

EXHIBIT B

**COOKIES BY DESIGN, INC.
FRANCHISE OFFERING CIRCULAR**

FRANCHISE LICENSING AGREEMENT
(INCLUDING STATE SPECIFIC ADDENDA)

SHOPPE NO: _____
FRANCHISEE: _____
CITY/STATE: _____



FRANCHISE LICENSING AGREEMENT

BETWEEN

COOKIES BY DESIGN, INC.

AND

(Name of Franchisee)

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State Addenda

Glossary of Terms

ATTACHMENTS:

- A. Information Regarding the Franchised Business and its Controlling Persons
- B. Guaranty of Franchisee's Undertakings
- C. Minimum Performance Standards
- D. Special Agreements/State and Federal Laws
- E. Franchise Fee Calculation
- F. Leasehold Deed of Trust
- G. Assignment of Lease
- H. Financing Statement
- I. End User License Agreement for CBDI/CB Intranet Site
- J. Orders Administration Website Participation and License Agreement for CBDI/CB Website
- K. Limited Power of Attorney to Transfer Telephone Listing and Number, E-Mail Address and Domain Name
- L. License Agreement Vanity Number and Telephone Locator Service
- M. ATF Form

FRANCHISE LICENSING AGREEMENT

THIS FRANCHISE LICENSING AGREEMENT (this "**Agreement**") is entered into as of the Effective Date stated in Attachment A between COOKIES BY DESIGN, INC., a Texas corporation, with its principal place of business at 1865 Summit Avenue, Suite 605, Plano, Texas 75074 ("**CBDI**"), and the franchisee identified in Attachment A ("**You**"), with a principal place of business at the location stated in Attachment A. Certain capitalized terms are used in this Agreement with the meanings assigned in the Glossary of Terms that is appended to this Agreement. That Glossary is incorporated into, and made an integral part of, this Agreement by reference. Any reference to a section number relates to a section of this Agreement, unless otherwise indicated.

RECITALS

CBDI owns the rights to license the Licensed Marks and the other Intellectual Property. CBDI has developed the System and certain Confidential Information for the operation of Shoppes. You have applied for authorization to use the System and other elements of the Intellectual Property at one Shoppe in a location that You own or lease. In addition to use of the System, CBDI has the right to grant Sublicenses to its franchisees to use the intellectual property of Licensors in the operation of Shoppes. CBDI is willing, upon the terms and conditions set forth in this Agreement, to license You to operate the Franchised Business, using the System and other elements of the Intellectual Property, and to grant Sublicenses to You, subject to the terms and conditions of each Sublicense Agreement that You sign. In consideration of the mutual agreements set out in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by execution of this Agreement, the parties agree as follows:

1. GRANT OF LICENSE.

(a) Subject to all of the terms and conditions of this Agreement, CBDI grants You a non-exclusive Franchise to use the System in connection with the retail operation of one Shoppe at the Premises to be located within the Primary Marketing Area. Upon your execution of one or more Sublicense Agreements, the Franchise will also include the applicable Sublicensed Material. The Franchise licensed pursuant to this Agreement will operate under the trade name and use the service mark COOKIE BOUQUET® or COOKIES BY DESIGN®, whichever is indicated in Attachment A.

(b) You will operate the Franchised Business solely at the address specified as the Premises in Attachment A. If the address of the Premises is unknown on the Effective Date, CBDI and You will execute an amendment to Attachment A identifying the address of the Premises promptly after the address is known. You agree that the Franchise relates only to the Premises and the Shoppe located on the Premises. You may relocate the Franchised Business to a new location in the Primary Marketing Area, provided You have requested and received in advance CBDI's consent. Without CBDI's prior consent, You have no right (i) to establish or operate any additional, expanded or modified facilities on or off the Premises, (ii) to operate the Franchised Business at any location other than the Premises, (iii) to sell any products You produce in the Shoppe to wholesale customers (i.e., customers who intend to resell the products to consumers, either individually or as components of other products), (iv) to deliver products or services of the Franchised Business outside the Primary Marketing Area, other than as permitted by this Agreement or the Confidential Manuals, or (v) to use the Intellectual Property, any Sublicensed Material or the System or to market the products and services of the Franchised Business or products using Sublicensed Material through electronic commerce.

(c) CBDI may modify the System concept in response to changes in consumer expectations and buying trends, to implement refinements made possible by technological advances or as a result of its research and development activities and to meet competition. You agree to modify the operation of your Shoppe as CBDI directs in supplements to the Confidential Manuals. You will cease using any items CBDI designates as obsolete and will purchase and install any different or additional items CBDI specifies as meeting the new standards, all in accordance with the schedule CBDI establishes for franchisees. If CBDI allows your Shoppe to participate in any new product or service test, You agree to participate in the test in accordance with its standards and specifications and will discontinue offering any products or services that CBDI decides not to add permanently to the items approved for sale listed in the Operations Manual.

(d) Notwithstanding Section 1(b), after your Shoppe opens for business, You may open Satellite or Kiosk locations during the Term or any Renewal Term of the Franchise, if You comply with the requirements listed below.

(i) You may open and continue to operate Satellites and Kiosks in the Primary Marketing Area, provided that You are in compliance with this Agreement, as amended or renewed, and further provided that with respect to each proposed Satellite or Kiosk, as applicable:

(1) You submit a request to CBDI at least 60 days prior to the proposed opening date of the Satellite or Kiosk, as applicable, requesting the prior approval of CBDI to the opening of the proposed Satellite or Kiosk;

(2) You provide CBDI notice of the actual opening date of the Satellite or Kiosk, as applicable, at least 10 business days before that date, accompanied by the required fee described in Section 4(e);

(3) the Satellite or Kiosk, as applicable, must at all times meet the requirements outlined in the Confidential Manuals.

(ii) If you decide to relocate your Shoppe or open Satellites or Kiosks, all references in this Agreement to the "**Franchise**," "**Franchised Business**," "**Premises**" and any other related definitions in this Agreement will mean your Shoppe as it may be relocated and will include any related Satellites or Kiosks.

(e) Subject to the reservation of rights of CBDI in Sections 1(f) so long as You are in compliance with the standards of operation required by Section 6 hereof, including specifically, but without limitation, the requirements to provide express or same-day service, to acquire and maintain a toll free telephone number, to acquire and maintain the computer hardware and point of sale computer software specified by CBDI and a facsimile or telecopy machine and number for use by customers, and to purchase and use the plastic bossed containers required in the Confidential Manuals, and You are not in default under this Agreement, during the Term or any Renewal Term, CBDI will not:

(i) Operate, or license to any others the right to operate any Shoppes within the Primary Marketing Area;

(ii) Enter into or authorize others to enter into transactions that result in deliveries into your Primary Marketing Area without your prior consent, except with respect to orders placed under the National Accounts Program or the Online Order Program that you cannot fill or do not wish to fill; or

(iii) Use or authorize other franchisees to use the Intellectual Property within the Primary Marketing Area.

If You are not or have not been in compliance with the requirements specifically listed in this subsection, in addition to its rights under Section 12, CBDI will have the right to establish and operate or license others to establish and operate Shoppes in the Primary Marketing Area and to provide or authorize other franchisees to provide any services or products or enter into any transactions, or use or authorize other franchisees to use the Licensed Marks and other Intellectual Property in the Primary Marketing Area on terms that CBDI, in its discretion, considers desirable.

(f) The license of the System, including the Licensed Marks and other Intellectual Property, granted by CBDI to You are nonexclusive. CBDI and its affiliates expressly reserve the following rights, among others, subject only to the limitations of Section 1(e):

(i) within the Primary Marketing Area,

(1) to negotiate and contract for National Accounts for the benefit of the Chain;

(2) to merge with or acquire one or more similar concepts that may sell products similar to those sold in Shoppes, which may or may not be located in the Primary Marketing Area;

(3) to sell and to license others to sell the products and services offered by Shoppes in Special Venues and at Special Events;

(4) to sell and deliver, and to permit others to sell and deliver the products and services offered by Shoppes in the CBDI Distribution Markets;

(5) to advertise, market, offer and sell the products and services offered by Shoppes on the Internet;

(6) if You do not participate in the Online Order Program or have not signed an Admin Site Agreement, to deliver the products and services offered by Shoppes and to permit other franchisees who do participate in the Online Order Program and have signed an Admin Site Agreement to deliver the products and services offered by Shoppes; and

(7) to sell and deliver, and permit others to sell and deliver products and services using the Sublicensed Materials, under the conditions described in Section 6(l).

(ii) anywhere,

(1) to grant other licenses for use of the System outside of the Primary Marketing Area, in addition to those licenses already granted to existing franchisees;

(2) to develop and establish other systems using other names or marks and to grant licenses thereto without providing any rights to You;

(3) to engage, directly or indirectly, through its employees, representatives, licensees, assigns, agents and others, at wholesale, retail or otherwise, in the production, distribution, license and sale of products and services, and use in connection therewith all trademarks, trade names, service marks, logos, insignia, slogans, emblems, symbols, designs and other identifying characteristics as CBDI or its affiliate may develop or use; and

(4) to use and permit others to use the System in any manner.

(g) As a material inducement for the grant of the Franchise to You by CBDI, if You are an Entity and not an individual, then all of the following persons must execute a Guaranty of Franchisee's Undertakings: (i) all principals, officers, directors, partners, limited partners, managers, and holders of a beneficial or legal interest of 20% or more in the Entity comprising You, and their spouses; (ii) all officers, directors, partners, limited partners, managers, and holders of a beneficial or legal interest of 20% or more in any Entity directly or indirectly owning an interest in You, along with their spouses; (iii) the officers, directors, partners, limited partners, managers, and holders of a beneficial or legal interest of 20% or more of the Equity Interest in any Entity which Controls, directly or indirectly, any Entity owning an Equity Interest in You, and their spouses; and (iv) the beneficiaries of the trust and their spouses, if You are a trust.

2. TERM AND RENEWAL TERMS.

(a) This Agreement will take effect upon the Effective Date. The initial term will begin on the Commencement Date and end 12 months later (the "**Initial Term**"), unless previously terminated pursuant to the provisions of this Agreement. CBDI may also terminate the Franchise and this Agreement before the stated expiration date of the Initial Term or any Renewal Term if your interest in any lease of the Premises is terminated.

(b) This Section 2 does not apply to the term or renewal or extension of the term of a Sublicense. The terms and conditions of the applicable Sublicense Agreement will govern the term and renewal of a Sublicense, but no Sublicense term will extend beyond the end of the last term You have exercised for the Franchise, or any termination of the Franchise for any reason.

(c) If You are not in default under this Agreement and have complied with all of its provisions during the Initial Term, including the timely payment of all fees, the term of this Agreement will automatically extend (i) with respect to your Shoppe, without notice, for the Initial Term Extension, without the payment of any additional initial or renewal franchise fee; and (ii) with respect to each Satellite or Kiosk, if any, the term of the Franchise and this Agreement will extend during the Initial Term Extension upon payment of the annual Satellite licensing fees or continuing Kiosk licensing fees set out in Sections 4(e) and 4(f) provided, however, that no Satellite or Kiosk term will extend beyond the Initial Term Extension.

(d) You may renew this Franchise for a first renewal term of five years, a second renewal term of 10 years and a third renewal term of 10 years provided that you meet each of the following criteria with respect to each renewal term (a "**Renewal Term**"):

(i) You are not in default under this Agreement or any CBDI franchise licensing agreement executed with respect to a Renewal Term;

(ii) You have met or exceeded the applicable Minimum Performance Standards for the preceding term;

(iii) You have complied with all of the provisions of this Agreement and any CBDI franchise licensing agreement executed with respect to a Renewal Term, including the timely payment of all fees;

(iv) You provide evidence satisfactory to CBDI that You have the continued right to occupy the Premises;

(v) You pay to CBDI, prior to the beginning of the Renewal Term the following renewal fees:

(1) for the first Renewal Term of five years, a renewal fee in an amount equal to 25% of the initial franchise fee You paid to CBDI;

(2) for the second Renewal Term of 10 years, a renewal fee in an amount equal to (a) 25% of the then-current initial franchise fee for similar new franchises, but (b) not more than 50% of the sum of the initial franchise fee and the renewal fee paid by You for the first Renewal Term; and

(3) for the third Renewal Term of 10 years, a renewal fee in an amount equal to (a) 25% of the then-current initial franchise fee, but (b) not more than 50% of the sum of the initial franchise fee for similar new franchises and the renewal fee paid by You for the first Renewal Term and the second Renewal Term.

(vi) With respect to renewing the term of each Satellite or Kiosk franchise, if any, your payment of the then-current Satellite or Kiosk annual or continuing fee, as applicable, automatically renews the term, but no Satellite or Kiosk term will extend beyond the end of the last Renewal Term You have exercised.

(e) The terms and conditions for renewing the Franchise for each Renewal Term will be in accordance with CBDI's current terms and conditions for renewing franchises at the time of your notice of exercise of your option to renew, which may include: (i) changes in laws, regulations, CBDI policies, practices and System requirements and the agreement between You and CBDI under this Agreement, and changes in fee structures, increased fees (other than renewal fees), and additional fees, (ii) your execution of one or more Sublicense Agreements or renewals of Sublicenses; and (iii) execution of a mutual general release and waiver, in a form satisfactory to CBDI, of all claims CBDI, its parent, subsidiaries or affiliates (if applicable) and their officers, directors, attorneys, shareholders and employees, on the one hand, and You, your parent, subsidiaries or affiliates (if applicable) and their officers, directors, members, attorneys, shareholders and employees, on the other hand, might have against each other of any nature except that such release will not release CBDI or any other persons or entities from liability arising under applicable state franchise registration and disclosure laws.

(f) Notwithstanding anything to the contrary in the Agreement, if during any Renewal Term, You are unable to negotiate a renewal or extension of your lease, or lose such lease through no fault of your own, You may relocate to a reasonably equivalent leased or owner premises within the Primary Marketing Area; provided that (i) CBDI consents to the new location, (ii) You comply with Sections 5(h), 6(a)(ii), 6(a)(iii) and 8(b)(i) with respect to the new location, and (iii) You relocate within 6 months after the date You lose the right to occupy the Premises.

(g) Your failure or refusal to comply with any of the conditions to renewal, each of which You acknowledge are reasonable and material, will be interpreted as a conclusive, irrevocable election on your part not to renew the term of the Franchise.

(h) To exercise your option to seek renewal for any Renewal Term, You must give CBDI notice of your election to renew at least six but not more than 12 months before a particular Renewal Term begins.

3. OPERATING ASSISTANCE.

(a) Before You open for business, CBDI will provide You, on the same basis as will be made available, now and in the future, to similarly situated franchisees of CBDI, the following Confidential Information:

(i) information concerning a floor plan for your Shoppe, and standards and specifications for fixtures, signs, improvements, equipment and other related facilities for use in typical or similar Shoppes; You must have CBDI's prior consent to change or add to the floor plan;

(ii) information that may be available to CBDI concerning possible sources of signs, equipment, fixtures, furnishings, improvements and other available services related to the operation of Shoppes;

(iii) approximately two business weeks of training at CBDI's home offices or a location designated by CBDI (and any additional time as CBDI may determine necessary) in the operation of the Franchised Business before opening or, with respect to a transferee, before a Transfer becomes effective, and, at CBDI's determination, up to three days of training at your Shoppe before, during and after You begin operation of the Franchised Business for either You or your Manager. CBDI or its designee will conduct the training either at CBDI's home offices or at a location to be designated by CBDI. You will pay all of your or your Manager's costs and living expenses incurred during and related to the training and the Manager's salary;

(iv) additional on-Premises pre-opening or opening assistance by CBDI or its representative(s) in the initial operation of the Franchised Business as CBDI may determine is appropriate;

(v) the Confidential Manuals; and

(vi) an initial supply of accounting forms for reporting transactions to CBDI in accordance with Sections 4 and 9. CBDI will make available additional supplies to You, at its cost plus handling charges.

(b) After the Franchised Business opens, CBDI will continue its efforts to maintain standards of quality, appearance and service at all Shoppes, and to maintain and enhance the public image and reputation of the Chain (the "Image") and the demand for the products and services provided under the Licensed Marks. You acknowledge the Image is an integral part of the Chain. To that end, CBDI may provide You with as much of the following Confidential Information and services as it may determine is appropriate:

(i) periodic individual or group counseling in the operation of the Franchised Business rendered in person, by seminar, by video, newsletters or bulletins or by electronic transmissions made available, now and in the future, to all franchisees;

(ii) advice concerning operating problems, new techniques or operating methods developed by CBDI or disclosed by reports submitted to or inspections made by CBDI;

(iii) advice and guidance concerning new and improved methods of operation or business procedures developed by CBDI, use of the Confidential Information, management materials, promotional materials, advertising formats and other elements of the Intellectual Property;

(iv) the opportunity to participate, on the same basis as other similar franchisees, in group purchasing programs for supplies, insurance and equipment which CBDI may, now and in the future, use, develop, sponsor or provide and on terms and conditions as may be determined solely by CBDI;

(v) periodic inspections of the Premises and other Shoppes and of the services they offer; and

(vi) an opportunity for additional onsite training, if You give CBDI 14 days advance notice, and depending on the availability of qualified CBDI representatives and the suitability of the timing. CBDI will attempt, but will not be obligated, to provide the requested additional training or assistance.

(c) So long as You are in compliance with the standards of operation and are not otherwise in default of the Franchise, and CBDI elects to offer such services, CBDI will provide You the opportunity to participate, on the same basis as other similar franchisees:

(i) on the CBDI Websites, and, subject to the other provisions of this Agreement relating to the use of the Intellectual Property and the provisions of the Confidential Manuals relating to electronic commerce, to link your approved website to the CBDI Websites and to incorporate frames from the CBDI Websites;

(ii) in the National Accounts program, subject to the other provisions of this Agreement and the provisions of the Confidential Manuals relating to the National Accounts program; and

(iii) in the Telephone Locator Program contemplated by Attachment L to this Agreement.

CBDI may terminate or withdraw temporarily any program offered to the Chain franchisees at any time upon notice to the Chain franchisees.

4. FEES.

(a) In consideration of the grant of the Franchise and the execution of this Agreement, You will pay CBDI an initial franchise fee in the amount stated in Attachment E, which You must pay in full by the Effective Date and which You acknowledge is earned by CBDI when paid. Upon execution of this Agreement by all parties, the initial franchise fee is non-refundable; however, You may receive a partial refund of the initial franchise fee pursuant to Section 6(c)(ii)(1) if You or your Manager fail to complete the initial training to the reasonable satisfaction of CBDI.

(b) You will pay any initial, continuing advertising, marketing and other fees required to be paid, in the manner to be paid, pursuant to (i) Section 8 regarding Advertising and Marketing and any Fund CBDI establishes, (ii) the terms and conditions of any member agreement of an Association, or its successor or replacement, and (iii) the terms of all Sublicenses Agreements to which You are a party.

(c) At all times after You begin operation of the Franchised Business, You will pay (by check or automatic transfer of funds as required by CBDI) to CBDI a monthly Licensing Fee equal to 6% of the Gross Volume of Business (as defined in this Agreement). CBDI is currently requiring payment via automatic transfer of funds as provided in Attachment M. Should CBDI grant You one or more Sublicenses, You agree to pay such other initial and continuing fees as are required by the applicable Sublicenses to which You are a party, in addition to Licensing Fees.

(d) Commencing on January 1 of the first full calendar year of the Term and throughout any Renewal Term, if your annual Gross Volume of Business during any calendar year is less than the Constructive Annual Gross Volume of Business set out in Column II of Attachment C to this Agreement for that calendar year, then You will pay the difference between the total of the Licensing Fees paid by You for that period and the Minimum Annual Fee specified in Column IV of Attachment C to this Agreement (the "**Minimum Annual Fee**") no later than January 31 of the following year.

(e) Commencing with the date of delivery of the notice of the actual opening date of each Satellite and continuing annually thereafter on the 1st day of January of each succeeding year or portion thereof that each such Satellite is in operation, You will pay CDBI a Satellite licensing fee of \$500 for each Satellite. CDBI does not prorate Satellite licensing fees for portions of a year. CDBI does not refund Satellite licensing fees.

(f) Commencing with the date of delivery of the notice of the opening date of each Kiosk and continuing thereafter either annually or for such shorter period as is prescribed by your third party agreement/lease relating to a particular Kiosk, You will pay CDBI in advance for the proposed term of each Kiosk (but in no event more than one year's licensing fee in advance for terms in excess of one year) a Kiosk licensing fee equal to \$100 per month for each Kiosk up to a maximum of \$500 per year. CDBI does not prorate or refund Kiosk licensing fees.

(g) You must pay all fees CDBI charges pursuant to the Intranet Agreement and the Admin Site Agreement, as provided in those agreements.

(h) Unless otherwise provided, You must pay all fees and other amounts due to CDBI under this Agreement no later than the 10th day of the month following the month in which they were incurred.

(i) If You fail to pay any fee or any other amount due under this Agreement within five days after the payment is due, You will pay a service charge equal to the lesser of the daily equivalent of 18% per annum of the overdue amount or the highest rate then permitted by applicable law for each day the amount is past due. Further, if You fail to pay any fee or any other amount due under this Agreement within five days after the payment is due, CDBI reserves the right to withhold services to you, such as referral of National Account orders, access to the Intranet Website, invitations to franchisee conventions and meetings, and delivery of CDBI's Cookie Crumbs® and Cookie Dough® newsletters.

(j) CDBI will apply all payments by You pursuant to this Section 4 in the order CDBI may designate, notwithstanding any instructions from You. You agree that CDBI may accept fees paid pursuant to different instructions without any obligation to follow those instructions, even if the payment is made by its terms conditional on those instructions being followed. No deposit or other acceptance by CDBI of payment will bind CDBI to any determination by You of the character of such payment, such as "paid in full."

5. INTELLECTUAL PROPERTY.

(a) Except as described in Section 5(b), You expressly acknowledge that CDBI is the sole and exclusive owner of the Intellectual Property and the Confidential Information. You expressly acknowledge that your use of the Licensed Marks will inure to the benefit of CDBI. You will not represent in any manner that You have acquired any ownership rights in the Licensed Marks. All goodwill associated with the Chain and identified by the Licensed Marks and all data, lists, and/or information and statistics, including any customer lists, generated in connection with your operation of the Franchised Business will accrue directly and exclusively to the benefit of CDBI. Upon the expiration, termination or non-renewal of this Agreement for any reason, no monetary amount will be assigned or attributable to any goodwill associated with your use of or the data, lists, information and statistics generated in connection with your operation of the Franchised Business.

(b) CDBI may offer to You the right to acquire one or more Sublicenses of the intellectual property of various Licensors for use in the Franchised Business upon your execution of applicable Sublicense Agreements. Intellectual Property that is the subject of a Sublicense Agreement executed by You then becomes part of the Intellectual Property. CDBI, in the exercise of its business judgment for the benefit of the System, will determine if You must sign one or more Sublicense Agreements as a condition of this Franchise. If execution of Sublicense is voluntary, and You do not acquire that Sublicense, You

will have no right to use the intellectual property of that Licensor in connection with the Franchised Business. You expressly acknowledge that your use of the intellectual property of any Licensor will inure to the benefit of CBDI and the Licensor.

(c) You will not modify, copy, distribute or otherwise disseminate any of the Copyrighted Materials or materials identified as "Internet Materials" in the Admin Site Agreement in violation of the restrictions and limitations imposed by this Agreement or the Admin Site Agreement. You will observe all requirements for affixing copyright notices to any materials as CBDI may require and will use other appropriate notices of ownership, registration and copyright required by CBDI. You can not incorporate the Copyrighted Materials into any materials You create without CBDI's prior consent. These conditions also govern your use of materials protected by a copyright of a Licensor pursuant to a Sublicense.

(d) You agree that any use of the Intellectual Property other than as expressly licensed by this Agreement, without CBDI's prior consent, is an infringement of CBDI's rights in the Intellectual Property, and if applicable, the rights of a Licensor, and that the rights to use the Intellectual Property (including any Sublicensed Material) granted in this Agreement or in a Sublicense Agreement do not extend beyond the termination, expiration or non-renewal of this Agreement. You cannot incorporate the Intellectual Property into any materials You create without CBDI's prior consent. You expressly agree that, during the Term and any Renewal Term of the Franchise and after its termination, expiration or non-renewal, You will not, directly or indirectly, commit any act of infringement or contest or aid others in contesting CBDI's rights to the Licensed Marks, the Patents, or any other Intellectual Property, or its licenses for Sublicensed Material or; or take any action in derogation of CBDI's rights to the Licensed Marks, the Patents, or other Intellectual Property or a Licensor's rights to the Sublicensed Material that might cause harm to CBDI's rights or goodwill in the Licensed Marks, the Patents, and other Intellectual Property or a Licensor's rights or goodwill in the Sublicensed Material.

(e) You agree not to use COOKIE BOUQUET®, COOKIES BY DESIGN®, a trademark included in any Sublicensed Material or any other of the Licensed Marks or any marks, names or indicia which are or may be confusingly similar to any of the Licensed Marks or to any of the Sublicensed Material in your legal name.

(f) You may not use COOKIE BOUQUET®, COOKIES BY DESIGN®, or any other Intellectual Property, or any of the Sublicensed Material on any Internet Website or as a part of an Internet Uniform Resource Locator (i.e., a "**domain name**"), in an e-mail address, or as a hidden search term used by Internet search engines (e.g. as a "**metatag**" or a "**white letter**" term), or install a hyperlink to any other website, or offer or sell any products or services under the COOKIE BOUQUET®, COOKIES BY DESIGN®, any other of the Licensed Marks, or any trademarks included in the Sublicensed Material or otherwise in connection with electronic commerce, without the prior approval of CBDI, which CBDI may withhold in its sole discretion. You agree to promptly make any changes in your use described in this section of the Licensed Marks, other Intellectual Property or Sublicensed Material that CBDI directs. You acknowledge that the domain name that uses the Licensed Marks and that any good will accruing or attributable to such domain name are the property of CBDI. Additionally, to further secure your obligations hereunder, You hereby grant to CBDI a security interest in any domain name using the Licensed Marks and agree to sign a Uniform Commercial Code Financing Statement in the form of Attachment H, which CBDI will file of record as evidence of CBDI's security interest.

(g) You will promptly notify CBDI of any unauthorized attempt by any person or legal entity to use the Licensed Marks, Copyrighted Material or Trade Dress or any other Intellectual Property any Sublicensed Material, or any colorable variation of the Licensed Marks, Copyrighted Material, Trade Dress or other Intellectual Property, any Sublicensed Material, or colorable variation of the Licensed Marks, Copyrighted Material, Trade Dress or other Intellectual Property, Sublicensed Material, or any other mark, name or indicia in which CBDI has or claims a proprietary interest, or in which a Licensor has or claims a proprietary interest. You will assist CBDI, upon request and at CBDI's expense, in taking

any action as CBDI may determine is appropriate to halt unauthorized activities, but will take no action nor incur any expenses on CBDI's behalf without CBDI's prior approval. If CBDI undertakes the defense or prosecution of any litigation concerning the Licensed Marks or other Intellectual Property, You agree, at CBDI's expense, to execute all documents and to do any acts and things (including serving as a sole or co-plaintiff in a legal action) as may, in the opinion of CBDI's legal counsel, be reasonably necessary to carry out the defense or prosecution, but will take no action nor incur any expenses on CBDI's behalf without CBDI's prior approval. You also undertake these same obligations with respect to a defense or prosecution of any litigation concerning the Sublicensed Material.

(h) You agree to operate and advertise only under the names or marks designated by CBDI, now or in the future, for use by similar franchisees; to adopt and use the Licensed Marks and the Licensed Material only in the manner directed by CBDI; not to use the Licensed Marks or the Sublicensed Material to perform any activity or to incur any obligation or indebtedness in a manner that, in any way, may subject CBDI or a Licensor to liability for your activities, obligations or indebtedness; to observe all laws concerning the registration of trade names and assumed or fictitious names, to include in any application for registration a statement that your use of the Licensed Marks is limited by the terms of this Agreement, and that your use of the Sublicensed Material is limited by the terms and conditions of applicable Sublicense Agreements, and to provide CBDI with a copy of any application for such registration and other registration document(s). You agree to observe all requirements concerning trademark, service mark and copyright notices as CBDI or a Licensor may require, including affixing "SM", "TM", or "®" adjacent to all Licensed Marks in all uses of the Licensed Marks and any marks included in the Sublicensed Material; and to utilize other appropriate notices of ownership, registration and copyright as CBDI or a Licensor may require. The Licensed Marks (excluding Sublicensed Material) and no others will appear on all articles of every type used for the production, distribution or display of products or services.

(i) CBDI can designate one or more new, modified or replacement Licensed Marks for use by the Chain, and can require You to use any new, modified or replacement Licensed Marks in addition to or instead of any previously designated Licensed Marks. You must bear any expenses or costs associated with your adoption and use of any new, modified or replacement Licensed Marks used as a trade name if a majority of CBDI franchisees then in operation approve such new, modified or replacement Licensed Marks. CBDI will bear the expenses or costs associated with the use of any other new, modified or replacement Licensed Mark used as a trade name required by CBDI. If the Franchise is within a market where CBDI is already doing business under the name COOKIE BOUQUET® then the Franchise may, with the approval of CBDI, operate under that trade name, trademark and service mark. Otherwise, the Franchise will operate under the trade name, trademark and service mark COOKIES BY DESIGN® unless a different agreement is reached. Existing franchisees operating under the trade name, trademark and service mark COOKIE BOUQUET® will be allowed, by unanimous consent of all franchisees within a given market, to change the trade name, trademark and service mark to be utilized in that market to COOKIES BY DESIGN® at their expense. Otherwise, You will not take any action to alter or change your use of the Licensed Marks.

(j) You acknowledge that the Franchise is non-exclusive and that CBDI retains the rights described in Section 1(f). You acknowledge that each Sublicense is non-exclusive, and that the Licensor and CBDI retain the right (i) to use, and to license others to use the Sublicensed Materials in the operation of Shoppes outside of the Primary Marketing Area; and (ii) to use the Sublicensed Materials with other services and products, promotional and marketing efforts or related items, materials or services, and (iii) with respect to a Licensor, a Licensor may use the Sublicensed Materials in any manner anywhere, except as restricted by any agreements with CBDI or other third parties.

(k) If You develop or suggest an innovation or improvement to any component of the Intellectual Property or other aspect of the System that CBDI decides to incorporate into the System, either temporarily or permanently, You agree to assign ownership of the innovation or improvement to

CBDI without compensation. The sole consideration for the assignment will be CBDI's giving You recognition and credit for the innovation or improvement in announcing it to the members of the Chain.

6. STANDARDS OF OPERATION.

CBDI will establish and You will maintain standards of quality, appearance and operation for the Franchised Business. For the purpose of enhancing the public image and reputation of businesses operating under the Licensed Marks and for the purpose of increasing the demand for services and products provided by franchisees and CBDI, the parties agree as follows:

(a) Before beginning operation of the Franchised Business, at your expense, You will furnish to CBDI the following:

(i) certifications from all governmental authorities having jurisdiction over the Premises and the Franchised Business that all necessary permits and licenses have been obtained and that all requirements for operation have been met; and

(ii) a copy of the proposed lease agreement for the Premises (if applicable) which You must provide to CBDI:

(1) the right to enter the Premises to make any modification necessary to protect the Licensed Marks.

(2) the right to act as prime lessee under the lease and to sublease the location to You.

(3) notice of your default under the lease and the right, but not the obligation, to cure any default under the lease.

(4) consent to a lien on your leasehold interest by CBDI pursuant to a "Leasehold Deed of Trust" in the form of (or in a form enforceable in your state similar to) Attachment F to this Agreement which, by execution hereof, You agree to execute at CBDI's request to secure your obligations hereunder;

(iii) a fully signed assignment of your leasehold interest to CBDI pursuant to an "Assignment of Lease" in the form of (or in a form enforceable in your state similar to) Attachment G to this Agreement which, by execution hereof, You agree to execute at or CBDI's request to secure your obligations hereunder;

(iv) a fully signed End User License Agreement for CBDI/CB Intranet Site (the "Intranet Agreement") in the form of Attachment I;

(v) if you desire to participate in any program that CBDI establishes to receive and fulfill customer orders on the Internet (an "**Online Order Program**"), a fully signed Orders Administration Website Participation and License Agreement for CBDI/CB Website (the "Admin Site Agreement") in the form of Attachment J; and

(vi) a signed Limited Power of Attorney, Attachment K, with all blanks filled in.

If CBDI exercises its rights under any Leasehold Deed of Trust or Assignment of Lease, to the extent not covered thereby, CBDI will have the option to acquire all fixtures, equipment and other leasehold improvements on the Premises at fair market value. The fair market value will be determined by agreement, but will not be less than the depreciated value utilized by You in your federal income tax

reporting. Any lease of the Premises will be for a term which, with renewal options exercisable by You, is at least equal to the Term of this Agreement.

CBDI will subordinate its rights under the Leasehold Deed of Trust, the Assignment of Lease, any Financing Statement and other collateral documents to be executed by You, to the rights of any third party lender loaning purchase money funds to You to finance the acquisition of the Franchise, upon the request of the lender, on terms and conditions acceptable to CBDI.

(b) You will open the Franchised Business to the public on the Scheduled Opening Date and will operate your Shoppe continuously throughout the Term and any Renewal Term of the Franchise solely as a member of the Chain. If any Franchised Business opening (but not the execution of the Premise lease) is delayed beyond its Scheduled Opening Date on account of a natural disaster, fire or other casualty, labor dispute, materials shortage or similar event over which You lack control, the Scheduled Opening Date will be extended for a period of time determined by CBDI in its discretion to be reasonably necessary to remedy the effects of the event. The extension provided in this Section 6(b) will be available only if You give CBDI prompt notice of the event's occurrence and an estimate of the time required to remedy its effects.

(c) Before You open the Franchised Business to the public for business, or You assume operation of the Franchised Business pursuant to an approved Transfer:

(i) You must have received authorization from CBDI, which CBDI will not unreasonably withhold.

(ii) CBDI must have certified that You or your Manager has met CBDI's qualifications for management, including satisfactory completion of initial or additional training. You and/or your Manager must complete, to CBDI's reasonable satisfaction, all training programs CBDI may reasonably require, including those required by a Sublicense.

(1) CBDI will notify You of the failure by a trainee to complete the required initial training program satisfactorily. If you fail to designate a substitute trainee, the substitute trainee fails to complete the initial training to CBDI's satisfaction, or if You begin to operate the Franchised Business prior to successfully completing the required initial training, CBDI may elect to terminate the Franchise. In that event, CBDI will refund the initial franchise fee, or transfer fee, as applicable, less the amount of costs and expenses incurred by CBDI in training You and/or your Manager and any expenses incurred by CBDI in connection with its review, approval, supervision and advertising or promotional efforts in the development of the Shoppe. In no event will CBDI charge less than \$1,500.00. CBDI's payment of such refund will be in full and complete satisfaction of CBDI's obligation to You, any guarantor of your obligations hereunder, and any holder of an Equity Interest in You.

(2) You must bear the expenses You and/or your Manager incur to attend training, including without limitation cost of travel, room, board, out-of-pocket expenses and wages of those who attend training.

(d) You will develop, and, during the Term and any Renewal Term, operate and maintain, the Franchised Business in conformity with this Agreement, the Confidential Manuals and other written materials CBDI provides to You to ensure that CBDI's required degree of quality, service and Image is uniformly maintained. You will not deviate from CBDI's required degree of quality, service and Image and will not operate in any manner which adversely reflects on CBDI's name and goodwill, the name and goodwill of a Licensor, or on the Licensed Marks and the trademarks included in the Sublicensed Material. You specifically agree as follows:

(i) Subject to compliance with applicable laws and regulations, You will purchase and install, at your expense, all fixtures, furnishings, signs and equipment as CBDI may require, and meet the specifications of the approved location layout and plan, and all other items as CBDI may direct, now and in the future. You will not install, or permit to be installed, on the Premises or in any way affecting the Franchised Business, any item not meeting CBDI's standards and specifications.

(ii) You will maintain in sufficient supply, and use at all times, only materials and supplies that conform with CBDI's then-current standards and specifications, and refrain from using non-conforming items without CBDI's prior consent.

(iii) You will sell and offer for sale all products and services as CBDI may, now or in the future, require, including those offered using Sublicensed Materials, and only those products and services which CBDI now or in the future may approve, which are not later disapproved, as meeting its quality standards and specifications.

(iv) You will offer and sell your products and services only to retail consumers and will not sell any products to any wholesale customer who plans to resell such products to retail consumers, either individually or as components of other products.

(v) You will maintain the Premises and all fixtures, furnishings, signs and equipment used in connection with the operation of the Franchised Business in conformity with CBDI's then-current standards at all times during the Term and any Renewal Term, as CBDI may require, including without limitation, the requirements of Section 6.

(vi) You will participate in accordance with the standards set out in the Confidential Manuals in all National Programs that CBDI designates as mandatory.

(vii) You will use your best efforts to ensure positive customer relations and maintain the goodwill of CBDI and the Licensed Marks. You will assure that your employees are dressed in appropriate apparel and conduct themselves during business hours in a manner that is consistent with the Image, including wearing uniforms if CBDI designates a Chain uniform. You will promptly respond to customer complaints, comments and concerns in compliance with the Confidential Manuals, and will take other steps as CBDI may require.

(viii) You will purchase all fixtures, furnishings, signs, equipment, inventory, advertising materials and other supplies and materials required for the operation of the Franchised Business only from suppliers approved by CBDI, and not later disapproved. You will follow the procedures in the Confidential Manuals to seek CBDI's approval of a supplier. CBDI reserves the right to designate itself as an approved supplier and to make a profit from the sale of supplies to You.

(ix) You will conduct business during the times and for the minimum number of hours specified by CBDI in the Confidential Manuals, or, if different for the hours required by the terms of the Premises lease, or the lease for any Satellite or Kiosk.

(x) You and/or your Manager will attend and satisfactorily complete, at CBDI's request, all or any part of continuing training programs that CBDI may deem necessary or advisable for the benefit of the Franchise or the Chain, and any training programs required by a Sublicense. If any of your employees perform work which, in the sole opinion of CBDI, requires special skill or knowledge, that person must attend and satisfactorily complete training for that position as specified by CBDI. CBDI may impose a tuition fee for any training programs after the initial training. At all times, a person who has completed initial and any required additional training must have principal responsibility for the operation of the Franchised Business on a full-time in-person basis at your Shoppe.

(e) CBDI must first approve any deviations, improvements, modifications or additions from any of the uniform methods, standards, requirements and specifications, however, regardless of approval or disapproval, any such deviation, improvement, modification or addition will inure to the benefit of CBDI and will be deemed the property of CBDI. You hereby assign to CBDI as additional consideration for the Franchise any and all rights to such deviations, improvements, modifications or additions, including any trade secrets and/or business proprietary information, revisions to Copyrighted Materials, derivative works based on the Copyrighted Materials and all rights to the content of any website You have developed or will in the future develop in connection with your Franchised Business. You further agree to ensure, and provide evidence to CBDI, that any contract with any third party for the development of your website assigns to CBDI all rights to the website's content, including without limitation all copyrights.

(f) You agree to refrain from using or permitting the use of the Premises for any purpose or activity that has not been previously approved in writing by CBDI.

(g) You agree that to maintain a modern, progressive Image, CBDI will have the right, at any time after the expiration of five years from the Commencement Date, and as often as it determines is necessary but in any event not more often than every five years, assuming renewals are requested and approved, to require You to perform repairs on and, replacements and redecoration of the Premises, equipment and furnishings used by You as CBDI may determine necessary and practical to bring the Premises, including equipment, furniture and fixtures, up to the then-current standards of newly-developed Shoppes. After receipt of a notice from CBDI, You must complete all repairs, replacements and redecoration (i) within six months if the total cost would be less than \$5,000 or (ii) within 12 months if the total cost would be greater than \$5,000. The five-year limitation does not apply to modifications, updates and revisions of the Internet Website and other computer hardware and software, which must be performed at any time CBDI directs.

(h) You or your Manager, and no other party, will directly and on a daily full-time basis supervise and manage the operation of the Franchised Business. You will notify CBDI in writing at least 30 days before employing any Manager, setting forth in reasonable detail all pertinent information relative to the individual's character and business background and experience. You agree You will not employ any person as a Manager to operate the Franchised Business (or any part of the Franchised Business) who has not completed the CBDI training program and who does not meet the minimum standards and requirements for managers as set forth in the Confidential Manuals. Even though CBDI has the right to protect the goodwill of the Chain by setting minimum standards and requirements for Managers for the Chain, the Manager will not be deemed an employee of CBDI for any purpose. You agree to at all times employ sufficient qualified personnel to meet public demand for Chain products or services. You will at all times actively promote the sale of Chain services at the Premises and will use your best efforts to cultivate, develop and expand the market for Chain services to meet the Minimum Performance Standards specified in Attachment C.

(i) You will use only business stationery, business cards, marketing materials, advertising materials, printed materials or forms which CBDI has previously approved. You will not employ any person to act as your representative for the local promotion of the Franchised Business in any public media without the prior approval of CBDI. All supplies or materials purchased, leased or licensed by You will always meet those standards specified by CBDI in the Confidential Manuals.

(j) If required by CBDI, You will exhibit and maintain in a prominent place at the Premises a placard or display stocked with reply cards advertising the availability of System franchises which CBDI will provide to You at its sole cost and expense and which will be located in a position in the Premises approved by CBDI. In all advertising displays and materials and at the Premises, You will indicate that You are operating the business licensed under this Agreement as a franchisee of CBDI and will identify your business location in the manner specified by CBDI in the Confidential Manuals.

(k) By execution of this Agreement, You grant to CBDI and its agents the right to enter upon the Premises, without notice, at any reasonable time for the purpose of conducting inspections of the Premises, your books and records and your computer equipment and software. You agree, upon the request of CBDI or its agents, to render any assistance as may reasonably be requested and to take any steps as may be immediately necessary to correct any deficiencies detected during any inspection of the Premises, any inspection of the books and records and any inspection of your computer equipment and software, regardless of whether or not conducted on site.

(l) Because complete and detailed uniformity under many varying conditions may not be possible or practical, CBDI specifically reserves the right and privilege, as it may decide is in the best interests of all concerned in any specific instance, to vary standards for any Chain franchisee based upon the peculiarities of a particular location or circumstance, density of population, business potential, population of trade area, existing business practices or any other conditions which CBDI determines to be of importance to the successful operation of a Shoppe. This includes CBDI's election to offer a Sublicense to one or more franchisees, but not to the entire Chain, and any decision to permit an CBDI franchisee to not become a Sublicensee when a Sublicense is otherwise mandatory. You will have no recourse against CBDI on account of any variation from standard specifications and practices agreed to or refused by CBDI with any other Chain franchisee or with respect to a Sublicense not offered to You that is offered to another franchisee, and no right to require CBDI to agree to or refuse a like or similar variation under this Agreement.

You expressly consent to the solicitation, offer, sale and delivery of products and services using Sublicensed Material by another CBDI franchisee or by CBDI into your Primary Marketing Area, without compensation, if You do not sign a Sublicense Agreement with respect to the applicable Sublicensed Material. You acknowledge that your consent to these acts within your Primary Marketing Area are for the benefit of the Chain and the goodwill of CBDI and to avoid customer confusion and ill will.

(m) You, at your expense, agree to install, update or replace any computer equipment or software designed to be used in the operation of the Franchised Business and in connection with electronic communications and to use equipment and software of the kind and in the manner as CBDI specifies now or in the future. You, at your expense, agree to provide CBDI access (through electronic polling or any other means as required by CBDI) to your computer data base and to send CBDI original or duplicate printed copies of all (i) diskettes utilized by You in the operation of the Franchised Business, and (ii) material You place on your approved website on the Internet.

(n) You grant to CBDI the right (but CBDI has no obligation to do so) (i) to take any steps necessary to manage the Franchised Business for your account if You or, if You are an Entity, a significant principal (51% or greater ownership) of You, dies or are reasonably determined by an independent third party (as a medical doctor) to be incapacitated or incapable of running the Franchised Business, and (ii) to receive a reasonable fee for providing those services.

(o) You acknowledge that CBDI has invested substantial time and financial resources in developing its forms, brochures and contractual agreements, and modifications thereto. You agree You will not, and will not permit your Manager, other employees, shareholders, partners, members, directors or officers to reproduce, publish or distribute the forms, brochures or contractual agreements or modifications thereto in any media, including on a website, except as required to comply with laws and regulations applicable to the Franchised Business or to You.

(p) You acknowledge that system standards require that You use Select Products in the operation of the Franchised Business and that You purchase Select Products only from CBDI or exclusive vendors CBDI designates. You therefore agree not to purchase any Select Products from any source CBDI has not designated as an authorized supplier of Select Products.

7. CONFIDENTIAL INFORMATION.

(a) You acknowledge that the unauthorized use or disclosure of the Confidential Information will cause irreparable injury to CDBI and that damages are not an adequate remedy. CDBI has invested significant amounts of time and resources to develop, acquire, and protect Confidential Information relating to the cookie industry, the System and the Chain that is not generally known by CDBI's competitors or the general public and which give CDBI a valuable advantage over its competition. As additional consideration for the license granted by this Agreement, You agree:

(i) to take all necessary precautions to keep confidential the Confidential Information and any trade secrets or other materials, goods or information created or used by CDBI and designated for confidential use within the Chain, and the information contained in all of the materials described above. You also agree not to disclose the Confidential Information to your employees except on a need-to-know basis, and only after the employee has been advised of the confidential nature of the information and has executed a confidentiality agreement described in Section 10(c);

(ii) if You are an Entity, not to disclose any Confidential Information or make the Confidential Manuals available to any shareholder, director, officer, member, limited or general partner, security or Equity Interest holders of the Franchised Business or their spouses other than those persons, if any, who are employees and actively and regularly involved in the operations of the Franchised Business and who have been advised of the confidential nature of the information and have executed a confidentiality agreement as described in Section 10(c); and

(iii) that You will not at any time, without CDBI's prior consent, disclose, use, permit the use of (except as may be required by applicable law or authorized by this Agreement), copy, duplicate, record, transfer, transmit or otherwise reproduce all or any part of the Confidential Information, in any form or by any means, or otherwise make the information or materials available to any unauthorized person or source.

Your obligations in this Section 7(a) also apply to confidential information of a Licensor, will survive the expiration, termination or a Transfer and will be perpetually binding upon You.

(b) To protect the reputation and goodwill of the Chain to maintain standards of operation under the Licensed Marks, You will conduct the Franchised Business in accordance with the Confidential Manuals which You acknowledge belong solely to CDBI and will be on loan from CDBI during the Term and any Renewal Term. When any provision in this Agreement requires that You comply with any standard, specification or requirement of CDBI, unless otherwise indicated, that standard, specification or requirement will be as is set forth in this Agreement or the Confidential Manuals.

(c) You acknowledge that CDBI may revise the contents of the Confidential Manuals at any time to implement new or different requirements for the operation of the Franchised Business. You expressly agree to comply with all such changed requirements, regardless of whether you acknowledge receipt of such revision in writing. You acknowledge that implementation of the requirements may require the expenditure of reasonable sums of money by You.

(d) You acknowledge that You may create or develop Confidential Information or proprietary information based on the training provided under this Agreement or as a result of your operation of the Franchised Business. You agree to disclose and assign, and hereby assign to CDBI, any Confidential Information or proprietary information developed or created by You during the Term or any Renewal Term.

(e) You will at all times ensure that your copy of the Confidential Manuals is kept current and up to date and, if any dispute arises as to the contents of the Confidential Manuals, the terms and dates of the master copy of the Confidential Manuals maintained by CBDI at its principal place of business will control.

(f) You acknowledge that Select Products are sold to You by CBDI or exclusive vendors only for use in connection with Your operation of the Franchised Business. You agree that You will not, at any time, without CBDI's prior consent, sell, distribute or otherwise make any Select Product available, at wholesale, retail or otherwise, to any unauthorized person or source, including another franchisee of CBDI or an unauthorized reseller.

8. ADVERTISING AND MARKETING.

You will advertise and market your Shoppe to promote and enhance the goodwill and Image of the Chain, and the Franchised Business.

(a) CBDI may provide You with local advertising and marketing materials, including newspaper ads, radio commercial tapes, merchandising materials, sales aids, special promotions and similar advertising (all of which constitute Copyrighted Materials) at a reasonable price, plus handling.

(b) You, at your expense, will advertise and market your Shoppe locally, and for that purpose will:

(i) obtain listings of the Franchised Business in the local white pages and most predominantly used yellow pages of telephone directories of the kind and size specified now and in the future by CBDI for all comparable Shoppes. You acknowledge that the telephone numbers and any directory listings and advertisements that use the Licensed Marks and that any goodwill accruing or attributable to such telephone numbers and listings are the property of CBDI. Additionally, to further secure your obligations hereunder, You hereby grant to CBDI a security interest in the telephone numbers, directory listings and advertisements using the telephone number(s) and agree to sign a Uniform Commercial Code Financing Statement in the form of Attachment H, which CBDI will file of record as evidence of CBDI's security interest. Further, You agree that in connection with any foreclosure of CBDI's security interest in the telephone numbers, directory listings and advertisements using the telephone number(s) that a bid by CBDI in an amount equal to the then-current price charged by local telephone, directory and yellow and white page advertising companies for obtaining a telephone line and/or the prorated fee based on (i) the annual fee times (ii) the number of days left to the next date of publication (iii) divided by 365 constitutes a commercially reasonable bid;

(ii) obtain and maintain a national toll-free telephone number;

(iii) obtain and maintain any special promotional materials of the kind and size as CBDI may require for comparable Shoppes; and

(iv) submit to CBDI for its prior approval (except as to prices to be charged) which CBDI may withhold for any reason (i) samples of all advertising to be used by You that CBDI or its designated agent have not prepared or previously approved, (ii) the proposed means or media of advertising, including specifically, without limitation, electronic commerce means, audio, video and other electronic or technological media, print, and any other means whatsoever, whether now existing or available in the future, and (iii) the schedule of media distribution for such advertising.

(c) You acknowledge that standardized advertising and marketing programs are valuable to enhance the goodwill and Image of the Chain. Therefore, You agree to participate in any regional and/or national marketing and advertising and promotional programs CBDI develops or authorizes to be developed that it determines will benefit the Chain, on the same terms and conditions as are applicable to substantially all other CBDI franchisees. As part of that obligation, You will:

(i) become and remain a member in good standing of any regional or national marketing and advertising association CBDI establishes or approves to implement regional and national marketing and advertising programs (an "**Association**");

(ii) contribute to a separate fund that CBDI may establish for a particular objective, such as creation and placement of television advertising on a national or regional level (a "**Special Use Fund**"); and

(iii) comply with any requirements of each Sublicense with respect to advertising and marketing.

(d) You will pay to CBDI or another party CBDI designates the following fees:

(i) an advertising and promotion fee ("**Advertising and Promotion Fee**");

(ii) upon 90 days advance notice from CBDI, in connection with a Special Use Fund, a Special Use Fund fee ("**Fund Fee**") that does not exceed 1% of Gross Volume of Business;

(iii) the fees required by each Sublicense in connection with advertising and marketing, in addition to any other fee imposed by CBDI, an Association or a Special Use Fund; and

(iv) any fees in addition to the those listed in Section 8(d)(i)-(iii) approved by an Association or the administrator of a Special Use Fund when such fees are set by a vote of those that contribute to the Association or Special Use Fund.

(e) Except as provided in this Section 8(e), the Advertising and Promotion Fee and any increases in such fee will not exceed 1% of your Gross Volume of Business annually, and (ii) the aggregate of any Fund Fees and any increases in such fees will not exceed 1% of your Gross Volume of Business annually. An Association or other local, regional or national marketing and advertising cooperative of which You are a member may approve a rate in excess of 1% of Gross Volume of Business for an Advertising and Promotion Fee or a Fund Fee, respectively, pursuant to the governing agreements adopted by those groups. CBDI does not mandate the maximum fees adopted by these groups. At no time will your obligation to contribute an Advertising and Promotion Fee set by CBDI (and not an Association) and a Fund Fee set by CBDI (and not an administrator of a Special Use Fund controlled by Chain franchisees) in the aggregate exceed 2% of your Gross Volume of Business annually.

You acknowledge that fees paid to an Association, payments required by each Sublicense, Fund Fees, and those expenses required by Sections 8(d)(i) to (iii) may exceed 2% of your Gross Volume of Business annually, notwithstanding the maximum contribution rates that CBDI may require.

(f) To the extent that CBDI has control over the manner in which an Advertising and Promotion Fee and the Fund Fees are spent, CBDI will strive to administer the fees in a manner that provides advertising benefits to all participating Shoppes. However, CBDI does not guarantee that all participants will receive identical media exposure or advertising benefits in view of regional differences in media costs, varying degrees of market penetration in different markets and other relevant factors. You waive any claims against CBDI in connection with any allocation of benefits from use of the Advertising and Promotion Fee or Fund Fees.

(g) CBDI will have sole control over the creative concepts and materials used and the placement and allocation of any media, except to the extent that it has ceded those powers to an Association or to an administrator of a Special Use Fund.

(i) CBDI may use Advertising and Promotion Fees for preparation and production of any kind of advertising, including, without limitation, brochures and catalogues, for the purchase of any type of media (including advertising on the Internet or other electronic media), overhead allocated to administration of Advertising and Promotion Fees, payments to advertising agencies, media buying services or other advisors to provide advertising or marketing assistance (either in-house or independent), and to support public relations, market research and any other advertising, promotion and marketing activities. CBDI will provide you one copy of the materials it produces from use of the Advertising and Promotion Fees at no cost, and permit You to buy at its direct cost of production, plus shipping, handling and storage multiple copies and a reasonable charge for its overhead costs.

(ii) CBDI may use the Special Use Fund in ways that, in CBDI's judgment, most effectively and efficiently accomplish the objectives for that fund, including the creation and retention of advertising cooperatives to carry out specific marketing plans for specific market areas and advertising campaigns in coordination with an Association. CBDI can delegate its rights under this subsection to another person, Entity or to an Association. CBDI can reimburse itself for advertising and marketing programs established by CBDI and later delegated to an administrator of a Special Use Fund. CBDI can structure and restructure any separate entity to administer the Special Use Fund, including preparation of governing documents and specification of the objective(s) for the Special Use Funds.

(iii) CBDI will not use Advertising and Promotion Fees or the Special Use Fund for its general operating expenses, except to compensate for reasonable salaries, administrative costs, travel expenses and overhead relating to advertising and marketing. CBDI will not use the Advertising and Marketing Fee or the Special Use Fund to market COOKIE BOUQUET®/COOKIES BY DESIGN® franchises, but otherwise can use the Advertising and Promotion Fee and Special Use Fund in any manner that CBDI sees fit, subject to the limitations of this Section 8(g). CBDI can hold contributions in contemplation of a future advertising or promotion campaign. CBDI can elect not to spend contributions in the year in which they are collected. CBDI can advance funds to an Association or to a Special Use Fund at a reasonable rate of interest not to exceed the prime rate as published by the Wall Street Journal plus 1%, and repay such advances plus interest. You acknowledge and agree that CBDI does not have a fiduciary relationship to You in connection with the Advertising and Promotion Fee, any Special Use Fund, an Association, or any other fund it establishes, and that an Association and any Special Use Fund are not trusts. CBDI can discontinue a Special Use Fund at any time. CBDI may dissolve or terminate its relationship with an Association pursuant to the terms and conditions of its agreements with an Association.

(iv) So long as CBDI collects any Advertising and Promotion Fee or Special Use Fund contributions, at your request, if You are in good standing, CBDI will provide an unaudited annual report on the amounts collected and the use of the Advertising and Promotion Fee and any Special Use Fund. If CBDI does not administer or collect an Advertising and Promotion Fee or Special Use Fund, CBDI will be relieved of this obligation.

(h) CBDI maintains the CBDI Websites. CBDI has sole control over and ownership of the material and information it places on the CBDI Websites. CBDI may discontinue any or all of the CBDI Websites at any time. If CBDI consents to your request to maintain a website on the Internet using any element of the Intellectual Property, Sublicensed Material and other CBDI materials, You must comply with the policies and procedures regarding the use of the Intellectual Property in electronic commerce set forth in the Confidential Manuals, including submission of material and information for CBDI's prior approval as to content and use of the Intellectual Property Material, and other CBDI materials, and including submission of any agreement with a third party to develop your website before execution of the agreement. You agree to promptly revise or remove, as applicable, from your website any information or material at CBDI's request. You agree to assign, and hereby assign, to CBDI ownership of the content of any website You develop or create relating to the Shoppe, the Chain, the System or a Sublicense during the Term or any Renewal Term of the Franchise, and to ensure and provide evidence to CBDI that any contract with any third party for the development of your website assigns to CBDI, or its designee, all rights to the Website's content that relate to the Shoppe, the Chain, the System or a Sublicense.

9. REPORTS AND RECORDS.

(a) You will maintain original, full and complete records, accounts, books, data and contracts which will accurately reflect all particulars of the Franchised Business and any statistical and other information or records as CBDI may require and will keep all of the information at least three years, or longer if required by a Sublicense Agreement You sign. In addition, upon the request of CBDI, You will

compile and provide to CDBI any statistical or financial information regarding the operation of the Franchised Business as CDBI may reasonably request for purposes of evaluating or promoting the Franchised Business or the Chain in general. CDBI and its designated agents will have the right, without notice, to examine, audit and duplicate records, accounts, books and data that CDBI may request, in any reasonable manner, form, or means, at all reasonable times and any locations that CDBI requires to ensure that You are complying with the terms of this Agreement. If an inspection discloses (i) that the Gross Volume of Business during any month actually exceeded the amount reported by You as your Gross Volume of Business by an amount equal to 5% or more of the Gross Volume of Business originally reported to CDBI or (ii) that You have made unauthorized sales or deliveries or taken any other unauthorized action in another franchisee's Primary Marketing Area, You will bear the cost of the inspection and audit and any follow up inspection and audit necessitated by the first such inspection and audit. Where a deficiency of any size is discovered, You must pay any such deficiency with interest from the date due at the lesser of 18% per annum or the highest rate permitted by applicable law, immediately upon the request of CDBI. If You have made unauthorized sales, deliveries or taken any other unauthorized action in another franchisee's Primary Marketing Area, in addition to paying for the audit, You must pay the profits from these sales, deliveries or actions with interest as determined by the formula in the Confidential Manuals, to the franchisee whose territory has been infringed. Payment of these amounts will not constitute a waiver of any other rights CDBI may have under this Agreement. You also must provide to CDBI and to any transferee of the Franchise a restated profit and loss statement that reflects the changes in Gross Volume of Business. With respect to the right to examine, audit, and duplicate your books and records, You agree that a Licensor will also have the same rights to examine, audit and duplicate books and records for the Franchised Business under the same terms and conditions as CDBI and additionally as provided in any Sublicense You sign.

(b) No later than the 10th day of each month, You will provide to CDBI as specified by the Confidential Manuals reports stating the fees due to CDBI during the preceding month itemized by revenue-producing activity, the Gross Volume of Business at your Shoppe and all Satellites and/or Kiosks, as applicable, for the prior month, and such other information as CDBI may require, all signed and certified as to accuracy and truthfulness by You or your authorized agent.

(c) Upon CDBI's request, You will furnish CDBI with a copy of each of your reports and returns of sales, use and gross receipt taxes and complete copies of any state or federal income tax returns covering the operation of the Franchised Business, all of which You or your authorized agent will certify as true and correct. You agree that CDBI may disclose to a Licensor any information on the reports and returns of sales resulting from a Sublicense of that Licensor's intellectual property.

(d) You will prepare and transmit to CDBI on a quarterly basis, no later than 30 days after the end of the calendar quarter (i.e. April 30, July 30, October 30 and January 30), an unaudited profit and loss statement in a form satisfactory to CDBI acting in its sole and subjective discretion covering the Franchised Business for the prior quarter, and any additional reports as CDBI may require, all of which will be certified by You or your authorized agent as true and correct. You will also submit to CDBI by March 1 and September 1 of each year during the Term and any Renewal Term of the Franchise, an unaudited balance sheet reflecting the financial position of the Franchised Business as of the preceding December 31 and June 30. In addition, You, if You are an individual, and any guarantor(s) of this Agreement will, within 60 days after request from CDBI, deliver to CDBI a personal financial statement, certified as correct and current, in a form which is satisfactory to CDBI and which fairly represents your total personal assets and liabilities and those of any guarantor(s), as applicable.

(e) In addition to the statements and reports mentioned above, within 90 days after the close of each of your fiscal years, You will furnish to CDBI financial statements of the Franchised Business, which will include a statement of income and retained earnings, a statement of changes in financial position, and a balance sheet, all as of the end of each fiscal year, which You or your authorized agent will certify as being true and correct.

(f) Upon the request of CBDI, within 90 days after the close of each of your fiscal years, in addition to the unaudited statements requested in Section 9(e) above, You will furnish to CBDI at your expense, an audited statement of income and retained earnings for the fiscal year to date and an audited balance sheet as of the fiscal year end of the Franchised Business, all prepared in accordance with generally accepted accounting principles and certified to by a certified public accountant.

10. COVENANTS AND REPRESENTATIONS.

(a) During the Term and each Renewal Term, You and any guarantor(s) agree, individually:

(i) to use best efforts in operating the Franchised Business and in recommending, promoting, and encouraging patronage of all Shoppes;

(ii) not to engage as a developer, owner, operator, or in any capacity or to assist others, in any manner, with or without compensation, in any business which carries on the same or a similar business to the Franchised Business other than as a Chain franchisee, however, You will not be prohibited from owning equity securities of any business that carries on the same or a similar business to the Franchised Business, whose shares are traded on a stock exchange or on the over-the-counter market if your ownership interest will represent only 2% or less of the total number of outstanding shares of that business; and

(iii) You will not, except with the prior consent of CBDI, either directly or indirectly, for yourself, or through, for, or in conjunction with any person, Entity or organization, divert or attempt to divert any business, customer or potential customer of the Chain to any competitor which produces cookies, decorated cookies and/or fanciful cookie arrangements and related products by direct or indirect inducement referral, recommendation or otherwise.

(b) If this Franchise is transferred, terminated, expires, or is not renewed, You agree, for two years after that transfer, termination, expiration or non-renewal, not to engage as an owner, operator, or in any capacity, or be financially interested in, directly or indirectly, or to assist others in, other than as a Chain franchisee, with or without compensation, directly or indirectly, any business which carries on the same or a similar business to the Franchised Business. As material consideration for this covenant, CBDI agrees to provide You with specialized training and Confidential Information relating to the System and the cookie industry. This covenant applies within the Primary Marketing Area and within a 20 mile radius of the former Premises or of any other Shoppe, Satellite or Kiosk within the Chain in existence on the date of the termination, expiration or non-renewal, and with respect to any offer of sale of arrangements of decorated cookies or decorated cookies through electronic commerce, mail and telephone orders. This provision will survive termination of the Franchise, and this Agreement. You agree that this noncompetition covenant is ancillary to an otherwise enforceable agreement, including but not limited to this Agreement. You also agree that the terms are reasonable and are necessary to protect the legitimate business interest of CBDI.

(c) During the Term and any Renewal Term and after termination, expiration, non-renewal or any Transfer of the Franchise, You agree not to communicate directly or indirectly, disclose to or use for your benefit or the benefit of any other person or Entity, any trade secrets or Confidential Information which are proprietary to CBDI, or proprietary to a Licensor, or any other information, knowledge or know-how deemed confidential under Section 7, except as permitted in writing by CBDI. If the Franchise or this Agreement is transferred, terminated, expires or is not renewed, or any Transfer occurs, You agree that You will not use or assist others in the use of the Confidential Information or that of a Licensor, trade secrets, methods of operation or any components of the System in the design, development or operation of any business which carries on the same or a similar business to the Franchised Business or otherwise for your own benefit or for the benefit of any other person or Entity. You agree that if You are engaged as an

owner, operator or in any capacity or if You assist others, with or without compensation, in any same or similar business, You will assume the burden of proving that You have not used the Confidential Information, a Licensor's confidential information, trade secrets, methods of operation or any components of the System. It is understood and agreed that the purpose of this covenant is not to deprive You of a means of livelihood and will not do so, but is rather to protect the goodwill and interest of CBDI, each Licensor and the System. The protection provided under this Agreement will be in addition to and not instead of all other protections for Confidential Information and trade secrets as may be afforded in law or in equity. In addition, to the extent permitted by law, You agree to require your employees (including your Manager) to execute confidentiality agreements as provided in the Confidential Manuals, that will include similar covenants by your employees. CBDI will expressly be made a third party beneficiary of all confidentiality agreements. You agree to maintain a file of confidentiality agreements executed by each of your employees for a period of five years following the termination or resignation of each employee and to provide copies to CBDI upon request. This provision will survive the termination, expiration or a Transfer.

(d) The parties agree that each of the agreements in Sections 10(a), 10(b) and 10(c) above will be construed as being enforceable independently of any other agreement or provision of this Agreement. Should any part of these provisions, for any reason, be declared by a court to be invalid or unenforceable by virtue of its scope in terms of area, business activity prohibited or length of time, and should that part be capable of being made enforceable by reduction of any or all of the provision, You and CBDI agree that the provision will not be invalidated in its entirety, but will be observed and performed by the parties to the extent the provision is valid and enforceable. The parties agree that any invalidated provision will be deemed to be altered and amended to the extent necessary to effect the validity and enforceability of the provision. The running of any period of time specified in this Section 10 will be tolled and suspended for any period of time in which You are found by a court of competent jurisdiction to have been in violation of any of these agreements. CBDI may, unilaterally, at any time, in its sole discretion, revise any of the agreements in this Section 10 to reduce your obligations under this Section 10, or those of your employees. You also expressly agree that the existence of any claim You may have against CBDI, whether or not the claim arises from this Agreement, will not constitute a defense to the enforcement by CBDI of the agreements in this Section 10.

(e) You agree at CBDI's request to (i) promptly correct any defect, error or omission in this Agreement or any other document executed in connection with or related to this Agreement or the Franchised Business and (ii) execute, acknowledge and deliver any additional documents as may be necessary, desirable or proper to carry out the purposes of this Agreement.

(f) If You are an Entity, You represent, warrant and covenant that:

(i) you are duly organized and validly existing under the State of your organization;

(ii) you are duly qualified and authorized to do business in each jurisdiction in which your business activities or the nature of the properties owned by You require qualification;

(iii) your corporate charter, articles of organization, written partnership agreement or other organizational documents will at all times provide that your activities are confined exclusively to operating the Franchised Business;

(iv) the execution of this Agreement and the transactions contemplated in this Agreement are within your corporate power, or, if You are a limited liability company, permitted under your constituent documents or, if You are a partnership, permitted under your written partnership agreement;

(v) You will promptly provide to CBDI (1) with respect to a corporation, copies of your articles of incorporation, bylaws, other governing documents and any amendments to those documents including the resolution of the Board of Directors authorizing entry into and performance of this Agreement; (2) with respect to a limited liability company, copies of your organizational or constituent documents and any amendments to those documents, including evidence of consent or approval of the entry and performance of this Agreement by the required number or percentage of members or equity holders, if written approval or written consent is required by your written organizational or constituent documents; or (3) with respect to a partnership, copies of your written partnership agreement, other governing documents and any amendments thereto, including evidence of written consent or written approval of the entry and performance of this Agreement by the required number or percentage of partners, if written approval or written consent is required by your written partnership agreement;

(vi) if You are not a sole proprietor, You will maintain a current list of all owners of record and all beneficial owners of any class or type of voting Equity Interest in You, and You will furnish the lists to CBDI upon request;

(vii) if You are a corporation, You will maintain stock-transfer instructions against the transfer on your records of any equity securities and each stock certificate of the corporation will bear the legend set out in Section 11(k); if You are a limited liability company or a partnership, your organizational or constituent documents will provide that membership or partnership interests are held subject to, and that any assignment or transfer is subject to, all restrictions imposed upon assignment or transfer by this Agreement;

(viii) all holders of an Equity Interest in You, together with their spouses (as more specifically set out in Section 1(g)) will jointly and severally guarantee performance of the obligations under this Agreement and will bind themselves to the terms of this Agreement to the extent required in this Agreement; and

(ix) You acknowledge and agree that the representations set forth above are continuing obligations and that any failure to comply with these representations will constitute an event of default under this Agreement.

(g) If You are a trust, You represent that:

(i) You are a trust duly organized and validly existing under the laws of the state of your creation;

(ii) You have all requisite power and authority to enter into this Agreement;

(iii) The trustee whose name appears on the signature page of this Agreement is the duly appointed and acting trustee and has full power and authority to execute and deliver this Agreement on behalf of You and to complete the transaction contemplated by this Agreement on behalf of You;

(iv) All beneficiaries of the trust and their spouses will jointly and severally guarantee performance of the obligations under this Agreement and will bind themselves to the terms of this Agreement to the extent required in this Agreement; and

(v) You acknowledge and agree that the representations set forth above are continuing obligations and that any failure to comply with these representations will constitute an event of default under this Agreement.

11. TRANSFER AND ASSIGNMENT.

(a) CBDI may freely assign or transfer its interest in the Franchise and all rights and duties under this Agreement by operation of law or otherwise. This Agreement will bind and benefit Company's successors and assigns.

(b) You acknowledge that the rights and duties created by this Agreement are personal to You, and that CBDI has granted this Franchise in reliance on many factors, including, without limitation, your individual or the collective character, skill, aptitude and business and financial capacity of your principal owners. Accordingly, neither You nor any person owning any direct or indirect Equity Interest in You, will, without CBDI's prior consent, directly or indirectly sell, assign, transfer, convey, give away, pledge, mortgage or otherwise encumber any interest in this Agreement or any portion or aspect of this Agreement, the Franchised Business, substantially all of the assets used in the Franchised Business, the Premises, or any equity or voting interest in You (a "Transfer"). Any purported Transfer occurring by operation of law or otherwise, including any assignment by a trustee in bankruptcy, without CBDI's prior consent, will be a material default under this Agreement. In addition, if You are a corporation, the stock of the corporation will not be publicly sold or traded on any securities exchange or in the over-the-counter market without CBDI's prior consent, which consent CBDI may give or deny in its sole discretion.

(c) You acknowledge the vital importance of your performance to the market position and Image of CBDI. You also recognize the many subjective factors that comprise the process by which CBDI selects a suitable franchisee. CBDI will not unreasonably withhold its consent to a Transfer, however, compliance with the following and any other conditions determined to be necessary by CBDI will remain a subjective determination solely within the complete discretion of CBDI:

(i) The proposed transferee is a person or Entity that meets CBDI's standards of qualification then applicable to all new applicants for similar Chain Franchises.

(ii) The proposed Transfer is at a price and upon terms and conditions approved by CBDI, which approval CBDI will not unreasonably withhold.

(iii) As of the effective date of the proposed Transfer, all of your obligations under this Agreement, any Sublicense, any other agreements between You and CBDI, and any agreements with an Association, and the administrator of a Special Use Fund are fully satisfied and not in default; and You will have reimbursed CBDI for its legal and other expenses connected with the proposed Transfer.

(iv) If CBDI releases the transferor, the transferor and CBDI will have executed a mutual general release and waiver, in a form satisfactory to CBDI, of all claims against each other and their respective parents, subsidiaries and affiliates (if applicable) and their respective officers, directors, members, attorneys, holders of Equity Interests, and employees, in their company and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules and ordinances, arising out of, or connected with, the performance of this Agreement except that such release will not release CBDI or any other persons or entities from liability arising under applicable state franchise registration and disclosure laws or franchise relationship laws.

(v) As of the effective date of the proposed Transfer, You or any guarantor of your obligations will have fully satisfied all obligations to CBDI under all Sublicenses and other agreements between You and CBDI, an Association or an administrator of a Special Use Fund.

(vi) As of the effective date of the proposed Transfer, CBDI will have forwarded to You its approval, of the proposed Transfer to the proposed transferee.

(d) You will submit to CBDI before any proposed Transfer of any Equity Interest in You, and at any other time upon request, a list of all holders of direct or indirect Equity Interests of record reflecting their respective present and/or proposed direct or indirect interests in You and in the proposed transferee, in whatever form CBDI may then require.

(e) Any Transfer of the Franchised Business must include (i) all Satellites and/or Kiosks, and (ii) unless a Sublicense Agreement provides otherwise, your rights and obligations under each Sublicense You hold. You cannot transfer Satellite and Kiosk locations or your rights under a Sublicense separately from your Shoppe. A Transfer of the Franchise also includes a transfer of any other agreement You must sign contemplated by this Agreement.

(f) CBDI may require, as a condition of its approval of any proposed Transfer, satisfaction of the additional requirements set forth in this Section 11(f) if the Transfer results in a change in Control. The requirements for all such Transfers are as follows:

(i) You must cause the prospective transferee to be provided with CBDI's current form of disclosure document required by the Federal Trade Commission's Trade Regulation Rule on Franchising and/or other applicable state franchise registration/disclosure laws, and a receipt evidencing the exact date of delivery of the disclosure document(s) to the prospective transferee will have been delivered to CBDI, however, CBDI will not be liable for any representations other than those contained in the disclosure document(s).

(ii) Except as provided in Section 11(h), CBDI must have received, together with the request for consent to the Transfer, a transfer fee equal to the greater of \$5,000 or CBDI's actual costs to evaluate and process the transfer and train the transferee's principals.

(iii) You must deliver to the transferee all Confidential Information, the Confidential Manuals, materials containing trade secrets, Intellectual Property, and all copies of each of the preceding, and You must transfer to CBDI or with its consent to the transferee, your registrations of your domain name and any e-mail addresses that use the Licensed Marks or any variation thereof or that indicate an association with a business similar to the Franchised Business.

(iv) The transferee must enter into a written assignment in a form satisfactory to CBDI, assuming and agreeing to discharge all of your obligations under this Agreement as renewed and must sign the then-current form of CBDI Franchise Licensing Agreement, along with any modifications thereto (the "Transfer Agreement"), as well as any agreements the Transfer Agreement requires, that CBDI will require the transferee to execute at the time of transfer. The term of the Transfer Agreement will be the period remaining under the Term or applicable Renewal Term then in effect under this Agreement plus any remaining rights to Renewal Terms, provided that CBDI approves the Renewal Term at the time that each becomes exercisable.

(v) Each of the holders of an Equity Interest in the proposed transferee must have signed the then-current form of Guaranty of Franchisee's Undertaking.

(vi) The transferee will demonstrate to CBDI's sole satisfaction that it meets all of CBDI's requirements for becoming a Chain franchisee, will comply with all instruction and training requirements of CBDI, and has the aptitude and ability to operate the Franchised Business (as may be evidenced by prior related business experience or otherwise).

(vii) The transferee and/or its manager will successfully complete prior to the effective date of the proposed Transfer, the initial training then required of similarly situated Chain franchisees, unless CBDI waives compliance with this condition.

(g) Within 12 months after the death or mental incompetency (as reasonably determined by an independent third party such as a licensed physician) of any person with any direct or indirect interest in the Franchised Business, the executor, administrator, or personal representative of the deceased or incompetent person will transfer that person's interest to a third party approved by CBDI. CBDI will respond with its approval or disapproval within 30 days of receiving a written request. These types of Transfers will be subject to the same conditions as any other Transfer under this Agreement. If the estate representatives or personal representatives of any deceased or disabled person are unable to meet the conditions in Section 11(c) and, if it applies, Section 11(f) of this Agreement, CBDI may terminate the Franchise.

(h) If You or any person or entity holding any direct or indirect interest in You, the Franchise evidenced by this Agreement or the Franchised Business desires to effect a Transfer, the person or You will first notify CBDI in writing of the intention and offer to sell or transfer to CBDI upon the same terms and conditions as offered to any other party, net of any applicable real estate and/or business brokerage commissions, or the cash equivalent of those commissions, at CBDI's option. CBDI will have a period of 30 days from the receipt of notice of the offer (and all its terms and conditions) to exercise a right of first refusal to match the offer. If CBDI notifies You or the person or entity of its election to purchase (a "seller"), the purchase will be closed on or before 90 days from the date notice of the election to purchase is given in writing to the seller. If CBDI notifies the seller that it will not exercise its option, the seller may sell or transfer the interest to a bona fide third party, however, the sale or transfer must be made within 120 days after CBDI's rejection of its right of first refusal, the sale or transfer must be made at a net price and on terms no more favorable than those offered in writing to CBDI, all applicable requirements of Section 11 must be met, and in connection with the sale or transfer, the Franchised Business must continue to be operated on the Premises pursuant to the System. Failure of CBDI to exercise its right of first refusal will not constitute a waiver of any other provision of this Agreement, including all requirements of this Section 11. Where the purchase offer is made by a member of your immediate family, if You are an individual, or by a holder of an Equity Interest constituting 25% or more of the issued and outstanding Equity Interests in You, no first refusal option will exist for a Transfer where all other conditions of this Agreement concerning transfers are fulfilled. Transfers to family members do not require the payment of a fee, provided that CBDI may impose a reasonable fee for training a person to operate the Franchised Business. Further, as limited in this Section 11(h), You or any person owning an Equity Interest in You may transfer your/their interests for estate planning purposes to the spouse or adoptive or natural lineal descendants of the transferor, to a limited family partnership where the partners are comprised of those persons owning not less than 80% of the partnership interests, or to a trust for the benefit of the transferor or the benefit of the spouse or adoptive or natural lineal descendants of the transferor (and if such transfer is in trust, the trustee, upon termination of the trust, may transfer the interest to the beneficial owner). As a condition, however, of any Transfer of this type, You or the original equity owners in You, if You are an Entity, must retain not less than a 51% Equity Interest in You at all times. Transfers to family members for estate planning purposes as outlined in this Section 11(h) will not require the consent of CBDI nor will they require payment of a fee or trigger a right of first refusal, but You must notify CBDI of any Transfer at the time it occurs.

(i) You (if an individual) may assign and delegate this Agreement and your rights and obligations under this Agreement on one occasion to an Entity organized by You for that purpose only and at least 51% of all the issued and outstanding Equity Interests will be owned and voted continuously by You. You must give CBDI notice of the assignment and delegation, and after the assignment and delegation the transferee will have all of the rights and obligations of this Agreement, and the term "You" as used in this Agreement will refer to the transferee. The assignment will in no way affect your obligations under this Agreement, and You will remain fully bound by and responsible for the performance of all of the obligations, jointly and severally with the transferee. The transferee will at no time engage in any business or activities other than the exercise of the rights in this Agreement and the performance of your obligations under the Franchise as evidenced by this Agreement and other agreements You must sign to satisfy the requirements of this Agreement. All owners of Equity Interests

of the Entity must execute a Guaranty of Franchisee's Undertakings on substantially the terms and conditions noted in Attachment B as a condition of any Transfer under this Section 11(i).

(j) CBDI's consent to any Transfer will not constitute a waiver of any claims it may have against the transferring party, nor will it be deemed a waiver of CBDI's right to demand exact compliance with any of the terms of this Agreement by the transferee.

(k) If You are an Entity or if the Franchise is transferred to an Entity, You agree to cause each certificate or agreement evidencing an Equity Interest, whether already issued or issued after the Effective Date, to be imprinted with a conspicuous legend to the effect that Equity Interests in You are subject to the provisions of this Section 11.

(l) The terms and conditions of each Sublicense Agreement will govern regarding transfer and assignment of the Sublicense. A Transfer does not effect an assignment of your rights and obligations under a Sublicense unless otherwise provided in the Sublicense Agreement.

12. DEFAULT AND TERMINATION.

(a) CBDI may not terminate the Franchise before the expiration of the Term or applicable Renewal Term except for "**good cause**," which means the occurrence of any event of default described below. Upon the occurrence of any event of default, CBDI may, at its option, and without waiving its rights under this Agreement or any other rights available at law or in equity, including its rights to damages, terminate this Franchise, and all of your rights under the Franchise effective immediately upon the date CBDI gives notice of termination, or upon any other date as may be set forth in the notice of termination. Termination of the Franchise does not terminate your post-termination obligations under the Agreement. The occurrence of any one or more of the following events will constitute an event of default and grounds for termination of this Agreement by CBDI:

(i) If You fail to pay when due any financial obligation required pursuant to this Agreement within five days of the date on which CBDI gives notice of the delinquency, or if, on two or more occasions during any one Term or Renewal Term of the Franchise, an inspection or audit discloses that You have under reported your Gross Volume of Business during any month by 5% or more of the actual Gross Volume of Business during a month, whether or not You later rectify the deficiency;

(ii) if an inspection or audit determines that You made sales in another franchisee's Primary Marketing Area and (a) You fail to cure such default within 30 days of receipt of notice from CBDI of such default by paying to the franchisee whose territory was infringed the profits from the infringing sales plus interest thereon in accordance with the formula set out in the Confidential Manuals together with all other costs and expenses incurred by CBDI in connection with the discovery and notification to You of and remediation efforts in connection with such default, including without limitation attorneys' fees, travel, administrative expenses, cost of audits and inspections conducted, or (b) a second inspection or audit reveals the same default regardless of cure;

(iii) if You fail to begin operation of the Franchised Business as required by Section 6(b);

(iv) if You open a Kiosk or Satellite or offer for sale products using Sublicensed Material without complying with the terms and conditions of this Agreement and such noncompliance is not cured within 30 days of receipt of notice from CBDI demanding such compliance and the payment (in addition to any fees required in connection with the opening of such Kiosk or Satellite) of all fees and expenses of CBDI incurred in connection with CBDI's enforcement of such terms and conditions including, without limitation attorneys' fees, travel and administrative expenses and damages related to unauthorized use of the Intellectual Property or Sublicensed Materials;

(v) if You make, or have made, any materially false statement or report to CBDI including any materially false statement or report in this Agreement or in the application for this Agreement;

(vi) if You violate any transfer provision contained in Section 11;

(vii) if You receive from CBDI on three or more occasions, a notice to cure a default under this Agreement during the a) Term or b) any Renewal Term of the Franchise, whether or not the defaults are cured, and the defaults are not of the type explicitly made a grounds for termination under another provision of this Agreement, (however, this ground for termination of this Agreement will not create an obligation on the part of CBDI to give any additional notice of the default or opportunity to cure the default);

(viii) if You are convicted of a felony, a crime of moral turpitude, or any other crime or offense related to the operation of the Franchised Business. (For the purposes of this section, references to "You" and "your" include any guarantor of your obligations under this Agreement);

(ix) if You become insolvent or make a general assignment for the benefit of creditors, or if a petition in bankruptcy is filed by You or a petition is filed against and consented to by You or if a bill in equity or other proceeding for the appointment of a receiver or other custodian for your business or assets is filed and consented to by You or if a receiver or other custodian (permanent or temporary) of your assets or property, or any part of your assets or property is appointed. (For the purposes of this Section, references to "You" and "your" include any guarantor of your obligations under this Agreement);

(x) if You or your Manager fail to complete to CBDI's reasonable satisfaction the training required by Section 6(c)(ii);

(xi) if You fail for 15 days after notification of non-compliance by an appropriate authority to comply with any law or regulation applicable to the operation of the Franchised Business;

(xii) if You take any action that damages the goodwill of CBDI and fail for five days after notification to correct or cease any such action;

(xiii) if You violate any covenant of confidentiality or non-disclosure, non-competition, or non-use contained in Sections 7 and 10 or otherwise disclose, use, permit the use of, copy, duplicate, record, transmit or in any way reproduce or modify any Copyrighted Materials, Confidential Information, Sublicensed Material or other materials, goods or information created or used by CBDI and designated for confidential use within the Chain without CBDI's prior approval;

(xiv) if You fail to provide CBDI with any report, statement or return required pursuant to Sections 4 or 9 within 30 days of the date on which the report, statement or return is requested, or if earlier, within 10 days after the date on which any report, statement or return is due;

(xv) if You breach or fail to perform any agreement, covenant, obligation, term, condition, warranty or certification required by this Agreement, including without limit agreements with (a) an Association, (b) related to a Special Use Fund, or (c) a Sublicense, other than a failure or breach explicitly described in another clause of this Section 12 as an event of default or fail to operate the Franchised Business as specified by CBDI in this Agreement or in the Confidential Manuals and fail to cure the non-compliance or deficiency within 30 days after CBDI's notice of the default or failure;

(xvi) if You abandon or cease to operate all or any part of the Franchised Business conducted under the Franchise without first requesting and receiving CBDI's consent;

(xvii) if You default under any mortgage, deed of trust or lease with CBDI or any third party covering the Franchised Business or the Premises, and CBDI or the third party treats the act or omission as a default, and You fail to cure the default to the satisfaction of CBDI or the third party within any applicable cure period granted You by CBDI or the third party;

(xviii) if You or any guarantor(s) default in any other agreement with CBDI (excluding a Development Agreement and with respect to a Sublicense Agreement, subject to Section 12(c)), or any affiliate of CBDI, and, if a cure period applies, the default is not cured in accordance with the terms of the other agreement. For the purposes of this provision, the term "affiliate" will mean any person or Entity controlled by or controlling CBDI either through the power to directly or indirectly direct the management policies of such Entity through ownership of voting stock or security or by contract, or otherwise;

(xix) if any person required by Section 1(e) to execute a Guaranty of Franchisee's Undertakings fails to execute the Guaranty of Franchisee's Undertakings within 30 days of the execution of this Agreement;

(xx) if You violate the restrictive covenant set forth in Sections 5(c)-5(f), and fail to cease the violation within five days after CBDI's notice thereof, such failure will constitute good cause for termination of the Franchise, and will also constitute good cause for termination of any Sublicense relating to the same Licensor for any other COOKIES BY DESIGN® or COOKIE BOUQUET® franchise You hold; or

(xxi) if You purchase Select Products from sources other than those prescribed in Section 6(p), or sell or distribute Select Products or other products, with or without compensation, to unauthorized persons or sources in violation of Sections 6(d)(iv) or 7(f) of this Agreement without CBDI's prior consent.

(b) You may not terminate the Franchise or this Agreement before the expiration of the Term or applicable Renewal Term except through legal process resulting from CBDI's breach of this Agreement or otherwise with CBDI's consent. If You claim that CBDI has failed to meet any obligation under this Agreement, You will provide CBDI with notice of the claim, specifically enumerating all alleged deficiencies and providing CBDI with an opportunity to cure, the time period for which will be reasonable in light of the alleged deficiencies and which will not be less than 30 days from the date of receipt of the notice by CBDI from You. All of your covenants, agreements and obligations in this Agreement are independent covenants, and agreements and obligations, and are not conditioned upon CBDI's satisfaction of its obligations under this Agreement, except to the extent otherwise specifically provided in this Agreement. CBDI may elect not to renew or extend the term of a License. An election by CBDI not to renew or extend a License will not constitute a default by CBDI, notwithstanding that such election results in a termination of the applicable Sublicense with You.

(c) Notwithstanding any provision of Section 12(a) listing events of default, the applicable Sublicense Agreement will govern any events of default by You of a Sublicense. A termination or expiration of this Franchise will constitute a termination of all Sublicenses to which You are a party in connection with the Franchised Business as of the date of termination or expiration of the Franchise, except with respect to those provisions of the Agreement and any Sublicense that survive the termination or expiration of the Franchise or Sublicense. Expiration or termination of a License to CBDI of the rights licensed by a Sublicense to You will constitute a termination of that Sublicense, without notice and, except for termination arising from a default by CBDI as determined by a court of competent jurisdiction in a final decision, without liability to CBDI. Termination or expiration of a Sublicense will not

constitute an event of default of the Franchise, nor will either constitute a termination of the Franchise, except as otherwise provided in Section 12(a)(xx).

(d) A termination or expiration of this Franchise will constitute a termination of the Intranet Agreement and the Admin Site Agreement, if applicable.

13. FRANCHISEE POST EXPIRATION, TERMINATION OR NON-RENEWAL OBLIGATIONS/CBDI RIGHTS.

(a) Upon the expiration, termination or non-renewal of the Franchise:

(i) You will cease to be a franchisee of CBDI and immediately cease to operate the former Franchised Business under the System. After expiration, termination or non-renewal of the Franchise, You will not, directly or indirectly, represent to the public that the former Franchised Business is or was operated or in any way connected with the Chain or hold yourself out as a present or former franchisee of CBDI at the Premises or elsewhere;

(ii) You must pay all sums owing or to become owing to CBDI, any affiliate of CBDI, to a Special Use Fund or to an Association. Upon termination for any default by You, the sums will include actual and consequential damages, costs and expenses (including reasonable attorneys' fees) incurred by CBDI as a result of the default;

(iii) You must return to CBDI the original and all copies of the Confidential Manuals, the Intellectual Property, Sublicensed Material, Confidential Information and confidential information of a Licensor, including the equipment and other property owned by CBDI or used, developed or generated in connection with the operation of the Franchised Business, including specifically, without limitation, any data generated by computer software that contains Confidential Information and any products and equipment exclusive to the Chain as listed in the Confidential Manuals, any products or materials created based on or incorporating the Intellectual Property, as well as all items bearing the Licensed Marks and applicable trademarks included in the Sublicensed Material whether owned by CBDI or You. You must remove any proprietary or customized computer software specified by CBDI ("**CBDI Software**") from any computer hardware You retain, and at CBDI's request, You must provide evidence to CBDI that You have destroyed all back up and other copies of any part or all of any CBDI Software, and return to CBDI any documentation provided to You with respect to the use of any CBDI Software, and any other material or information which relate to or reveal any CBDI Software and its operation, including data generated by CBDI Software and materials derived from or copied from the CBDI Website. At CBDI's request, You will allow CBDI's employees or agents to remove the CBDI Software from your computer hardware, and to take any of the above actions relating to the CBDI Software. You will not retain a copy or record of any of the items listed above, however, You may retain your copy of this Agreement, any correspondence between the parties, and any other document which You reasonably need for compliance with any applicable provision of law;

(iv) You must stop using the telephone listing and number, domain name in connection with the operation of your former Franchised Business, and e-mail address that includes the Licensed Marks used by the Franchised Business; take any action required by CBDI to assign to CBDI the telephone numbers, directory listings, advertisements using the telephone numbers, any e-mail address using the Licensed Marks and Uniform Resource Locator for your approved website; cancel or disclaim any interest which You may have therein including, without limitation, all telephone numbers, white and yellow page telephone references and advertisements, and all trade and similar name registrations and business licenses; and authorize CBDI to accomplish these same purposes by exercising its rights under the Limited Power of Attorney attached to this Agreement as Attachment K;

(v) You must stop using in advertising or operation or any manner, any methods, procedures, formulae or techniques associated with the System in which CBDI has a proprietary right, title or interest; stop using the Confidential Information, the Intellectual Property, including the Licensed Marks, any trademarks included in the Sublicensed Material, and any other marks and indicia of operation associated with the Chain, and remove all Trade Dress, physical characteristics, color combinations and other indications of operation under the Chain from the Premises. If the Franchise is transferred (in any manner contemplated by Section 11), terminated, expires or is not renewed, You agree to immediately remove from the Premises and hold for CBDI's disposal any signage bearing the Licensed Marks and any Copyrighted Material, Intellectual Property or Sublicensed Material. If You fail to remove the signage within 15 days after termination, expiration or non-renewal of the Franchise, You agree that CBDI or a designated agent may enter upon the Premises at any time to remove and hold the signage and Copyrighted Material and Sublicensed Material for disposal at your sole risk and expense and without liability for trespass; and

(vi) You must sell to CBDI, at CBDI's option, all cookie cutters, plastic bossed containers, mailing pieces, brochures, products, appliances and other equipment and Select Products owned by You and formerly used in the Franchised Business, at a price equal to the cost of those items less an allowance for depreciation based on the length of life of the equipment and its length of use. You must return to CBDI any products and equipment exclusive to the Chain which are listed in the Confidential Manuals or the Supplier Information Manual, and CBDI will pay a price equal to the cost of those items less an allowance for depreciation based on the length of life of the equipment and its length of use. You agree that CBDI may set off any amounts due to You for such products and equipment against any amounts You owe to CBDI.

(b) In addition to, or in lieu of, CBDI's exercising its right to terminate under Section 12(a) and pursuing other remedies provided for hereunder, CBDI may take any of the following actions:

(i) notify each authorized supplier that You are no longer authorized to purchase any supplies or goods on the same terms and conditions afforded to System franchisees and that sales of any items bearing the Licensed Marks or incorporating Intellectual Property to You must therefore be discontinued until further notice from CBDI. CBDI's exercise of this right without immediately exercising its rights under Section 12(a) will not be deemed a waiver of exercising its rights under Section 12(a);

(ii) notify the registrars of domain names that You are no longer authorized to use the Licensed Marks in your domain name, and that You are required to transfer the domain name to CBDI, and promptly complete any forms necessary to transfer your domain name to CBDI;

(iii) discontinue any listing of or other reference to your Shoppe on the CBDI Website and delete any hyperlinks to a website that You control, and require You to delete any reference to CBDI and the Chain, any hyperlinks to the CBDI Website, and use of Intellectual Property from any website that You control;

(iv) recover all fees and trade obligations due CBDI, an Association or any Special Use Fund, with or without terminating the Franchise or the Agreement. If any such obligation is referred to an attorney for collection or is collected in whole or in part through a judicial proceeding, You agree to pay CBDI's reasonable attorneys' fees and costs of collection, plus a reasonable charge for the staff and administrative time CBDI expends to enforce its claims;

(v) take any equitable action contemplated by Section 18, with or without terminating the Franchise or this Agreement;

(vi) recover damages from You and any guarantor of this Agreement for the unauthorized use of any Intellectual Property, Sublicensed Material and/or Confidential Information or, confidential information of a Licensor or the unauthorized use, copying or distribution of any item of Confidential Information, or that of any Licensor, and for any loss of customer or future franchisee goodwill in the Primary Marketing Area; and

(vii) recover damages from You, notwithstanding that CBDI terminated the Franchise, for lost profits and any loss of customer or future franchisee goodwill in the Primary Marketing Area.

(c) In addition to the foregoing, CBDI will have the following rights in the event of your violative continued use of the Intellectual Property, Sublicensed Material or the Confidential Information or that of a Licensor, if You engage in the same or a similar business after expiration, termination, non-renewal or transfer of the Franchised Business:

(i) if after (1) the expiration or non-renewal of the Franchise in accordance with Section 2, (2) the termination of the Franchise by CBDI in accordance with Section 12, or (3) a Transfer contemplated by Section 11, You continue to use any of the Intellectual Property, the Sublicensed Material, or the Confidential Information or that of a Licensor in connection with the continued operation of the Franchised Business or otherwise, then, in addition to any other remedies available to CBDI at law or in equity, CBDI will be entitled to collect from You, and You agree to pay monthly, a fee for such uses equal to the Licensing Fee payable under this Agreement and fees under any applicable Sublicense;

(ii) if You unilaterally terminate the Franchise before the expiration of the Term or applicable Renewal Term, or if CBDI terminates the Franchise in accordance with Section 12 and, within 24 months after the date of termination, You or any Equity Interest holder directly or indirectly commence operation of the same or a similar business, then, in addition to any other remedies available to CBDI at law or in equity, CBDI will be entitled to receive throughout what would have been the entire remaining Term or Renewal Term, as applicable, and You agree to pay, a monthly fee equal to the Licensing Fee set forth in Section 4(c) multiplied by the competing operation's gross revenues for that month, plus an amount equal to the rate of the Advertising and Promotion Fee multiplied by the competing operation's gross revenue for month.

(iii) if You directly or indirectly open or participate or assist in the ownership or operation of a business in violation of the covenant not to compete expressed herein, then, in addition to any other remedies available to CBDI at law or in equity, CBDI will be entitled to receive throughout the term of the covenant, and You agree to pay, a monthly fee equal to the Licensing Fee set forth in Section 4(c) multiplied by the competing operation's gross revenues, plus an amount equal to the rate of the Advertising and Promotion Fee multiplied by the competing operation's gross revenue for month.

14. INSURANCE.

(a) You will, at your expense and no later than the date You open for business, obtain and maintain in full force and effect throughout the Term and any applicable Renewal Term of the Franchise the types of insurance enumerated in the Confidential Manuals in amounts as may now or in the future be required by CBDI and which will designate CBDI as an additional named insured, including the following:

(i) employer's liability and workers' compensation insurance as required by law;

(ii) comprehensive general liability insurance covering the operation of the Franchised Business, including Blanket Contractual Liability insurance, which insures contractual liability under the indemnification provisions found in this Agreement but the amount of coverage obtained will in no way limit your indemnification;

(iii) automobile liability insurance, providing coverage for owned, hired and non-owned automobiles used in the Franchised Business both by You, your employees and independent contractors (except independently owned and operated delivery services), with combined single limit coverage of not less than \$1,000,000 and naming CBDI as an additional insured;

(iv) business interruption insurance;

(v) keyman life insurance insuring your life (if You are an individual) or insuring the lives of all equity and voting owners of You (if You are an Entity); and

(vi) fire and extended casualty coverage insuring the Premises and its contents against fire, flood, tornadoes and other hazards designated in the Confidential Manuals.

(b) You will make timely delivery of certificates of all required insurance to CBDI, each of which will contain a statement by the insurer that the policy will not be canceled or materially altered without at least 30 days prior notice to CBDI.

(c) The obtaining and maintenance of required insurance will not relieve You of any liability to CBDI under any indemnity requirement of this Agreement.

15. TAXES, PERMITS, INDEBTEDNESS AND COMPLIANCE WITH LAWS.

(a) You will promptly pay when due all federal, state and local taxes including unemployment and sales taxes, levied or assessed against any services or products furnished, used or licensed in any way with this Agreement and all accounts or other indebtedness of every kind incurred by You in the operation of the Franchised Business.

(b) You will comply with all federal, state and local laws, rules and regulations and timely obtain all permits, certificates and licenses for the full and proper conduct of the Franchised Business, including specifically, without limitation, food labeling laws.

(c) You expressly agree to accept full and sole responsibility for all debts and obligations incurred in the operation of the Franchised Business.

16. INDEMNIFICATION AND INDEPENDENT CONTRACTOR.

(a) You agree to indemnify and hold the Indemnified Parties, jointly and severally, harmless from and to provide a defense against all claims, actions, proceedings, damages, costs, expenses and other losses and liabilities, consequently, directly or indirectly incurred (including attorneys' and accountants' fees) as a result of or in any way connected, whether by commission or omission, with the operation of the Franchised Business. **The Indemnities contained in this Section 16 will include claims, demands, liabilities, losses, damages, causes of action, judgments, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from the negligence or claims of negligence of any Indemnified Party and any strict liability, but not the gross negligence or willful misconduct of any Indemnified Party.**

(b) In all dealings with third parties including employees, suppliers and customers, You will disclose in an appropriate manner acceptable to CBDI that You are an independent entity licensed by CBDI. Nothing in this Agreement is intended by the parties to create a fiduciary relationship between them nor to appoint You as an agent, legal representative, subsidiary, joint venturer, partner, employee or servant of CBDI for any purpose. It is agreed that You are an independent contractor and are in no way authorized to make any contract, warranty or representation or to create any obligation on CBDI's behalf.

(c) You acknowledge that as a condition of the grant of a Sublicense, a Licensor may require You to directly indemnify that Licensor.

17. WRITTEN APPROVALS, WAIVERS AND AMENDMENT.

(a) Any and all notices, requests, amendments, approvals, policies, changes in specifications, consents and waivers required or permitted under this Agreement must be in writing. Whenever this Agreement requires CBDI's prior approval or consent, You will make a timely written request. Unless a different time period is specified in this Agreement, CBDI will respond within 15 business days of receipt of the written request.

(b) No failure of CBDI to exercise any power reserved to it by this Agreement and no custom or practice of the parties at variance with the terms of this Agreement will constitute a waiver of CBDI's right to demand exact compliance with any of the terms in this Agreement. A waiver or approval by CBDI of any particular default by You or acceptance by CBDI of any payments due under this Agreement will not be considered a waiver or approval by CBDI of any preceding or subsequent breach or default by You of any term, agreement or condition of this Agreement.

(c) CBDI makes no warranty or representation that all franchise licensing agreements previously issued or issued after this Agreement by CBDI do or will contain terms substantially similar to those contained in this Agreement. You agree that CBDI can, in its reasonable business judgment, due to local business conditions or otherwise, waive or modify comparable provisions of other CBDI franchise agreements previously executed or executed after the date of this Agreement with other Chain franchisees in a non-uniform manner.

(d) No amendment, change or variance from this Agreement will be binding upon either CBDI or You except by mutual written agreement; nor may any course of action by CBDI be deemed to have amended this Agreement. If you request an amendment of this Agreement to which CBDI agrees, You must pay any legal fees or costs associated with the preparation of the amendment.

18. ENFORCEMENT.

(a) To ensure compliance with this Agreement and to enable CBDI to carry out its obligations under this Agreement, You agree that CBDI and its designated agents will be permitted, with or without notice, full and complete access to (i) inspect the Premises, and, (ii) all records of the Franchised Business including records dealing with your customers (including customer lists), suppliers, employees and agents in any manner or form reasonably requested by CBDI, including polling, use of a computer disk and any other electronic or technological means as may now or hereafter be available, and including the delivery of originals or copies to CBDI's offices or any other location that CBDI designates. You will cooperate fully with CBDI and its designated agents requesting access. CBDI agrees to keep the records confidential, except as permitted with respect to a Licensor, and to use the records only for the benefit of CBDI.

(b) CBDI or its designee will be entitled to seek, without bond or other security, declarations, temporary and permanent injunctions and orders of specific performance to (i) enforce the provisions of this Agreement as to your use of the Intellectual Property, Sublicensed Material, the Confidential Information or that of a Licensor, your obligations upon termination, expiration or non-renewal of the Franchise (including specifically, all the requirements under Section 13 hereof), and any Transfer or (ii) prohibit any act or omission by You or your employees that constitutes a violation of any applicable law or regulation, is dishonest or misleading to prospective or current customers of businesses operated under the System, constitutes a danger to other Chain franchisees, employees, customers of the public, or may

impair the goodwill associated with the Licensed Marks, all of which actions on your part in (i) and (ii) You agree will result in irreparable harm to CBDI.

(c) If CBDI secures any declaration, injunction or order of specific performance pursuant to Section 18(b), if any provision of this Agreement is enforced at any time by CBDI or if any amounts due from You to CBDI are, at any time, collected by or through an attorney at law or collection agency, You agree to pay CBDI for all costs and expenses of enforcement and collection including court costs and reasonable attorneys' fees.

(d) If a default occurs under this Agreement related to the failure to pay money as required by the terms of this Agreement, CBDI may require, in addition to requiring the payment in full of delinquent sums and exercising any other rights and remedies available to it, that all future amounts owing under this Agreement, any Sublicense, an agreement with a Fund or with an Association be paid by automatic transfer of funds from your bank account to CBDI's account. If CBDI elects to require payment by automatic transfer of funds, you will execute an AFT Agreement in a form acceptable to your bank or CBDI's bank, provide a voided check for use in the implementation of the AFT Agreement and provide any other documentation that may be required to initiate and maintain the AFT Agreement. You agree to pay any costs and expenses incurred by CBDI and any charges assessed by the banks related to this automatic funds transfer arrangement, as well as any costs and expenses associated with any modification of the accounts involved, failure to provide required notices or failure to maintain sufficient account balances.

19. NOTICES.

Any notice required to be given under this Agreement will be in writing and will be either mailed by certified mail, return receipt requested, or delivered by a recognized courier service, receipt acknowledged. Notices to You will be addressed to You at the address listed in Section 1. Notices to CBDI will be addressed to it at the address listed in the introductory paragraph of this Agreement, Attention: President. Except as otherwise provided in this Agreement, any notice complying with the provisions of this Agreement will be deemed to be given upon the earliest to occur of actual receipt or the date of first attempted delivery. Each party will have the right to designate any other address for notices by giving notice of the change in the manner described above, and if that occurs all notices to be mailed after receipt of the notice of the change will be sent to the other address.

20. GOVERNING LAW.

(a) This Agreement is accepted by CBDI in the State of Texas. Unless preempted by applicable federal or state law, or as contemplated by Section 20(b)(iv), or as otherwise provided in Section 20(b)(iii)(6), this Agreement will be governed by and interpreted and enforced in accordance with the laws of the State of Texas, except that its conflicts of law rules will not apply.

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

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

(ii) If the parties cannot resolve and settle a Dispute by private negotiation within 60 days after one party gives the other notice that a Dispute exists, the parties mutually agree to submit the Dispute to non-binding mediation, as follows:

(1) Mediation will occur in Dallas, Texas, before a single mediator, using the facilities and mediation rules of the Mediation Organization. If the parties cannot agree on a Mediation Organization, they will use the facilities and mediation rules of the AAA.

(2) The parties will jointly select a mediator from the panel of mediators maintained by the Mediation Organization. The mediator must be a person experienced in franchising who has no prior business or professional relationship with either party. If the parties are unable to agree on a mediator within 30 days after the Dispute is submitted to mediation, the Mediation Organization will select a mediator who possesses the indicated qualifications.

(3) The parties will share the mediation filing fee equally but will otherwise separately bear their own costs and expenses (including legal fees) of participating in the mediation process. Each party agrees to send at least one representative to the mediation conference who has authority to enter into binding contracts on that party's behalf. Each party further agrees to sign a confidentiality agreement which prohibits the mediator from disclosing, orally or in writing, any information the other party discloses to the mediator in confidence at any stage of the mediation process.

(4) Either party's failure or refusal to participate in mediation in accordance with Section 20(b)(ii) will be considered a Dispute subject to binding arbitration in accordance with Section 20(b)(iii).

(iii) If the parties cannot fully resolve and settle a Dispute through mediation within 30 days after the mediation conference concludes, all unresolved issues involved in the Dispute will be submitted to binding arbitration, as follows:

(1) Either party may make a demand for arbitration.

(2) Unless otherwise required by applicable law, arbitration proceedings will be conducted in Dallas, Texas, before a single arbitrator, using the facilities and commercial arbitration rules of the Mediation Organization or the Arbitration Organization. If CDBI selects an Arbitration Organization other than the Mediation Organization and You reasonably object to CDBI's choice, the parties will use the AAA's facilities and commercial arbitration rules.

(3) The Arbitration Organization's expedited arbitration procedure will apply to the arbitration proceedings. To the greatest extent permitted by law, CDBI and You waive the application of all rules of discovery and evidence the Arbitration Organization's expedited procedure does not expressly make applicable.

(4) The parties will jointly select an arbitrator from the panel of arbitrators maintained by the Arbitration Organization. The arbitrator must be an attorney experienced in the practice of franchise law who has no prior business or professional relationship with either party and who agrees to follow and apply the express provisions of this Agreement in determining his or her award. If the parties are unable to agree on an arbitrator within 30 days after the arbitration demand is filed, the Arbitration Organization will select a arbitrator who possesses the indicated qualifications.

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

(6) The procedures contemplated by and the enforceability of this Section 20(b)(iii) will be governed by the Arbitration Act and will be interpreted and enforced in accordance with United States federal judicial interpretations of the Arbitration Act.

(iv) Notwithstanding Sections 20(b)(ii) and 20(b)(iii), CBDI will not be obligated to mediate or arbitrate any claim arising from your alleged infringement of the Licensed Marks, or disclosure of Confidential Information, or related to any action to foreclose on the security interest in the telephone number(s), directory listings and advertisements using the telephone number(s), or arising under Section 18(b). The parties agree that any action based on infringement of any of the Licensed Marks will be governed by and interpreted and enforced in accordance with the United States Trademark (Lanham) Act or the United States Copyright Act, as applicable, and will be litigated in any federal District Court sitting in Dallas County, Texas. The parties further agree to submit to the jurisdiction and venue of any such federal District Court and that service of process by certified mail, return receipt requested, will be sufficient to confer in personam jurisdiction over them in connection with any such trademark or copyright litigation. Further, You and CBDI agree that the provisions of this Section 20 will not be applicable to the exercise of rights and remedies under any other agreements and contracts executed by and between You and any third parties, CBDI or affiliates of CBDI, an Association or an administrator of a Special Use Fund in connection with or relating to the Franchised Business (including, without limitation any notes, guaranties, real, personal property or equipment leases, etc.) unless expressly provided in such agreements and contracts.

21. SEVERABILITY, CONSTRUCTION AND INCORPORATION BY REFERENCE.

(a) Should a court of competent jurisdiction for any reason declare any part of this Agreement invalid, the decision or determination will not affect the validity of any remaining portion, and the remaining portion will remain in full force as if this Agreement had been executed with the invalid portion eliminated. However, if a provision is declared invalid, the parties will observe and perform the affected provision to the extent the provision is valid and enforceable. The parties agree that any invalidated provision will be deemed to be altered and amended to the extent necessary to effect the validity and enforceability of the provision.

(b) This Agreement may be executed in any number of counterparts, each of which when executed and delivered will be deemed an original, but the counterparts together will constitute one instrument.

(c) The headings and captions contained in this Agreement are for the purposes of convenience and reference only and are not to be construed as a part of this Agreement. All terms and words used in this Agreement will be construed to include the number and gender as the context of this Agreement may require. The parties agree that each Section of this Agreement will be construed independently of any other Section or provision of this Agreement.

(d) All exhibits referred to in this Agreement are incorporated in and made a part of this Agreement by reference to them in this Agreement.

(e) All provisions of this Agreement are imposed solely and exclusively for the benefit of CBDI, its successors and assigns, and You. Unless expressly indicated otherwise, no other person, under any circumstances, will be deemed a third party beneficiary of any provision of this Agreement, including specifically, without limitation, the provisions of Section 9. You will have no recourse against CBDI on account of its failure to enforce any provision of this Agreement against any other Chain franchisee and any such failure to enforce will not, under any circumstances, be deemed a waiver of CBDI's rights with respect to You or any other Chain franchisee under the Agreement.