ECC in the Manuals or otherwise specified in writing.

B. **Submission of Financial Statements**

Franchisee shall submit to ECC each month during the term of this Agreement all report forms required by ECC as outlined in the Manual. Each report shall be signed by Franchisee attesting that the report is true and correct. Franchisee shall also submit to ECC other forms, records, reports, information and data as ECC may reasonably require, in the form, and at the times and the places reasonably required by ECC, upon request, and as specified from time to time in the Manuals or otherwise specified in writing. Franchisee shall send a copy of its state sales tax reporting form within ten (10) days of due date of such report to their state.

C. **Audits**

ECC or its representatives have the right at all reasonable times to examine and copy your books, records and tax returns. ECC may also, at its expense, have an independent audit made of your books. If inspection reveals a discrepancy in the amount of payments made by Franchisee to ECC, Franchisee must immediately pay ECC any amounts owed, as well as interest on the unreported receipts at the maximum rate permitted by law. Should an inspection reveal a discrepancy of two percent or more, Franchisee must also pay and reimburse ECC for all costs and expenses connected with such inspection or audit, including reasonable accounting and legal fees and travel and transportation expenses for the inspectors or auditing team.

D. **Business Entity Franchisee**

If Franchisee is a corporation, limited liability company, or other business entity, the following requirements shall apply:

- (1) Copies of Franchisee's corporate or limited liability company resolution directing its officers and/or directors to enter into this Agreement; and

- (2) Franchisee shall maintain a current list of all owners of record and all beneficial owners of Franchisee and shall furnish such list to ECC upon its request; and
- (3) All owners of Franchisee shall jointly and severally bind themselves to the terms of this Agreement; provided, however, that the requirements of this subsection shall not apply to any corporation registered under the Securities Exchange Act of 1934 (hereinafter known as a "Publicly Held Corporation").

13. STANDARDS OF QUALITY AND PERFORMANCE

Franchisee shall comply with the entire Eileen's Colossal Cookies® System developed by ECC including, without limitation, the following:

A. Open Business in One Hundred Eighty Days

Franchisee shall commence operation of the Franchised Business no later than Two Hundred seventy (270) days after the execution of this Agreement or as otherwise approved in writing by ECC. Prior to such opening, Franchisee shall have installed or cause to be installed all necessary equipment and telephone service, as required by ECC. If Franchisee for any reason fails to commence operations as herein provided, unless Franchisee is precluded from doing so by war or civil disturbance, natural disaster, labor dispute, or other event beyond Franchisee's reasonable control. Such failure shall be considered a default and ECC may terminate this Agreement as herein provided.

B. Image of Franchised Business

Franchisee agrees to maintain the condition and appearance of the premises of the Franchised Business consistent with ECC's standards for the image of a business as an attractive, pleasant and comfortable business. Franchisee agrees to affect such reasonable maintenance of the Franchised Business, as is from time to time required to maintain the equipment or improve the appearance and efficient operation of the Franchised Business, including replacement of equipment, fixtures, furniture as may be necessary. If at any time in ECC's judgment the general state of repair or the appearance of the premises of the Franchised Business or its equipment, fixtures, furniture, signs, uniforms of service personnel or decor does not meet ECC's standards for such, ECC shall so notify Franchisee specifying the action to be taken by Franchisee to correct such deficiency. If Franchisee fails or refuses to initiate within thirty (30) days after receipt of such notice, and thereafter continue, a bona fide program to complete any required maintenance, ECC shall have the right, in addition to all other remedies, to enter upon the premises of the Franchised Business and effect such repairs, equipment, fixtures, furniture or signs on behalf of Franchisee, and Franchisee shall pay the entire costs thereof on demand. Franchisee's obligation to initiate and continue any required maintenance shall be suspended during any period in which such maintenance is impractical due to war, civil disturbance, natural disaster, labor dispute or other event beyond Franchisee's reasonable control.

C. Approved Manufacturers, Suppliers and Distributors

From time to time, ECC shall provide to Franchisee, a list of approved manufacturers, printers, suppliers, and distributors for all products and services necessary to operate the Franchised Business. ECC may revise the approved list of manufacturers, printers, suppliers and distributors from time to time in its reasonable discretion.

D. Authorized Materials and Supplies

All purchases of products and other materials used in the operation of the Franchised Business shall conform to the specifications and quality standards established by ECC from time to time. Franchisee may only use such products and related items which meet ECC's specifications and quality standards and which are stated in ECC's approved list of equipment, printing and products suppliers approved by ECC, as meeting its criteria. If Franchisee proposes to use in the operation of the Franchised Business any products equipment or materials which are not then approved by ECC as meeting its minimum specifications and quality standards, or to purchase any product from a supplier that is not then designated by ECC as an approved supplier, Franchisee shall first notify ECC and shall upon request by ECC submit samples and such other information as ECC requires for examination and/or testing or to otherwise determine whether such equipment, product, material or supply, or such proposed supplier, meets its specifications and quality standards. A charge not to exceed the actual cost of testing may be made by ECC and shall be paid by Franchisee. ECC shall notify Franchisee within a reasonable time whether it approved such equipment, product, material or supply, and/or such supplier by being listed on ECC's approved list. Franchisee understands that part of Franchisor's income may come from commissions from approved vendors. Franchisee also understands that if Franchisor or related parties stock and/or sell products to franchisees, these parties expect to make a reasonable profit on these services or goods.

E. Specifications, Standards and Operating Procedures

Franchisee agrees to fully comply with all mandatory specifications, standards, operating procedures and rules as in effect from time to time relating to:

- (1) Procedures regarding use of any Trademarked items or Copyrighted Materials;
- (2) Procedures and techniques regarding recipes and sales activities;
- (3) Training, dress, general appearance and demeanor of Franchised Business employees;
- (4) Advertising and promotional programs;
- (5) Type, quantity and variety of products and materials, printing, Trademarked items and Copyrighted materials;
- (6) Use of signs, posters, advertising pieces, displays and similar items;
- (7) Identification of Franchisee as the owner of the Franchised Business; and

- (8) The handling of customer complaints.

Mandatory specifications, standards, operating procedures and techniques and other rules, prescribed from time to time by ECC in the Manuals or otherwise communicated to Franchisee in writing, shall constitute provisions of this Agreement, as if fully set forth herein, and shall be reasonable and uniformly applied to all Franchisees. All references herein to this Agreement shall include all such mandatory specifications, standards, operating procedures and rules.

F. Licenses, Permits and Certificates

Franchisee shall secure and maintain in force all required licenses, permits and certificates relating to the operation of the Franchised Business and shall operate the Franchised Business in full compliance with all applicable laws, ordinance and regulations, workmen's compensation, unemployment insurance, withholding and payment of federal and state income taxes, social security taxes, sales, use and property taxes.

G. Names and Marks

Franchisee shall use only displays, labels, forms and other paper products imprinted with the Names and Marks and colors as prescribed from time to time by ECC in the operation of the Franchised Business.

H. Supervision of Franchised Business

The Franchised Business shall at all times be under the direct, on-premises supervision of Franchisee (or a trained and competent employee acting as full-time manager). In the event Franchisee operates more than one franchise, or in the event Franchisee does not devote his or her full time to conducting the Franchised Business, at least one trained and competent employee referred to above shall act as a full-time manager. Franchisee shall keep ECC informed at all times of the identity of any employee(s) acting as manager(s) of the Franchised Business. ECC shall make training available, as is reasonable and necessary, for all managers designated by Franchisee. ECC may provide such training at the then-current rates charged by ECC. Franchisee agrees that he or she will at all times faithfully, honestly and diligently perform his or her obligations hereunder and that he or she will not engage in any business or other activities that will conflict with his or her obligations hereunder.

I. Maintenance of Highest Moral Standards

Franchisee agrees that the Franchised Business shall at all times maintain a requirement of its employees, agents and affiliates to maintain the highest moral standards of the community or the standards of Eileen's Colossal Cookies® as set forth by ECC.

J. Use of Advertising and Promotional Claims

All sales activities conducted by the Franchised Business in any medium shall be conducted in a dignified manner and shall accurately promote, describe and otherwise represent the services of the Franchised Business. Franchisee agrees to refrain from any sales practice which is unethical or may be injurious to the business of ECC and/or other franchised businesses or the goodwill associated with the Names and Marks.

K. Notice of Legal Proceedings

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

14. OBLIGATIONS OF THE FRANCHISOR: SUPERVISION, ASSISTANCE OR SERVICES

ECC shall provide the Franchisee with the following assistance and services:

A. Eileen's Colossal Cookies® System Training

(1) ECC will provide a training program concerning the operation of the Franchised Business as described in Section 5A of this Agreement.

(2) ECC may conduct additional seminars or other training programs for the benefit of the Franchisee, and Franchisee (and/or Franchisee's employees) may attend any such seminar or program. ECC may charge a reasonable fee for such seminar or program if it is deemed appropriate. Any and all traveling, living and other expenses incurred by anyone attending training shall be paid by Franchisee.

(3) Franchisee may make reasonable requests for training in addition to that specified above and ECC shall provide such training, at Franchisee's expense, including, without limitation, any travel, lodging, meals, employee time, and other related costs.

(4) Franchisee shall complete and/or shall cause its employees to complete, to ECC's satisfaction, such other additional training as ECC may reasonably require from time to time.

B. Operations Manual

ECC shall loan to Franchisee one copy of the Operations Manual, any associated video tapes, and electronic media as more fully described in Section 7 herein.

C. Continuing Assistance

In addition to the assistance rendered to the Franchisee prior to opening, ECC will provide continuing consultation and advice regarding business, financial, operational, technical, pricing, sales and

advertising matters, type of products and services offered, operation of the Franchised Business and development of personnel policies. ECC will provide such assistance by telephone, e-mail or intranet system or, if the situation warrants, through on-site assistance of appropriate ECC personnel. All expenses incurred by ECC through on-site assistance shall be paid by Franchisee. ECC shall keep a current E-mail address to receive and transmit information to Franchises.

D. Advertising and Promotion

ECC may develop and provide creative materials and/or press releases for local and regional advertising and promotion and make such materials available to its Franchisees for publication or distribution in the Franchisee's market area at Franchisee's own expense. ECC may provide specific guidelines for advertising initiated by individual Franchisees and shall reserve the right to disapprove any advertising, which in ECC's opinion, is not in accordance with these guidelines.

Immediately upon notification to do so, Franchisee shall discontinue any practices that would, in ECC's opinion, be detrimental.

E. System Websites and Electronic Advertising

ECC or one or more of its designees may establish a website or series of websites for the Eileen's Colossal Cookies® network: (1) to advertise, market and promote Eileen's Colossal Cookies® stores and the products and services they offer, and/or the Eileen's Colossal Cookies® franchise opportunity; and/or (2) for any other purposes that ECC determines are appropriate for Eileen's Colossal Cookies® stores (collectively, the "System Website"). If ECC includes information about the Franchised Business on the System Website, Franchisee agrees to give ECC the information and materials that it periodically requests concerning the Franchised Business and otherwise participate in the System Website in the manner that ECC periodically specifies. By posting or submitting to ECC information or materials for the System Website, Franchisee is representing to ECC that the information and materials are accurate and not misleading and do not infringe any third party's rights.

ECC shall own all intellectual property and other rights in the System Website and all information it contains, including the domain name or URL for the System Website, the log of "hits" by visitors, and any personal or business data that visitors (including Franchisee and its personnel) supply.

All advertising, marketing and promotional materials that Franchisee develops for the Franchised Business must contain notices of the URL of the System Website and social media references in the manner that ECC periodically designates. Franchisee may not develop, maintain or authorize any other website, other online presence or other electronic medium, including social media, that mentions or describes the Franchised Business or displays any of the Marks without ECC's prior approval. Franchisee may not conduct commerce or directly or indirectly offer or sell any products or services using any website, another electronic means or medium, or otherwise over the Internet or through social media.

F. Suppliers

ECC agrees to provide Franchisee with a list of Approved Suppliers and Shippers for the products and services needed by Franchisee. By providing such assistance, ECC makes no warranty or guarantee of performance on the part of any supplier or shipper.

G. Pricing

ECC may exercise rights with respect to the pricing of products to the fullest extent permitted by then-applicable law. These rights include (subject to applicable law) prescribing the maximum and/or minimum retail prices that Franchisee may charge customers for the products offered and sold by Franchised Business; recommending retail prices; advertising specific retail prices for some or all products sold at the Franchised Business, which prices Franchisee will be compelled to observe; engaging in marketing, promotional and related campaigns which Franchisee must participate in and which may directly or indirectly impact Franchisee's retail prices (such as "buy one, get one free"); and, otherwise mandating, directly or indirectly, the maximum and/or minimum retail prices which Franchisee's Franchised Business may charge the public for the products it offers.

H. National Sales Conference

ECC, at its discretion, may hold a Conference, Seminar or Convention that will promote the training and education of the Franchisees from time to time during the term of this Agreement. Attendance of one person at such Conferences, Seminars or Conventions is mandatory for all Franchisees.

15. INSURANCE**A. Overall Coverage Required**

Franchisee shall procure, prior to opening the Franchised Business, and shall maintain in full force and effect during the term of this Agreement, at Franchisee's expense, an insurance policy or policies protecting ECC, and the officers, directors, partners and employees of both ECC and Franchisee, against any loss, liability, personal injury, death, property damage or expense whatsoever arising or occurring upon or in connection with operating the Franchised Business. ECC shall be named as an additional insured on all such policies.

B. Qualified Insurance Carrier

All insurance policies required under this Agreement shall be written by an insurance company satisfactory to ECC and rated "A" or better by A.M. Best. The coverage will be provided in accordance with standards and specifications set forth in the Manuals or otherwise specified in writing. The insurance coverage shall be provided on policy forms which include the provisions at least as broad as those included in the standard Insurance Service Offices Forms. The coverage shall include, at minimum (except as additional coverage and higher policy limits may reasonably be specified from time to time by ECC) limits at least equal to those shown for the categories of required insurance:

- Commercial General Liability Insurance:
 - \$1,000,000 Per Each Occurrence
 - \$2,000,000 General Aggregate
 - \$2,000,000 Products/Completed Operations Aggregate
 - \$1,000,000 Personal and Advertising Injury
 - \$1,000,000 Legal Liability Limit
 - Policy must list Eileen's Colossal Cookies Franchises, LLC as an additional insured.

- Automobile Liability Insurance:
 - \$1,000,000 Combined Single Limit
 - Policy must include Owned, Hired and Non-owned Auto's

- Workers Compensation Insurance:
 - As required by the State in which the franchise is located

- Employers Liability:
 - \$500,000 Each Accident
 - \$500,000 Disease Each Employee
 - \$500,000 Disease Policy Limit

- Property Insurance:
 - A limit sufficient to replace all business personal property and tenant's improvements and betterment
 - Business Income including extra expense coverage with a minimum of "Actual Loss Sustained" for 12 months

- Optional Coverages to be considered:
 - Employment Practices Liability
 - Cyber Liability

C. No Limitations on Coverage

Franchisee's obligations to obtain and maintain the foregoing insurance policies, in the amounts specified shall not be limited in any way by reason of any insurance which may be maintained by ECC, nor shall Franchisee's performance of that obligation relieve it of liability under the indemnity provisions set forth in this Agreement. Franchisee may maintain such additional insurance as it may consider advisable.

D. Evidence of Coverage

Upon obtaining the insurance required by this Agreement and on each policy renewal date thereafter, Franchisee shall promptly submit evidence of satisfactory insurance and proof of payment to ECC, together with, upon request, copies of all policies and policy amendments and endorsements. The evidence of insurance shall 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 ECC. A certificate of insurance on a standard Acord form shall be sent to ECC with ECC named as additional insured for liability indicated in the description of operations section and ECC named as the certificate holder.

E. ECC May Procure Insurance Coverage

Should Franchisee, for any reason, fail to procure or maintain the insurance required by this Agreement, as described from time to time by the Manuals or otherwise in writing, ECC shall have the right and authority (but no obligation) to procure such insurance and to charge same to Franchisee. Such charges, together with a reasonable fee for ECC's expenses in so acting, shall be payable by Franchisee immediately upon notice from ECC.

16. TERMINATION OF FRANCHISE

A. By Franchisee

If Franchisee is in compliance with this Agreement and ECC breaches this Agreement and fails to cure such breach within thirty (30) days after written notice thereof is delivered to ECC, then Franchisee may terminate this Agreement and the Franchise effective thirty (30) days after delivery to ECC of notice thereof. Any termination of this Agreement and the Franchise by Franchisee, without complying with the foregoing requirements, or for any reason other than breach of this Agreement by ECC and ECC's failure to cure such breach within thirty (30) days after receipt of written notice thereof, shall be deemed a termination by Franchisee without cause.

B. By ECC

Franchisee acknowledges that the strict performance of all the terms of this Agreement is necessary not only for protection of ECC, but also the protection of Franchisee and other Franchisees of ECC. As a result, Franchisee therefore acknowledges and agrees that strict and exact performance by Franchisee of each of the covenants and conditions contained in the Agreement is a condition precedent to the continuation of this Agreement. If Franchisee shall breach any provision of this Agreement, then ECC shall notify Franchisee in writing of such breach, specifying its nature and giving Franchisee thirty (30) days in which to remedy same. If Franchisee shall fail to remedy such breach, then ECC can terminate this Agreement and the Franchise effective thirty (30) days after delivery of notice of termination to Franchisee.

With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, and Subds. 3, 4, and 5, which require (except in certain specified cases) that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement; and that consent to the transfer of the franchise will not be unreasonably withheld.

C. Termination of Franchisee without Cure

Notwithstanding the foregoing, Franchisee shall be deemed to be in breach, and ECC, at its option, may terminate this Agreement and all rights granted under it, without affording Franchisee any opportunity to cure the breach, effective immediately upon ECC notifying Franchisee in writing of such breach, if Franchisee does any of the following:

- (1) Abandons, surrenders, or fails to continuously and actively operate the Franchised Business, unless precluded from doing so by damage to the premises of the Franchised Business due to war, act of God, civil disturbance, natural disaster, labor dispute or other events beyond Franchisee's reasonable control;
- (2) Consistently fails or refuses to submit when due the Royalty Fees, or any other payments due ECC, or any other party related to this Franchise;
- (3) Operates the Franchised Business in a manner that violates any federal, state, or local law, rule, regulation or ordinance;
- (4) Has made a material misrepresentation on his or her application for the Franchise;
- (5) Transfers, assigns, sub-licenses or sub-franchises this Agreement without having the prior written consent of ECC, as set forth herein;
- (6) Other than as reasonably required in the ordinary course of business, discloses or divulges the contents of the Manuals or any other Proprietary Information provided to Franchisee by ECC;
- (7) Repeatedly fails to substantially comply with any of the requirements imposed by this Agreement, whether or not cured after notice;
- (8) Commits a breach of this Agreement or engages in any other activity which has a material adverse effect on ECC and/or the Names and Marks;
- (9) Fails or refuses to comply with any provision of this Agreement or any other agreement between ECC and Franchisee relating to the Franchised Business or the Franchise and does not correct such failure or refusal within thirty (30) days after written notice of such failure to comply is delivered to Franchisee; or
- (10) Is convicted of a felony or has pleaded nolo contendere to a felony.

D. Termination of Franchisee Immediately and Without Notice

Notwithstanding the foregoing, Franchisee shall be in breach under this Agreement and all rights granted under this Agreement shall automatically terminate without notice to Franchisee, if Franchisee does any of the following:

- (1) Makes an assignment for the benefit of creditors or an admission of Franchisee's inability to pay its obligations as they become due; or
- (2) Files a voluntary petition in bankruptcy or any pleading, seeking any reorganization, arrangement, composition, adjustment, liquidation, dissolution or similar release under any law, or admitting or failing to contest the material allegations of any such pleading filed against him or her, or is adjudicated bankrupt or insolvent, or a receiver is appointed for a substantial part of the assets of the Franchisee or the Franchised Business, or the claims of creditors of Franchisee or the Franchised Business are abated or subject to moratorium under any laws.

17. FRANCHISEE'S OBLIGATIONS UPON TERMINATION OR EXPIRATION

A. Payment of Monies Owed to ECC

Franchisee shall pay to ECC, within fifteen (15) days after the effective date of termination or expiration of this Agreement, such monthly Royalty Fees, or any other sums owed to ECC or approved suppliers and vendors by Franchisee, which are then unpaid.

B. Return of Manuals and Other Materials

Franchisee further agrees that upon termination or expiration of this Agreement, he or she will immediately return to ECC all copies of the Manuals, training aids and any other materials which have been loaned to Franchisee by ECC. Franchisee further agrees to turn over to ECC any other manuals, computer programs, software, customer lists, records, files, instructions, correspondence and brochures, and any and all other confidential and proprietary materials relating to the operation of the Franchised Business in Franchisee's possession, custody, or control and all copies thereof (all of which are acknowledged to be ECC's property) Franchisee shall retain no copy or record of the foregoing, excepting only Franchisee's copy of this Agreement and any correspondence between the parties, and any other documents which Franchisee reasonably needs for compliance with any provision of law.

C. Cease Using Names and Marks

Franchisee further agrees that, upon termination or expiration of this Agreement, Franchisee shall immediately and permanently cease to use, by advertising, or any manner whatsoever, any confidential methods, procedures and techniques associated with ECC and the Names and Marks and any proprietary marks and distinctive forms, slogans, symbols, signs, logos or devices associated with the System. In particular, Franchisee shall cease to use, without limitation, all signs, advertising materials, stationery, forms, and any other articles which display the Names and Marks.

D. Cease Operating Franchised Business

Franchisee shall immediately cease to operate the Franchised Business under this Agreement, and shall not thereafter, directly or indirectly, represent itself to the public or hold itself out as a present or former Franchisee of ECC.

E. No Confusion with Names and Marks

Franchisee agrees, in the event it continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy or colorable imitation of the Names and Marks, either in connection with such other business or in the promotion thereof, which is likely to cause confusion, mistake or deception, or which is likely to dilute ECC's exclusive rights in and to the Names and Marks, and further agrees not to utilize any designation of origin or description or representation which falsely suggests or represents an association or connection with The Eileen's Colossal Cookies™ System.

F. ECC Purchase of Inventory and Equipment

ECC shall have the right (but not the duty), to be exercised by notice of intent to do so within thirty (30) days after termination or expiration, to purchase any or all equipment, supplies, signs, advertising materials and items bearing ECC's Names and Marks, at fair market value (less the amount of any outstanding liens or encumbrances). If the parties cannot agree on a fair market value within a reasonable time, an independent appraiser shall be designated by ECC and the appraiser's determination shall be binding. If ECC elects to exercise any option to purchase herein provided, it shall have the right to set off all amounts due from Franchisee, and the cost of the appraisal, if any, against any payment therefor.

18. COVENANTS**A. Franchisee Receives Confidential Information**

Franchisee specifically acknowledges that pursuant to this Agreement, Franchisee will receive valuable training and confidential information, including, without limitation, information regarding promotional, operational, sales, and marketing methods and techniques of ECC and the System.

B. No Diversion of Business

During the term of this Agreement and for a period of two (2) years following the expiration or termination of the Agreement, Franchisee covenants that it will not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, or legal entity:

- (1) Divert or attempt to divert any business or customers of the Franchised Business with which or with whom Franchisee has had contact during the term of this Agreement to any competitor by direct or indirect inducement or otherwise;
- (2) Do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Names and Marks or the System or both; or
- (3) Induce, directly or indirectly, any person who is at that time employed by ECC or by any other Franchisee of ECC, to leave his or her employment.

The provisions of this Section shall apply only in the geographic area lying within a fifty-mile radius of the area of the Franchised Business or any other Franchise of ECC.

C. Covenant Not to Compete

Franchisee covenants that, except as otherwise approved in writing by ECC, Franchisee shall not, for a continuous uninterrupted period commencing upon expiration or termination of this Agreement, regardless of the cause for termination, and continuing for two (2) years thereafter, either directly or indirectly, for himself, or on behalf of, or in conjunction with, any person, persons, partnership, or corporation, own, manage, operate, maintain, advise, substantially invest in, be employed by, or engage in, any retail business specializing, in whole or in part, in (a) a business offering to the public in a manner substantially similar to ECC's products and/or services substantially similar to the products and/or services then being offered by the majority of ECC's locations or located within a fifty (50) mile radius of the Franchised Business or any other Franchisee of ECC, or each location, if more than one location exists within the Exclusive Territory; or (b) any entity which is granting franchises or licenses to others to operate a business principally offering products or services in a manner substantially similar to ECC and/or substantially similar to the products or services being offered by the majority of ECC franchised stores. Franchisee additionally covenants that he or she will secure similar written covenants from its officers, directors, and beneficial owners. The above-noted covenant is not intended to prevent any individual Franchisee from employment which does not directly contribute to competition against ECC or its franchised stores.

D. Exception to Covenant Not to Compete

Section 18 (C) hereof shall not apply to ownership by Franchisee of less than a five percent (5%) beneficial interest in the outstanding equity securities of any publicly held corporation.

E. Covenants are Independent

The parties agree that each of the foregoing covenants shall be construed to be independent of any other covenant or provision of this Agreement. If all or any portion of the covenants in this Section 18 is held to be unenforceable or unreasonable by a court or agency having competent jurisdiction in any final decision to which ECC is a party, Franchisee expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resultant covenant were separately stated in and made a part of this Section of the Agreement.

F. Claims Are Not Defense to Covenants

Franchisee expressly agrees that the existence of any claim it may have against ECC, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by ECC of the covenants of this Section of the Agreement. Franchisee further agrees that ECC shall be entitled to set off any amount owed by ECC to Franchisee against any loss or damage to ECC resulting from Franchisee's breach of this Section of the Agreement.

G. Injunctive Relief Available to ECC

Franchisee acknowledges that any failure to comply with the requirements of this Section of the Agreement will cause ECC irreparable injury for which no adequate remedy at law may be available, and Franchisee hereby accordingly consents to the issuance by a court of competent jurisdiction of an injunction prohibiting any conduct by Franchisee in violation of the terms of this Section of the Agreement. ECC may further avail itself of any legal or equitable rights and remedies which it may have under this Agreement or otherwise.

H. Operation of Franchised Business

Franchisee covenants that during the term of this Agreement, Franchisee shall devote a majority of time, energy, and best efforts to the management and operation of the Franchised Business.

19. ASSIGNMENT**A. Assignment by ECC**

This Agreement grants ECC the right to transfer or assign all or part of its rights or obligations under this Agreement to any assignee or other legal successor to the interests of ECC.

B. Assignment by Franchisee

This Agreement restricts the Franchisee's right to assign the Agreement to a third party. Neither this Agreement, nor any of the Franchisee's rights or privileges, shall be assigned, transferred, shared, redeemed or divided by operation of law or otherwise, in any manner, without the prior written consent of ECC, which consent will not be unreasonably withheld. In granting any such consent, ECC may impose reasonable conditions, including, without limitation, the following:

1. The proposed assignee (or its partners, managers, directors, officers, or controlling shareholders, if it is a corporation or partnership) must meet the then-applicable standards of ECC;
2. The proposed assignee does not operate a franchise, license or other business offering services similar to those offered by the Franchised Business; and
3. The execution by the assignee of the then-current form of this Agreement, which form may contain provisions which materially alter the rights or obligations of Franchisee under this Agreement.

ECC shall not charge such assignee an Initial Franchise Fee for the Franchise, but will charge a minimum transfer fee of Seven thousand five hundred dollars (\$7500.00). If ECC determines that training is required, assignee will attend training at ECC's Home Office (at the cost specified under the then-current Franchise Agreement). Any and all traveling, living, and other expenses incurred by anyone attending training shall be paid by Franchisee. ECC shall have the right to require Franchisee

and its owners to execute a general release of ECC in a form satisfactory to ECC's counsel as a condition to its approval of assignment or other transfer of the Franchise.

This Agreement may be assigned to a partnership or corporation which conducts no business other than operating the Franchised Business, which is actively managed by the Franchisee and in which Franchisee owns and controls no less than fifty-one percent (51%) of the general partnership or not less than fifty-one percent (51%) of the voting stock, provided that all shareholders of voting stock shall execute a Guarantee Agreement undertaking to be bound, jointly and severally, by all provisions of the Agreement and all other agreements with ECC, and undertaking to guarantee, jointly and severally, the payment of all sums due or to become due to ECC hereunder. All issued and outstanding stock certificates of such corporation shall bear the following legend:

"TRANSFER OF THESE SHARES IS SUBJECT TO CERTAIN RESTRICTIONS CONTAINED IN A FRANCHISE AGREEMENT BETWEEN AND EILEEN'S COLOSSAL COOKIES FRANCHISING, INC. DATED"

C. ECC's Right of First Refusal

If Franchisee (or its owners) shall obtain a bona fide written offer to purchase the Franchised Business or such ownership, such offer shall be submitted to ECC. The offer must include details of the payment terms of the proposed sale and the sources and terms of any financing for the proposed purchase price and must provide for an earnest money deposit of at least ten percent (10%) of the proposed purchase price. To be a valid, bona fide offer, the proposed purchase price must be in a fixed dollar amount and without any contingent payments of purchase price (such as earn-out payments) and the proposed transaction must relate exclusively to an interest in this Agreement and the store (or all or substantially all of its operating assets) or a controlling interest in Franchisee and not to any other interests or assets. ECC may require Franchisee (or its owners) to send ECC copies of any materials or information sent to the proposed buyer or transferee regarding the possible transaction.

For a period of thirty (30) days from the date of ECC's receipt of such offer, ECC shall have the right, exercisable by written notice to Franchisee (or its owners), to purchase the Franchised Business or such ownership for the price and on the same terms and conditions contained in such offer, provided that ECC may substitute cash for any form of payment proposed in such offer. If ECC does not exercise its right of first refusal, the bona fide written offer may be accepted by Franchisee (or its owners), subject to the prior written approval of ECC, as provided in this Agreement. If Franchisee does not complete the sale to the proposed buyer within sixty (60) days after ECC notifies Franchisee that ECC does not intend to exercise its right of first refusal, or if there is a material change in the terms of the sale (which Franchisee agrees to tell ECC promptly), ECC will have an additional right of first refusal during the thirty (30)-day period following either the expiration of the sixty (60)-day period or ECC's receipt of notice of the material change(s) in the sale's terms, either on the terms originally offered or the modified terms, at ECC's option. ECC has the unrestricted right to assign this right of first refusal to a third party (including an affiliate), who then will have the rights described in this Section 19.C.

D. Transfer Upon Death or Mental Incapacity

Upon the death or mental incapacity of any person with an interest in the Franchised Business, the executor, administrator, or personal representative of that person must transfer his or her interest to a third party approved by ECC within three (3) months after death or mental incapacity. These transfers, including, without limitation, transfers by devise or inheritance, will be subject to the same restrictions and conditions as any inter vivos transfer including the requirements to complete and pay for training by the future operator of the Franchised Business. However, in the case of a transfer by devise or inheritance, if the heirs or beneficiaries of any deceased person are unable to meet the conditions contained in the Agreement, the personal representative of the deceased Franchisee shall have a reasonable time to dispose of the deceased's interest in the Franchised Business which disposition will be subject to all the terms and conditions for transfer contained in the Agreement. If the interest is not disposed of within a reasonable time, ECC may terminate the Agreement.

20. OPERATION IN THE EVENT OF ABSENCE, INCAPACITY OR DEATH

In order to prevent any interruption of the Franchised Business which would cause harm to said business and thereby depreciate the value thereof, Franchisee authorizes ECC, in the event that Franchisee is absent or incapacitated, as defined herein, or by death and is not, therefore, in the sole judgment of ECC, able to operate the Franchised Business hereunder, to operate said business for so long as ECC deems necessary and practical, and without waiver of any other rights or remedies ECC may have under this Agreement. Provided, however, that in the event that ECC should operate the Franchised Business, ECC shall not be obligated to so operate the Franchise for a period of more than ninety (90) days. All monies from the operation of the business during such period of operation by ECC shall be kept in a separate account and the expenses of the business, including reasonable compensation and expenses for ECC's representative, shall be charged to said account. If, as herein provided, ECC temporarily operates for Franchised Business, Franchisee agrees to indemnify and hold harmless ECC and any representative of ECC who may act hereunder, from any and all claims arising from the acts and omissions of ECC and its representative.

21 INDEPENDENT CONTRACTOR**A. No Fiduciary Relationship**

It is understood and agreed by the parties hereto that this Agreement does not establish a fiduciary relationship between them, and that the Franchisee shall be an independent contractor, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.

B. Franchisee is an Independent Contractor

ECC and Franchisee are independent contractors, and no partnership, fiduciary, joint venture, or employment relationship exists between Franchisee and ECC. Franchisee will conspicuously identify itself at its premises and in all dealings with the public as an independently owned business. Other than as expressly provided in this Agreement, ECC has no control over the terms and conditions of

employment of Franchisee's employees or agents or any of their activities. ECC has not authorized or empowered Franchisee to use the Marks except as provided by this Agreement and Franchisee must not employ any of the Marks in signing any contract, check, purchase agreement, negotiable instrument or legal obligation, application for any license or permit, or in a manner that may result in liability of Franchisor for any indebtedness or obligation of Franchisee or the Store. Neither ECC nor Franchisee will make any agreements or representations in the name of or on behalf of the other, or otherwise imply that the relationship of the parties is other than franchisor and franchisee. Franchisee agrees that it and its owners will be responsible for all obligations and liabilities it may incur and that ECC shall not be liable for any such obligations or liabilities.

22. WAIVER

No failure of ECC to exercise any power reserved to it by this Agreement or to insist upon strict compliance by Franchisee with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of ECC's right to demand exact compliance with any of the terms herein. Waiver by ECC of any particular default or breach by Franchisee shall not affect or impair ECC's rights with respect to any subsequent default or breach of the same, similar or different nature; nor shall any delay, forbearance, or omission of ECC to exercise any power or right arising out of any breach or default by Franchisee of any of the terms, provisions, or covenants hereof, affect or impair ECC's right to exercise the same; nor shall such constitute a waiver by ECC of any preceding breach by Franchisee of any terms, covenants or conditions of this Agreement.

23. ENFORCEMENT

Except as specifically otherwise provided in this Agreement, the parties agree that any and all disputes between them, and any claim by either party that cannot be amicably settled, except as to monies owed, shall be discussed on a face to face basis by the parties in a meeting without the representation of attorneys or others at a mutually agreed upon meeting place or at ECC headquarters in Hastings, Nebraska if a mutual site cannot be agreed upon. If after that meeting, the claims of either party cannot be amicably settled then the parties to this Agreement shall submit their differences to a neutral professional Mediator who shall hear both sides of the dispute in informal mediation sessions and make suggestions and recommendations for the resolution of such dispute. If the parties agree to resolve the dispute after the mediation sessions, then an agreement of resolution shall be entered into by the parties and they shall split the cost of the professional mediator on an equal basis. If no resolution of the dispute can be accomplished, then the parties may proceed with judicial enforcement proceedings.

A. Judicial Enforcement, Injunction and Specific Performance

ECC shall have the right to enforce by judicial process its right to terminate this Agreement for the causes enumerated in this Agreement, to collect any amounts owed to ECC for any unpaid Royalty Fees, or other unpaid charges due hereunder, arising out of the business conducted by Franchisee pursuant hereto, and to pursue any rights it may have under any leases, subleases, sales, purchases, or security agreements or other agreements with Franchisee. ECC shall be entitled

without bond to the entry of temporary or permanent injunctions and orders of specific performance enforcing any of the provisions of this Agreement. If ECC secures any such injunction or orders of specific performance, Franchisee agrees to pay to ECC an amount equal to the aggregate costs of obtaining such relief, including, without limitation, reasonable attorneys' fees, costs of investigation and proof of facts, court costs, other litigation expenses, travel and living expenses, and any damages incurred by ECC as a result of the breach of any provision of this Agreement.

B. Severability and Substitution of Valid Provisions

All provisions of this Agreement are severable, and this Agreement shall be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein, and any partially valid and enforceable provisions shall be enforced to the extent valid and enforceable. If any applicable law or rule requires a greater prior notice of the termination of this Agreement than is required hereunder, or require the taking of some other action not required hereunder, the prior notice or other action required by such law or rule shall be substituted for the notice or other requirements hereof.

C. Franchisee May Not Withhold Payments Due ECC

Franchisee agrees that he or she will not withhold payments of any Royalty Fees or any other amounts of money owed to ECC for any reason, on grounds of alleged nonperformance by ECC of any obligation hereunder.

D. Rights of Parties Are Cumulative

The rights of ECC and Franchisee hereunder are cumulative, and the exercise or enforcement by ECC or Franchisee of any right or remedy hereunder shall not preclude the exercise or enforcement by ECC or Franchisee of any other right or remedy hereunder which ECC or Franchisee is entitled by law to enforce.

E. Governing Law and Venue

Except to the extent governed by the U.S. Trademark Act of 1946 (Lanham Act, 15 U.S.C., Section 1051 et.seq.), this Agreement shall be governed by the laws of the State of Nebraska. Franchisee and its owners agree that all judicial actions brought by ECC against Franchisee or its owners, or by Franchisee or its owners against ECC, its affiliates or their respective owners, officers, directors, agents, or employees, must be brought exclusively in the state or federal court of general jurisdiction in the state, and in (or closest to) the city, where ECC then maintains its principal business address. Franchisee and each of its owners irrevocably submits to the jurisdiction of such courts and waive any objection that any of them may have to either jurisdiction or venue. Notwithstanding the foregoing, ECC may bring an action for a temporary restraining order or for temporary or preliminary injunctive relief in any federal or state court in the state in which Franchisee resides or the Franchised Business is located.

F. Binding Effect

This Agreement is binding upon the parties hereto and their respective permitted assigns and successors in interest.

G. Construction

Any other agreements or instruments referred to herein or which relate to the purchase or lease by Franchisee from ECC of any fixtures, signs, equipment, printing, merchandise, or the like, constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between ECC and Franchisee relating to the subject matter of this Agreement. The headings of the several sections and paragraphs hereof are for convenience only and do not define, limit, or construe the contents of those sections or paragraphs. The term "Franchisee" as used herein is applicable to one or more persons, a corporation or partnership, as the case may be; the singular usage includes the plural; and the masculine and neuter usages include the other and feminine. References to "Franchisee" applicable to an individual or individuals shall mean the principal owner or owners of the equity or operating control of Franchisee, if Franchisee is a corporation or partnership.

H. Attorney Fees

In the event any legal proceedings between the parties hereto arise under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs from the other party.

I. Modification

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless a subsequent modification in writing is signed by the parties hereto.

J. Waiver of Punitive Damages

Except for the Indemnification obligations under Section 24 and claims based on unauthorized use of the Marks or unauthorized use or disclosure of any confidential information, ECC and Franchisee (and its owners) waive to the fullest extent permitted by law, any right to, or claim for any punitive, exemplary, and treble and other forms of multiple damages against the other and agree that, in the event of a dispute between ECC and Franchisee (and/or its owners), the party making a claim will be limited to equitable relief and to recovery of any actual damages it sustains.

K. Waiver of a Jury Trial

ECC and Franchisee (and its owners) irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either of them.

L. Limitations of Claims

Except for claims arising from Franchisee's non-payment or underpayment of amounts that Franchisee owes ECC, all claims arising out of or relating to this agreement or the relationship between ECC and Franchisee will be barred unless a judicial proceeding is commenced in the appropriate forum within eighteen (18) months from the date on which the party asserting the claim knew or should have known of the facts giving rise to the claim.

M. ECC's Business Judgement

Whenever this Agreement or any related agreement grants, confers or reserves to ECC the right to take action, refrain from taking action, grant or withhold our consent or grant or withhold ECC's approval, unless the provision specifically states otherwise, ECC will have the right to engage in such activity at its option taking into consideration its assessment of the long term interests of the System overall. Franchisee and ECC recognize, and any court or judge is affirmatively advised, that if those activities and/or decisions are supported by ECC's business judgment, neither said court, said judge nor any other person reviewing those activities or decisions will substitute his, her or its judgment for ECC's judgment. When the terms of this Agreement specifically require that ECC not unreasonably withhold its approval or consent, if Franchisee is in default or breach under this Agreement, any withholding of ECC's approval or consent will be considered reasonable.

24. INDEMNIFICATION

Franchisee understands and agrees that nothing in this Agreement authorizes Franchisee to make any contract, agreement, warranty or representation on ECC's behalf, or to incur any debt or other obligation in ECC's name. Franchisee further understands and agrees that ECC shall in no event assume liability for, or be deemed liable hereunder as a result of any such action or by reason of any act or omission of Franchisee in its conduct of the Franchised Business, or any claim or judgment arising therefrom against ECC.

Franchisee agrees that it will, at Franchisee's sole cost, at all times defend ECC, any affiliate of ECC, the affiliates, subsidiaries, successors, assigns and designees of each; and, the officers, directors, managers, employees, agents, attorneys, shareholders, owners, members, designees and representatives of all of the foregoing (ECC and all others referenced above being the "Indemnitees"), and indemnify and hold harmless ECC and the Indemnitees to the fullest extent permitted by law, from all claims, losses, liabilities and costs incurred in connection with any action, suit, proceeding, claim, demand, investigation, or formal or informal inquiry (regardless of whether any of the foregoing is reduced to judgment) or any settlement of the foregoing, which actually or allegedly, directly or indirectly, arises out of, is based upon, is a result of or is related in any way to any element of Franchisee's establishment, construction, opening and operation of Franchisee's Premises and Franchised Business, including (without limitation) any personal injury, death or property damage suffered by any customer, visitor, operator, employee or guest of the Franchisee's premises or Franchised Business; crimes committed on or near any of the premises or facilities of Franchisee or the Franchised Business or vehicles used by Franchisee or the Franchised Business; all acts, errors, neglects or omissions engaged in by Franchisee, Franchisee's contractors or subcontractors, as well as any third party, arising out of or related to the design, construction, conversion, build-out, outfitting, remodeling, renovation or upgrading of Franchisee's Premises, whether or not any of the foregoing was approved by us; defects in any premises Franchisee constructs and/or operates, whether or not discoverable by Franchisee or by us; all acts, errors, neglects or omissions of Franchisee or the

Franchised Business and/or the owners, officers, directors, management, employees, agent, servants, contractors, partners, proprietors, affiliates or representatives of Franchisee or the Franchised Business (or any third party acting on Franchisee's behalf or at Franchisee's direction), whether in connection with the Franchised Business or otherwise, including (without limitation) any property damage, injury or death suffered or caused by any delivery person or vehicle serving Franchisee or the Franchised Business; all liabilities arising from or related to Franchisee's offer, sale and/or delivery of products and/or services as contemplated by this Agreement; and, any action by any customer of Franchisee's or visitor to Franchisee's Premises or any other facility of Franchisee or the Franchised Business.

As used above, the phrase "claims, losses, liabilities and costs" includes all claims; causes of action; fines; penalties; liabilities; losses; compensatory, exemplary, statutory or punitive damages or liabilities; costs of investigation; lost profits; court costs and expenses; reasonable attorneys' and experts' fees and disbursements; settlement amounts; judgments; compensation for damage to ECC's reputation and goodwill; costs of or resulting from delays; travel, food, lodging and other living expenses necessitated by the need or desire to appear before (or witness the proceedings of) courts or tribunals (including arbitration tribunals), or government or quasi-governmental entities (including those incurred by Indemnitees' attorneys and/or experts); all expenses of recall, refunds, compensation and public notices; and, other such amounts incurred in connection with the matters described. All such losses and expenses incurred under this indemnification provision will be chargeable to and paid by Franchisee pursuant hereto, regardless of any actions, activity or defense undertaken by ECC or the subsequent success or failure of the actions, activity or defense.

Specifically excluded from the indemnity Franchisee gives hereby is any liability associated with ECC's or the other Indemnitees' gross negligence, willful misconduct or criminal acts (except to the extent that joint liability is involved, in which event the indemnification provided herein shall extend to any finding of comparative or contributory negligence attributable to Franchisee).

Franchisee agrees to give ECC written notice of any such action, suit, proceeding, claim, demand, inquiry or investigation that could be the basis for a claim for indemnification by any Indemnitee within three days of Franchisee's actual or constructive knowledge of it. At Franchisee's expense and risk, ECC may elect to assume (but under no circumstance will ECC be obligated to undertake) the defense and/or settlement of the action, suit, proceeding, claim, demand, inquiry or investigation. However, ECC will seek Franchisee's advice and counsel and keep Franchisee informed with regard to the defense or contemplated settlements. ECC's undertaking of defense and/or settlement will in no way diminish Franchisee's obligation to indemnify ECC and the other Indemnitees and to hold ECC and them harmless.

ECC will have the right, at any time ECC considers appropriate, to offer, order, consent or agree to settlements or take any other remedial or corrective actions ECC considers expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in ECC's sole judgment, there are reasonable grounds to do so. Under no circumstance will ECC or the other Indemnitees be required to seek recovery from third parties or otherwise mitigate ECC's or their losses to maintain a claim against Franchisee. Franchisee agrees that any failure to pursue recovery from third parties or mitigate loss will in no way reduce the amounts recoverable by ECC or the other Indemnitees from Franchisee. The indemnification obligations of this Section will survive the expiration or sooner termination of this Agreement.

25. TAXES, PERMITS AND INDEBTEDNESS

A. Franchisee Must Pay Taxes Promptly

Franchisee shall promptly pay when due all taxes levied or assessed, including, without limitation, unemployment, sales taxes, and all accounts and other indebtedness of any kind incurred by Franchisee in the conduct of the Office's business.

Franchisee shall pay ECC an amount equal to any sales tax, gross receipts tax or similar tax imposed on ECC with respect to any payments to ECC required under this Agreement, unless the tax is credited against income tax otherwise payable by ECC.

B. Franchisee Can Contest Tax Assessments

In the event of any bona fide dispute as to any 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 shall 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 Franchised Business or any improvements thereon.

C. Franchisee Must Comply With Laws

Franchisee shall, at Franchisee's expense, comply with all federal, state and local laws, rules, regulations and ordinances and shall timely obtain and shall keep in force as required throughout the term of this Agreement all permits, certificates and licenses necessary for the full and proper conduct of the Franchised Business, including, without limitation, any required permits, licenses to do business, fictitious names and registrations, sales tax permits, and fire clearances.

D. Franchisee Must Notify ECC of Lawsuits

Franchisee shall notify ECC in writing within five (5) days of notice of the commencement of any action, suit, or proceeding against Franchisee, and of the issuance of any inquiry, subpoena, order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, which arises out of, concerns, or may affect the operation or financial condition of the Franchised Business, including, without limitation, any criminal action or proceedings brought by Franchisee against its employees, customers, or other persons.

26. NOTICES

All written notices permitted or required to be delivered by the provisions of this Agreement or of the Manuals shall be deemed so delivered three (3) days after placed in the mail, by Registered or Certified Mail, Return Receipt Requested, postage prepaid and addressed to the party to be notified at its most current principal address which the notifying party has on record.

27. VARYING STANDARDS

Because complete and detailed uniformity under many varying conditions may not be possible or practical, ECC specifically reserves the right and privilege, at its sole and absolute discretion and as it may deem in the best interests of all concerned in any specific instance, to vary standards for any Franchise based upon the peculiarities of a particular location or circumstance, density of population, business potential, population or trade area, existing business practices, or any other condition which ECC deems to be of importance to the successful operation of such Franchisee's business. Franchisee may request that ECC grant Franchisee similar variations from standard specifications and practices granted to any other Franchisee, but ECC shall not be required to grant to Franchisee a like or similar variation.

28. AUTHORITY

Franchisee or, if Franchisee is a corporation or partnership, the individuals executing this Agreement on behalf of such corporation or partnership, warrant to ECC both individually and in their capacities as partners or officers that all the partners in the partnership or all of the shareholders of the corporation, as the case may be, have read and approved this Agreement, including any restrictions which this Agreement places upon their right to transfer their respective interests in the partnership or corporation.

29. SPECIAL REPRESENTATIONS

Franchisee (and each owner if Franchisee is a business entity) hereby represents as follows:

A. That he or she has conducted an independent investigation of ECC's business and System and recognizes that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon the ability of Franchisee as an independent business person. No representation has been made by ECC or its affiliates (or any of ECC's or their officers, directors, managers, employees, agents or salespersons) and relied on by Franchisee as to the future or past income, expenses, sales volume or potential profitability, earnings or income of the Franchised Business, or any other Eileen's Colossal Cookies® business or franchise, other than any information ECC may have provided in Item 19 of our franchise disclosure document, nor has ECC or any of the foregoing made any representations, statements or promises to Franchisee which conflict with, contravene or vary from the contents of ECC's franchise disclosure document.

B. No representation or statement has been made by ECC or its affiliates (or any of ECC's officers, directors, managers, employees, agents or salespersons) and relied on by Franchisee regarding ECC's anticipated income, earnings and growth or that of the System, or the viability of the business opportunity being offered under this Agreement.

C. Franchisee acknowledges having received, read, and understood this Agreement, including the Attachments hereto; and Franchisee further acknowledges that ECC has accorded Franchisee ample time and opportunity to consult with advisors of his or her own choosing about the potential benefits and risks of entering into this Agreement.

D. Franchisee acknowledges that it has received a complete copy of this Agreement, attachments referred to herein, and agreements relating hereto, if any, at least five (5) business days prior to the date on which this Agreement was executed. Franchisee further acknowledges that it has received the disclosure document required by the Trade Regulation Rule of the Federal Trade Commission, entitled "Information For Prospective Franchisees Required By The Federal Trade Commission," at least ten (10) business days prior to the date on which this Agreement was executed.

E. Before executing this Agreement, Franchisee had the opportunity to contact all of ECC's existing franchisees.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Agreement in triplicate this _____ of _____ 20____.

FRANCHISOR: Eileen's Colossal Cookies Franchising, Inc.

By: _____

Title: _____ Witness: _____

FRANCHISEE: _____

By: _____

Title: _____ Witness: _____

Exhibit "A"
To Franchise Agreement

This Exhibit "A" to the Franchise Agreement executed by Eileen's Colossal Cookies Franchising, Inc.

("ECC") and _____ ("Franchisee"),

on _____, _____.
(DATE)

hereby grants to Franchisee the following Territory:

Written description of territory.

FRANCHISOR: Eileen's Colossal Cookies Franchising, Inc.

By: _____

Title: _____ Witness: _____

FRANCHISEE: _____

By: _____

Title: _____ Witness: _____

FDD Exhibit “A”

Exhibit A to the Franchise Disclosure Document of Eileen’s Colossal Cookies Franchising, Inc.

STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS LIST OF AGENTS FOR SERVICE OF PROCESS

The following list includes the names, addresses and telephone numbers of state agencies serving as our agents for service of process (to the extent we are registered in their states). The list also includes the names, addresses and telephone numbers of other agencies, companies or entities serving as our agents for service of process.

CALIFORNIA

California Corporations Commissioner
320 West 4th Street, Suite 750
Los Angeles, California 90013
(213) 576-7505
(866) 275-2677

HAWAII

Commissioner of Securities
Department of Commerce and Consumer Affairs
335 Merchant Street, 2nd Floor
Honolulu, Hawaii 96813
(808) 586-2744
Fax (808) 586-3977

ILLINOIS

Illinois Attorney General
500 S. Second Street
Springfield, IL 62706
(217) 782-4465

INDIANA

Secretary of State
201 State House
200 West Washington St.
Indianapolis, IN 46204
(317) 232-6531-Phone (317) 233-3675-Fax

MARYLAND

Maryland Securities Commissioner
Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202-2020
(410) 576-6360

MICHIGAN

Michigan Department of Commerce, Corporations and Securities Bureau
Consumer Protection Division, Franchise Section
P.O. Box 30213
Lansing, Michigan 48913
(517) 373-7177

MINNESOTA

Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
P - (651) 296-4026
F - (651) 297-1959

NEW YORK

Secretary of State of the State of New York
41 State Street
Albany, New York 11231
(518) 474-4650

NORTH DAKOTA

North Dakota Securities Department
600 East Blvd. Avenue, 5th Floor
Bismarck, ND 58505-0510
(701) 328-2910 (Phone)
(701) 328-2946 (Fax)
(800) 297-5124

OREGON

Department of Insurance and Finance
Corporate Securities Section
(503) 378-4387 Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202-2020
(410) 576-6360

RHODE ISLAND

Director, Rhode Island Department of Business Regulation
Division of Securities
233 Richmond St., Suite 232
Providence, RI 02903-4232
P-(401) 222-3048
F-(401) 222-5629

SOUTH DAKOTA

Director, South Dakota Department of Labor and Regulation
Division of Securities
124 S. Euclid, Suite 104
Pierre, SD 57501
(605) 773-4823

TEXAS

Office of the Secretary of State
Business Opportunity Section
P.O. Box 13563
Austin, TX 78711-3563

VIRGINIA

Clerk of the State Corporation Commission
1300 East Main Street, 1st Floor
Richmond, VA 23219
(804) 371-9773

WASHINGTON

Director, Department of Financial Institutions
Securities Division
150 Israel Rd SW
Tumwater, Washington 98501
(360) 902-8760 Fax (360) 902-0524

WISCONSIN

Commissioner of Securities of Wisconsin
345 W. Washington Avenue
Madison, Wisconsin 53703
(608) 261-9555

FDD Exhibit “B”

Exhibit B to the Franchise Disclosure Document of Eileen’s Colossal Cookies Franchising, Inc.

OPERATING MANUAL

TABLE OF CONTENTS

OPERATIONS MANUAL - PART 1 (*Total Pages - 108*)

- Welcome - *5 pages*
- Customer Service - *9 pages*
- Front - *24 pages*
- Order Tickets - *22 pages*
- Baking - *15 pages*
- Decorating Cookies - *10 pages*
- Dough and Frosting - *9 pages*
- Opening Procedures - *2 pages*
- Closing Procedures - *8 pages*
- Policies and Procedures - *4 pages*

OPERATIONS MANUAL - PART 2 (*Total Pages - 35*)

- Days to Close - *1 page*
- Keys to Success - *1 page*
- 1st of Month - *1 page*
- Cost Analysis - *1 page*
- Discounts and Donations - *2 pages*
- Dough List Information - *1 page*
- Dozens Kept - *3 pages*
- Petty Cash/Extra Change - *3 pages*
- Recipes - *17 pages*
- Sending Bills - *1 page*
- Signage - *1 page*
- Tours - *3 pages*

ITEM 23. RECEIPTS

THIS FRANCHISE DISCLOSURE DOCUMENT SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS DISCLOSURE DOCUMENT AND ALL OTHER AGREEMENTS CAREFULLY.

IF ECC OFFERS YOU A FRANCHISE, ECC MUST PROVIDE THIS DISCLOSURE DOCUMENT TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR**
- (2) TEN BUSINESS DAYS BEFORE SIGNING OF A BINDING AGREEMENT; OR**
- (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT TO ECC.**

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF EILEEN’S COLOSSAL COOKIES FRANCHISING, INC. DOES NOT DELIVER THIS DISCLOSURE DOCUMENT ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF A FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE APPROPRIATE STATE AGENCY.

I have received a Franchise Disclosure Document dated _____

This Franchise Disclosure Document included 23 FDD Items, including the Franchise Agreement, Financial Statements, and Franchisee List.

Date

Prospective Franchisee

Seller of Franchise

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