

16N THE SUPREME COURT OF PENNSYLVANIA

Docket No. 68 EAL 2025

CLARENCE DAVID CORYELL, and SANDRA CORYELL, H/W,
Plaintiffs-Appellees-Respondents,

v.

STEVEN MORRIS, JASON DAWSON, ROBIZZA, INC., AND DOMINO'S
PIZZA LLC,

Defendants-Appellants,

APPEAL OF DOMINO'S PIZZA LLC,

Defendant-Appellant-Petitioner.

**PROPOSED BRIEF OF *AMICI CURIAE* THE INTERNATIONAL
FRANCHISE ASSOCIATION AND THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA IN SUPPORT OF PETITIONER
DOMINO'S PIZZA LLC'S PETITION FOR ALLOWANCE OF APPEAL**

Domino's Petition for Allowance of Appeal is from the Superior Court's January 31, 2025 *En Banc* decision at 1977 EDA 2021, affirming a jury verdict entered by the Philadelphia Court of Common Pleas at Docket 180602732

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STATEMENT OF INTERESTS OF THE *AMICI CURIAE*

Founded in 1960, the International Franchise Association (“IFA”) is the oldest and largest trade association in the world devoted to representing the interests of franchising. The IFA’s membership includes franchisors, franchisees, and suppliers.

The IFA’s mission is to safeguard and enhance the business environment for franchising worldwide. In addition to serving as a resource for franchisors and franchisees, the IFA and its members advise public officials across the country about the laws that govern franchising. Through its public-policy programs, the IFA protects, enhances, and promotes franchising on behalf of more than 1,400 franchised brands in more than 300 different industries.

The Chamber of Commerce of the United States of America (the “Chamber”) is the world’s largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation’s business community.

Amici have a strong interest in this case because it implicates the viability of the franchise business model—and, potentially, the independent contractor business

model used by many other businesses whose interests the Chamber represents. If the mere implementation of standards that are commonplace in franchised businesses and many independent contractor relationships are deemed sufficient to impose vicarious liability, the economic viability of franchising and other businesses where such standards are necessary will be upended. These results would be greatly detrimental to business, the economy more generally, and the public.

Amici seek to provide this Court with relevant industry-specific context and practical perspectives regarding the ubiquity of and reasons for the “controls” which the Superior Court concluded supported the existence of an agency relationship here. The omnipresence of these factors throughout franchising, especially in the quick service restaurant segment, underscores the enormous risks the Superior Court’s opinion poses to franchising generally and may inform this Court’s decision on whether to grant review.

Pursuant to Rule of Appellate Procedure 531(b)(2), *amici curiae* state that no person or entity, other than the *amici*, their members, and their counsel, paid for or authored this brief, in whole or in part.

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I. SUGGESTED QUESTION

Should this Court review the *en banc* majority’s opinion because it presents issues of such substantial importance to franchising and to the public as a whole as to require prompt and definitive resolution by this Court?

Suggested Answer: Yes

II. REASONS FOR ALLOWANCE OF APPEAL

A. Franchising Has a Substantial Impact on the Economy in the Commonwealth and is a Significant Driver of Small Business Ownership.

Franchising has “existed in this country in one form or another for over 150 years.” *Patterson v. Domino’s Pizza, LLC*, 333 P.3d 723, 733 (Cal. 2014). More recently, it has “become a ubiquitous, lucrative, and thriving business model” (*id.* at 725) that is a part of everyday life for most consumers. *See* Joseph H. King, Jr., *Limiting the Vicarious Liability of Franchisors for the Torts of Their Franchisees*, 62 Wash. & Lee L. Rev. 417, 422 (2005) (observing that franchise operations are “omnipresent”). Indeed, most of the world’s best-known fast-food brands—including Dunkin’, McDonald’s, Burger King, and Subway—are franchisors.

The economic impact of the franchise business model cannot be overstated. As of 2024, there were over 830,000 franchised businesses in the United States which collectively accounted for about 8.8 million jobs and a total economic output in excess of \$896.9 billion. *2025 Franchising Economic Outlook*, Int’l Franchise Ass’n, at 2, available at <https://indd.adobe.com/view/41aaf895-c7f7-43ff-9004-9455305199f3>. The biggest impact of franchising, however, has been in the

opportunities it has created for those looking to go into business for themselves. As the Department of Commerce noted nearly 40 years ago:

Franchising represents the small entrepreneur's best chance to compete with giant companies that dominate the marketplace. Without franchising, thousands of businesspersons would never have had the opportunity of owning their own businesses and never have felt the immense satisfaction of being a part of the free enterprise system.

Andrew Kosteka, U.S. Dep't of Commerce, *Franchising in the Economy 1986-1988*, at 1 (1988).

This is certainly true in Pennsylvania. As of 2024, there were more than 28,300 franchised businesses in the Commonwealth. Collectively, these businesses employed over 301,000 people and produced an economic output of more than \$30 billion. *2025 Franchising Economic Outlook*, Int'l Franchise Ass'n, at 21. The quick service restaurant industry (*i.e.*, McDonald's, Domino's, etc.) is by far the largest contributor to these figures. *Id.* at 13-15.

1. The Different Forms of Franchising

Although franchising encompasses more than 300 different business lines, there are just two main forms of franchising: product franchising (*e.g.*, automobile dealerships, gasoline retailing, and soft-drink distribution) and business-format franchising (*e.g.*, quick service restaurants, convenience stores, and hotels). *Patterson*, 60 Cal. 4th at 488-490. In product franchising, the primary commodity exchanged between a franchisor and a franchisee is a tangible product (like gasoline)

that the franchisee resells to a consumer. In a business-format franchise relationship, in contrast, the primary commodity exchanged between a franchisor and a franchisee is a license that gives the franchisee the right to use the franchisor's brand and its associated intellectual property. In this regard, business format franchising differs from product franchising in an important way—the business-format franchisee is not distributing a product *for* the franchisor; rather, it is buying a service *from* the franchisor (*i.e.*, the know-how for running a retail business) and using that know-how to build its own business under the franchisor's brand. *See Patterson*, 60 Cal. 4th at 489.

2. To Protect the Public and Their Brands, and to Comply with Federal Law, Franchisors Must Exercise Certain Controls Over How Franchisees Operate Their Businesses

In a “business-format” franchise, like a fast-food restaurant, the franchisor provides not only the “product, service and trademark, but the entire business format itself—a marketing strategy and plan, operating manuals and standards, quality control, and continuing two-way communication.” LaFontaine and Blair, *The Evolution of Franchising and Franchise Contracts: Evidence from the United States*, 3 Entrepreneurial Bus. L.J. 381, 385 (2009); accord Robert W. Emerson, *Franchise Contract Clauses and the Franchisor's Duty of Care Toward Its Franchisees*, 72 N.C. L. Rev. 905, 920-21 (1994). Business-format franchising has value when this “business format,” which is typically referred to as the franchisor's “operating

system” or “marketing system,” is consistently replicated by the independent business owners who purchase the right to use the franchisor’s brand and system. *Patterson*, 333 P.3d at 733 (“The goal [in franchising]—which benefits both parties to the contract—is to build and keep customer trust by ensuring consistency and uniformity in the quality of goods and services, the dress of franchise employees, and the design of the stores themselves.”). That is because when a franchisor’s operating system is properly and consistently replicated, it creates brand equity. R. King, *Limiting the Vicarious Liability of Franchisors for the Torts of Their Franchisees*, 62 Wash. & Lee L. Rev. 417, 468 (2005) (“Franchising depends on the use of shared trademarks, the value of which is sustained by controlling the uniformity and quality of the products and services marketed under the trademark.”). This equity, in turn, draws customers based on their preference for the brand. *Queen City Pizza, Inc. v. Domino’s Pizza, Inc.*, 124 F.3d 430, 433 (3d Cir. 1997) (“The essence of a successful nationwide fast-food chain is product uniformity and consistency. Uniformity benefits franchisees because customers can purchase pizza from any Domino’s store and be certain the pizza will taste exactly like the Domino’s pizza with which they are familiar.”). When a franchisor’s operating system is not properly replicated, the entire brand suffers. This impacts every franchised location and the value of every franchisee’s investment. *See Ramada Franchise Sys., Inc. v. Jacobcart, Inc.*, No. 3:01-cv-0306D, 2001 WL 540213, at *3 (N.D. Tex. May 17,

2001) (“A bad experience at one location of what is supposed to be a relatively uniform chain may influence the customer to view the entire franchise poorly.”).

Franchisors attempt to make sure this does not happen by “impos[ing] comprehensive and meticulous standards for marketing [their] trademarked brand and operating [their] franchises in a uniform way.” *Salazar v. McDonald’s Corp.*, 944 F.3d 1024 (9th Cir. 2019) (internal quotations omitted). “Policing the use of the brand, through quality, marketing, and operational standards, is necessary to maintaining its value and continued primary function as a beacon to consumers indicating the source of particular goods or the quality of a particular store.” *Patel v. 7-Eleven, Inc.*, 494 Mass. 562, 569 (2024). In fact, the maintenance of these standards is so inherent in franchising that it is incorporated into the federal rule that defines what a “franchise” is. *See* 16 C.F.R. § 436.1(h)(2) (defining a “franchise” as a commercial relationship in which “[t]he franchisor will exert or has authority to exert *a significant degree of control over the franchisee’s method of operation*, or provide significant assistance in the franchisee’s method of operation . . .”) (emphasis added).

The requirement that franchisors maintain uniform standards is not, however, grounded solely in the need to protect the brand—it is also grounded in the need for consumer protection. “Franchisors, such as [Domino’s], license their trademarks and brand identities to franchisees, such as [Robizza].” *Depianti v. Jan–Pro Franchising*

Int'l, Inc., 465 Mass. 607, 615 (2013). Without the right to enforce standards, there is a “danger that products bearing the same trademark might be of diverse qualities.” *Dawn Donut Co. v. Hart's Food Stores, Inc.*, 267 F.2d 358, 367 (2d Cir. 1959). “[U]nless the licensor exercises supervision and control over the operations of its licensees the risk that the public will be unwittingly deceived will be increased” *Id.* For this reason, federal law requires a franchisor “to maintain control and supervision over a franchisee’s use of its mark, or else the franchisor will be deemed to have abandoned its mark under the abandonment provisions of the Lanham Act, 15 U.S.C. § 1064(5)(A) (2006).” *Depianti*, 466 Mass. at 215; *accord Doeblers’ Pennsylvania Hybrids, Inc. v. Doeblner*, 442 F.3d 812, 823 (3rd Cir. 2006) (courts have “long imposed upon trademark licensors a duty to oversee the quality of licensees’ products”).

B. The Courts Have Almost Uniformly Recognized That a Franchisor’s Maintenance of Standards Designed to Protect Its Brand and Trademarks Does Not Create Vicarious Liability

Because franchisors must exercise control over certain aspects of their franchisees’ operations, courts and commentators have long recognized that the “right to control” test for vicarious liability—which originated in the employment context—is “not easily transferable to the franchise relationship.” *Kerl v. Dennis Rasmussen, Inc.*, 682 N.W.2d 328 (Wis. 2004); *accord Depianti*, 465 Mass. at 615; *Patterson*, 60 Cal. 4th at 477; *see also Citadel, supra*, 24 Franchise L.J. at 164

(applying a traditional agency model for vicarious liability purposes does not work because franchising is “all about controls”). Courts have largely accommodated the realities of franchising by recognizing that “the mere fact that the franchisor has reserved the right to require or suggest uniform workplace standards intended to protect its brand, and the quality of customer service, at its franchised locations is not, standing alone, sufficient to impose “employer” or “principal” liability on the franchisor for statutory or common law violations by one of the franchisee’s employees” *Patterson*, 60 Cal. 4th at 498 n.21; *accord Cislav v. Southland Corp.*, 4 Cal. App. 4th 1284, 1295 (1992). Any other approach would not only “have the undesirable effect of penalizing franchisors for complying with Federal law” (*Depianti*, 465 Mass. at 615-16), but would turn franchising “on its head.” *See Control, supra*, 19 Franchise L.J. at 120.

The courts in Pennsylvania have recognized this same principle. *See, e.g., Smith v. Exxon Corp.*, 647 A.2d 577, 582-83 (Pa. Super. 1994) (a marketing plan and standards “implemented to maintain a uniform quality of service ... concerning the appearance of personnel and restrooms and the response to customer complaints do not amount to Exxon having control over the manner in which the work is accomplished”). For example, in *Myszkowski v. Penn Stroud Hotel, Inc.*, 634 A.2d 622 (Pa. Super. 1993), the plaintiff claimed that Best Western (the franchisor) was vicariously liable for injuries she sustained when she was assaulted at a Best Western

Inn that was owned and operated by an entity named Penn Stroud (the franchisee). According to the plaintiff, Best Western was liable because it “concerns itself with the total operation of Penn Stroud through the workshops and programs it conducts, the rules and regulations it imposes and its ability to sanction for noncompliance with its quality standards.” *Id.* at 625. The Superior Court disagreed. In the court’s view, neither the fact that Best Western had the right to terminate Penn Stroud’s membership agreement nor its imposition of standards supported the notion that Best Western was liable for acts committed by Penn Stroud. *Id.* at 626 n.4 & 627. “[T]he fact that Best Western sets certain standards in order to maintain a uniform quality of inn service only addresses the result of the work and not the manner in which it is conducted.” *Id.* at 626.

The Superior Court’s opinion in this case disregarded the principles on which *Myszkowski* and these other cases are premised. If not corrected, its approach could have significant ramifications on the viability of franchising in the Commonwealth.

C. The Superior Court Attempted to Distinguish but Instead Created a Conflict with *Myszkowski* and a Standard That Ignores the Way Franchising Works

Seeking to explain its departure from the approach taken by other courts, the Superior Court concluded this case was “not a franchisor-franchisee relationship like the one at issue in *Myszkowski*.” (January 31, 2025, Slip Op., pp. 39-46.) In the court’s view, the franchisee in *Myszkowski* was supposedly “free to operate the hotel as they

saw fit as long as it did not fall below minimum quality standards” (*id.*), while Domino’s Franchise Agreement and operating standards supposedly left Robizza “with practically no discretion to conduct the day-to-day operations of its franchise store.” (*id.* at 19.) Both statements ignore how franchising works.

First, the Superior Court’s assumption that the Best Western franchisee in *Myszkowski* was largely free to operate its hotel as it saw fit disregards the Rules and Regulations at issue in *Myszkowski*. And it certainly does not reflect how the Best Western system actually operates today. In fact, a comparison of the “mandates” the Superior Court relied on in this case and those set forth in Best Western’s Rules & Regulations demonstrates that Best Western franchisees must comply with the very same standards the Superior Court believed justified its departure from *Myszkowski*:

DOMINO’S ALLEGED CONTROLS	BEST WESTERN’S RULES & REGULATIONS¹
Domino’s specifies the terms of a store’s lease and site plan and allows it to	“If a [Best Western] Member fails to conform to the obligations or meet the

¹ These rules are attached to Best Western’s statutorily mandated Franchise Disclosure Document and are annexed hereto as Exhibit A. *See* 16 C.F.R. § 436.1 *et seq.* That document and the Franchise Agreements referenced below are included in the Addendum annexed to this Brief for the Court’s convenience. All of these documents are publicly available. *See, for example*, Wisconsin Department of Financial Institutions, Franchise Search, <https://www.wdfi.org/apps/franchiseSearch/MainSearch.aspx>. The Court can take judicial notice of publicly accessible reports available for download. *See, e.g.*, Pa.R.E. 201(b)(2) (permitting courts to take judicial notice of facts that may be “determined from sources whose accuracy cannot reasonably be questioned”); *see also Gurvich v. Board of Property Assessment Appeals and Review of Allegheny County*, No. 717 C.D. 2022, 2023 WL 4938779, at *5 n.14 (Pa. Cmwlth. Aug. 3, 2023) (“Courts may take judicial notice of information made publicly available by government entities, including on their websites.”). Further, Rule 201 “permits a court to take judicial notice at any stage of a proceeding, including the appellate stage” *Hill v. Dep’t of Corr.*, 64 A.3d 1159 (Pa. Cmwlth. 2023).

require that franchisees refurbish their stores.	standards set forth in the Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines ... the Board may cancel the Membership” (Best Western Rule [“Rule”] 1100.6.) Rule 500.20 requires that leases contain provisions permitting assessments and renovations. (Rule 500.20.)
Domino’s requires that employees have a professional appearance and wear certain types of uniforms.	“All guest contact personnel shall be neat, well-groomed and properly attired.” (Rule 500.32.)
Domino’s specifies a list of acceptable computer and server models.	“Best Western has provided or will provide access to computer software that is to be used by the Property to access Best Western supporting applications (“Software”).” (See Membership Agreement ¶ G.3, a copy of which is annexed hereto as Exhibit B.)
Domino’s obligates franchisee to maintain sales records and records regarding the amount and types of food sold.	“It is required that each Best Western affiliated Member permit assessment of all accommodations, facilities, and procedures by a Best Western accredited assessor to determine compliance with these Rules and Regulations” (Rule 500.15.)
Domino’s outlaws the promotion of free delivery.	Not applicable, although the Rules provide that “Additional charges shall not be made for reasonable requests for additional services, such as extra towels, soap, glasses, ironing boards, folding table and chairs, bedboards, blankets, etc.” (Rule 600.5.)
Domino’s imposes security features by requiring the use of an approved type of safe and limiting the amount of money that should be kept in the cash register.	“All guest room entrance doors shall be solid-core or metal” (Rule 700.26) and “equipped with a lock that is self-locking”, “a one-inch bored-in deadbolt lock, designated as Grade 2 type”, “a chain- or bar-type door guard” (Rule

	700.27), and “one-way door viewers with a minimum of 180-degree viewing.” (Rule 700.29.)
Domino’s precludes the use of delivery vehicles with excessive wear and tear.	“Exterior and interior of buildings shall be maintained in good condition and in a good state of repair at all times.” (Rule 700.1.)
Domino’s stores must be equipped with at least three telephones and digital clocks.	All guest rooms must have specific types and amounts of bedding (Rule 900.9), a lamp on each night stand, a games/parsons table, a credenza/mirror, and a desk (Rule 900.12), and flat panel televisions in different sizes depending on the type of guess room (Rule 900.17).
Domino’s bans the presence of gaming machines or literature unrelated to work.	“In order to foster, promote and continue Best Western’s image as a provider of high quality service to the traveling public, including families, it is declared to be in the best interest of all Members to uniformly prohibit the offer, sponsorship or provision of any entertainment which could be classified as adult, pornographic, lewd, sexually explicit or obscene.” (Rule 500.33)
Domino’s requires employees to deal with complaining customers by apologizing, giving them what they want, and giving them something extra.	“The telephone switchboard shall be answered as promptly as possible in a pleasant, courteous manner. All incoming calls shall be answered using the words “Best Western.” Callers should not be left holding dead lines, be asked to wait or otherwise be inconvenienced through inefficient service.” (Rule 600.7.)

Second, the Superior Court’s conclusion that the development of these standards impacted Robizza’s ability to control the day-to-day operations of its

franchise reflects, with respect, a misconception about how franchising works. As noted above, an individual that elects to purchase a quick service restaurant franchise does not do so simply to acquire a recipe for making pizzas or a license to use a particular trademark. *See* Killion, *Franchisor Vicarious Liability—The Proverbial Assault on the Citadel*, 24 Franchise L.J. 162, 165 (2005) (“Franchising is not just about the product tasting or looking the same from store to store.”). Rather, the franchisee “also acquires a business plan, which the franchisor has crafted for all of its stores.” *Patterson*, 60 Cal. 4th at 489. “This business plan requires the franchisee to follow a system of standards and procedures” (*id.*) which establish uniform specifications with regard to:

advertising and promotion; site selection; construction and design; furniture and fixtures; products and services; cash control; bookkeeping and reporting procedures; general operations; personnel; revenue reports; customer lists; accounting; display of signs and notices; authorized or required equipment, appliances, and appurtenances; required uses of trademark; insurance requirements; license requirements; standards for management and personnel; hours of operation; required uniforms; local advertising; required manner of offering or selling products or services; standards of maintenance and appearance; and training requirements.

Shelley & Morton, “*Control*” in *Franchising and the Common Law*, 19 Franchise L.J. 119, 121 (2000).

In attempting to distinguish this case from *Myszkowski*, the Superior Court seems to have been under the impression that Domino’s standards are out of the ordinary or somehow inconsistent with the way franchise systems typically operate.

But that is plainly incorrect.² The franchise agreements of the best-known and most well-respected franchise systems in the world contain the very same standards.

The Superior Court made much of the fact, for example, that the Franchise Agreement “set standards that Robizza was mandated to follow” and that “[t]hese standards could be changed by Domino’s at any time, without Robizza’s approval” (January 31, 2025, Slip Op., pp. 17-18.) But that is a feature of *every* franchise agreement. For example, McDonald’s franchise agreement provides that “The foundation of the McDonald’s System and the essence of this Franchise is the adherence by Franchisee to standards and policies of McDonald’s providing for the uniform operation of all McDonald’s restaurants within the McDonald’s System including, but not limited to, serving only designated food and beverage products; the use of only prescribed equipment and building layout and designs; strict adherence to designated food and beverage specifications and to McDonald’s prescribed standards of Quality, Service, and Cleanliness in the Restaurant

² The Superior Court made note of the fact, for example, that Domino’s operating standards addressed the permissible length of fingernails and facial hair, the size and amount of jewelry that should be worn, and how often a store should be cleaned. (January 31, 2025, Slip Op., p. 18.) However, such references constitute no more than a recitation of obligations that already appear in most States’ health-code requirements. *See, e.g.*, N.Y.C. Health Code Article 81.13 (imposing standards governing hair, clothing, hygiene, and jewelry); Wash. Agency Code §246-215-02325(1)-(2). Further, franchise agreements typically contain references to how employees should dress and present themselves. *See, e.g.*, McDonald’s Franchise Agreement at ¶ 12(h) (Franchisee shall “[c]ause all employees of Franchisee, while working in the Restaurant, to: (i) wear uniforms of such color, design, and other specifications as McDonald’s may designate from time to time; (ii) present a neat and clean appearance; and (iii) render competent and courteous service to Restaurant customers.”).

operation.” (See McDonald’s Franchise Agreement at ¶ 1(c); a copy of this agreement is annexed hereto as Exhibit C.) It also provides that “Franchisee agrees to promptly adopt and use exclusively the formulas, methods, and policies contained in the business manuals, now and as they may be modified from time to time.” (*Id.* at ¶ 4.) The franchise agreement for Dunkin’ likewise provides that Dunkin’ has “the right to periodically establish and modify “Standards” for various aspects of the System and the development and operation of Dunkin’ Restaurants that include the location, physical characteristics and quality of operating systems and other aspects of restaurants; the products sold and services provided; the qualifications of suppliers; the qualifications, organization and training of franchisees and their personnel; the timely marketing of products and our brand, including execution of marketing windows; and all other things that we periodically specify affecting the experience of consumers who patronize Dunkin’ Restaurants.” (See Dunkin’ Franchise Agreement at ¶ 1(c); a copy of this agreement is annexed hereto as Exhibit D.)³ It cannot be the law in Pennsylvania that all these franchisors are now the masters of their franchisees and liable for any acts they or their employees commit within the scope of their alleged agency.

³ The Franchise Agreements of Burger King, Taco Bell and Papa John’s contain substantively indistinguishable provisions. (See Burger King Franchise Agreement ¶ 5.H, a copy of which is annexed hereto as Exhibit E; Taco Bell Franchise Agreement § 3.1, a copy of which is annexed hereto as Exhibit F; Papa John’s Franchise Agreement ¶ 11(c), a copy of which is annexed hereto as Exhibit G.)

The other provision that the Superior Court found “critical[]” to its analysis—that Domino’s could terminate a franchise agreement if the franchisee failed to comply with standards—is similarly ubiquitous in franchising, and necessarily so: without such provisions, franchisors would have no power to enforce their standards and protect their brands, other franchisees’ investments, and the expectations of the consuming public.⁴ (*See, e.g.*, McDonald’s Franchise Agreement at ¶ 18 [Exhibit C]; Dunkin’ Franchise Agreement ¶ 14 [Exhibit D]; Burger King Franchise Agreement Art. 18 [Exhibit E]; Taco Bell Franchise Agreement § 15 [Exhibit F]; and Papa John’s Franchise Agreement ¶ 19 [Exhibit G].) That is why the overwhelming weight of authority recognizes that the power to terminate a franchise agreement is *not* enough to establish an agency relationship. *See, e.g., Myszkowski*, 430 Pa. Super. at 324 (the right to terminate “does not indicate that there is continuous subjection to the will of the alleged master so as to constitute a master-servant relationship”); *see also Wu v. Dunkin’ Donuts, Inc.*, 105 F. Supp. 2d 83, 88 (S.D.N.Y. 2000) (observing that “[m]ost courts have found that retaining a right to enforce standards or to terminate an agreement for failure to meet standards” does not create an agency relationship).

⁴ To be clear, in Domino’s franchise agreement, absent exceptional circumstances, the power to terminate exists only if a franchisee fails to cure its default after being afforded an opportunity to do so. (R.335a, ¶18.2.2.)

III. CONCLUSION

For the foregoing reasons, this Court should grant Domino's petition for allowance of appeal from the Superior Court's January 31, 2025 *En Banc* ruling.

Dated: March 3, 2025

Respectfully submitted,

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CERTIFICATES OF COMPLIANCE AND PROOF OF SERVICE

I hereby certify that the foregoing brief complies with the word limit of Pennsylvania Rule of Appellate Procedure 531(b)(3). Specifically, it contains 4450 words based on the word count of Microsoft Word 2010, the word processing system used to prepare the brief, exclusive of supplementary matter.

I further certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information.

I further certify that on March 3, 2025, I caused true and correct copies of the foregoing Application and Proposed Brief in Support of Appellant of *Amici Curiae* the International Franchise Associations and the Chamber of Commerce of the United States of America to be electronically served on all parties listed in this Court's docket through PacFile.

IN THE SUPREME COURT OF PENNSYLVANIA

Docket No. 68 EAL 2025

CLARENCE DAVID CORYELL, and SANDRA CORYELL, H/W,
Plaintiffs-Appellees-Respondents,

v.

STEVEN MORRIS, JASON DAWSON, ROBIZZA, INC., AND DOMINO'S
PIZZA LLC,

Defendants-Appellants,

APPEAL OF DOMINO'S PIZZA LLC,

Defendant-Appellant-Petitioner.

**APPLICATION OF *AMICI CURIAE* THE INTERNATIONAL FRANCHISE
ASSOCIATION AND THE CHAMBER OF COMMERCE OF THE UNITED
STATES OF AMERICA TO FILE THE ATTACHED BRIEF IN SUPPORT
OF PETITIONER DOMINO'S PIZZA LLC'S PETITION FOR
ALLOWANCE OF APPEAL**

Domino's Petition for Allowance of Appeal is from the Superior Court's January 31, 2025 *En Banc* decision at 1977 EDA 2021, affirming a jury verdict entered by the Philadelphia Court of Common Pleas at Docket 180602732

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The Chamber of Commerce of the United States*

Pursuant to Rule of Appellate Procedure 531(b)(iii), *amici curiae* the International Franchise Association (“IFA”) and the Chamber of Commerce of the United States of America (the “Chamber”) seek this Court’s leave to submit the attached brief in support of Defendant-Appellant Domino’s Pizza LLC’s (“Domino’s”) Petition for Allowance of Appeal. In support of their Application, the IFA and the Chamber state as follows:

1. Domino’s has filed a Petition for Allowance of Appeal from the Superior Court’s January 31, 2025 *en banc* opinion, affirming a jury verdict entered by the Philadelphia Court of Common Pleas at Docket No. 180602732.

2. Domino’s, a national franchisor, is seeking review of the Superior Court’s holding that it may be held vicariously liable for the acts of its franchisee, Robizza, Inc. (“Robizza”) and those of Robizza’s employees, based solely upon Domino’s establishment and enforcement of standards and specifications that are commonplace in business format franchise relationships, such as the one that exists between Domino’s and Robizza.

3. The IFA is the oldest and largest trade association in the world devoted to representing the interests of franchising. Through its public-policy programs, the IFA protects, enhances, and promotes franchising on behalf of more than 1,400 franchised brands in more than 300 different industries.

4. The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. The Chamber regularly seeks to file *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

5. The IFA and the Chamber have a significant interest in the questions raised in this matter because the Superior Court opinion that is the subject of Domino's Petition disregarded the principles that govern all franchise relationships. Its approach would transform most franchisors into the "masters" of their franchisees simply because those franchisors established and enforced standards they (i) are required to enforce under federal law, and (ii) need to apply to protect their brands, their franchisees' investments, and the expectations and safety of the public.

6. For over 30 years, the Pennsylvania courts have recognized that the creation and enforcement of standards designed to maintain consistency and uniform quality merely concerns the result of work, not the manner in which work is performed. Those standards, therefore, have not been deemed indicia of control in determining whether one entity is vicariously liable for the acts of another.

7. Because franchisors must impose comprehensive and meticulous standards for marketing their trademarked brands and operating their franchises in a

uniform way, Pennsylvania’s continued recognition of this principle is essential to the viability of franchising and the more than 30,000 independently owned and operated franchises in Pennsylvania (out of roughly 800,000 in the United States). That uniformity is the cornerstone of franchising. Without it, the franchised brand as a whole suffers, impacting every franchised location and the value of every franchisee’s investment.

8. The IFA and the Chamber seek to provide this Court with relevant industry-specific context and practical perspectives regarding the reasons for the “controls” the Superior Court discussed. They also seek to show this Court, by reference to the franchise agreements of some of the most famous franchised brands in the world, that virtually every franchisor implements and enforces similar standards.

9. The deadline for Domino’s to file its Petition for Allowance of Appeal is Monday, March 3, 2025 – thirty (30) days from the date of the Superior Court’s January 31, 2025 *en banc* Majority Decision, omitting Sunday, March 2, 2025. *See* Pa.R.A.P. 1113(a) (“Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.”); Pa.R.A.P. 107 (“In the construction of the Pennsylvania Rules of Appellate Procedure, the principles set forth in Pa.R.J.A. 104

to 115 shall be observed.”); Pa.R.J.A. 107 (regarding computation of time, “[w]henver the last day of any such period shall fall on Saturday or Sunday ... such day shall be omitted from the computation.”).

10. The IFA and the Chamber have submitted this application and proposed brief within the time for Domino’s to file its Petition for Allowance of Appeal.

For the foregoing reasons, the International Franchise Association and the Chamber of Commerce of the United States of America respectfully request this Court’s leave to submit the attached brief as *amicus curiae* in support of Domino’s Petition for Allowance of Appeal.

Dated: March 3, 2025

Respectfully submitted,

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Exhibit “A”



2024
Rules & Regulations

Best Western International, Inc.
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Chapter I

100.0 General Provisions

100.1 The rights and obligations of Members are contained in the laws of the State of Arizona and Best Western's Articles of Incorporation, Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, Membership Application and Agreement, annual Membership Certification Agreement, and the orders or directives of the Board of Directors (the "Board"). Such rights and obligations shall be governed by and subject to such modifications to and amendments of the foregoing as may be duly effected from time to time by the Arizona Legislature, the Membership of the Corporation or the Board as the case may be.

100.2 The Articles of Incorporation may be amended or repealed only by the Members in accordance with Section 10-1034, Arizona Revised Statutes.

100.3 The Bylaws may be adopted, amended or repealed only by the Members in accordance with Article VIII of the Bylaws.

100.4 The Rules and Regulations, New Construction Guidelines and Renovation & Refurbishing Guidelines may be adopted, amended or repealed, and the orders or directives of the Board may be adopted, amended, repealed or rescinded only by the Board in accordance with the Bylaws.

100.5 The Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, and orders or directives of the Board may supplement the laws of the State of Arizona, the Articles of Incorporation and the Bylaws, which are the primary repository of the rights and obligations of the Members. Any inconsistency between the provisions of the Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, and orders or directives of the Board and the provisions of the laws of the State of Arizona, the Articles of Incorporation or the Bylaws is controlled by the laws, Articles or Bylaws, in that order.

100.6 The secretary of the Corporation shall maintain in current form the Articles of Incorporation, the Bylaws, the Rules and Regulations, the New Construction Guidelines, the Renovation & Refurbishing Guidelines, and orders or directives of the Board. These shall be made available for inspection by any Member at the principal office of the Corporation during business hours.

100.7 Current Articles of Incorporation, Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, and any order or directive of the Board shall be made available for inspection by any Member at all regular and special meetings of the Members.

100.8 Each Member shall be given a copy of the then current Articles of Incorporation, Bylaws, Rules and Regulations, New Construction Guidelines and Renovation & Refurbishing Guidelines at or before the time the Membership commences. Thereafter, any modifications, revisions and amendments to any of the foregoing will be made available to Members as soon after adoption as is reasonably practicable.

100.9 Terms used in these Rules and Regulations that are defined in the Bylaws shall have the same definitions here, unless the context indicates otherwise.

100.10 Except as otherwise required by law, the Articles of Incorporation or the Bylaws, the provisions of this chapter are directive, not mandatory. Non-compliance with any provision in this chapter shall not confer any right upon, waive any obligation of, or entitle to any relief, any Member without a showing that the Member would otherwise be substantially prejudiced.

100.11 Except as provided otherwise in the Bylaws and Rules and Regulations, Membership in Best Western International, Inc. ("Best Western") is personal and nontransferable. Only a natural person can hold a Membership. The approval or disapproval of an application for Membership rests wholly within the discretion of the Board.

Chapter II

200.0 Regional Governors

200.1 A. Each Director shall annually appoint regional Governors to act as liaisons between the Board and the Membership within the geographic regions covered by the respective appointments. These appointments shall be ratified by the full Board.

B. The number, responsibilities and accountabilities of the regional Governors shall be determined at the time of appointment and may be altered or rescinded by the Board.

C. The appointment of a regional Governor may be rescinded and vacancies may be filled by the Director at any time and ratified by the full Board.

D. The Board may waive any of the criteria of rules 200.2 and 200.3 when there are extenuating circumstances.

200.2 In order for an individual to be appointed as a Best Western Governor, the individual shall:

A. Be a Voting Member or owner;

B. Have a minimum of three years hotel/motel industry experience;

C. Have a minimum of two years Best Western experience;

D. Be a participating member in industry related associations available in his/her area;

E. Have attended his/her respective Best Western District Meeting or the Annual Convention each year for the past two years;

F. Comply with the following items at all Best Western Properties where the Governor is a Voting Member or owner:

1. Attainment of a Quality Assurance score at or above the previous year's North American average, averaged over the past three most recent assessments.
2. Have a customer service complaint ratio below the previous year's North American average.
3. Have a current Best Western account.
4. Be current on Design standards.

G. A CHA designation is highly recommended.

200.3

After appointment as a Best Western Governor, the Governor shall meet the following criteria:

A. Continue to be a Voting Member or owner;

B. Continue to be a participating member in industry related associations available in his/her area;

C. Communicate with each Member within their respective region no less than one time annually:

1. Review management of the Property for the purpose of advising and recommending areas needing improvement.
2. Review with management any issues of concern. The goal should be to enhance consistency among Properties in the application of quality control, customer services, design and brand identity policies.
3. Serve as a resource to the Member on Best Western matters.
4. File a report on the consultation with the District Manager within 30 days. Discuss serious concerns with the District Manager as soon as possible.

D. Upon request by his/her Director, assist with issues affecting the Association or represented region:

1. Communicate with his/her Director on any issues concerning Members in the District.
2. Communicate any violations of Membership requirements to the staff or Director occurring within the district.
3. Communicate any concerns Members have about Best Western as it may relate to governance issues, Bylaws changes or Rules and Regulations.

E. Attend and actively participate in the following meetings:

1. Attend the Governors' Conference each year and, if a newly appointed Governor, attend the new Governor Orientation session at the Governors' Conference.
2. Attend either his/her respective District Meeting or the Annual Convention

each year. Attendance at both meetings is strongly encouraged.

3. Attend, when possible, a Best Western training workshop annually.

F. Upon request by his/her Director or the Board, serve in a leadership role for the organization:

1. Provide advisory assistance to the Board on strategy, governance and Member matters.
2. Serve on one Member Advisory Committee upon request.
3. Assume other leadership assignments when called upon by the Director.

G. Upon request from Membership Development or the Director, visit a proposed Applicant's Property or site, if new construction.

1. File a written report with Membership Development upon completion of the visit within the required time frame as outlined by the Development Department.
2. Objectively evaluate the proposed Member, keeping in mind the value of the proposed Member Property to the Association.

H. Comply with the following items at all Best Western Properties where the Governor is a Voting Member or owner:

1. Maintain a Quality Assurance score at or above the previous year's North American average, averaged over the past three most recent assessments.
2. Maintain a customer service complaint ratio below the previous year's North American average.
3. Maintain a current Best Western account.
4. Continuously operate their Property/ Properties in a manner to ensure that grounds for cancellation of Membership/ contingent approval do not exist.

I. Follow Best Western's ethics policies.

200.4

Regional Governors shall serve without pay but may receive reimbursement for expenses as determined by the Board:

A. Mileage reimbursement is in accordance with Best Western policy. One night's lodging will be reimbursed if travel exceeds 200 miles one way. Airfare and rental car reimbursement authorized with advance Director approval.

B. One complimentary registration for the Governor to attend his/her regional District Meeting.

C. Governors will be reimbursed for travel expenses to attend the Governors' Conference including airfare, lodging and meals. Rental cars are not included.

D. Travel to District Meetings and Annual Convention is at Governor's own expense.

E. All reimbursable expenses incurred during the course of the year are to be submitted to the Finance Department within sixty (60) days of the date of the expense. All reimbursable expenses must be submitted no later than forty-five (45) days following the end of the fiscal year in which incurred. Expenses not turned in within these time frames will not be reimbursed.

F. Governors may request payment of a \$250 fee for visiting an Applicant's Property or new construction site to evaluate the application when Best Western requests the visit. Best Western will establish conditions for payment, such as physically visiting the location, and completing and submitting reports by the time required by Best Western. The Board may revise the conditions for payment and/or fee from time to time, in its sole discretion. This is the only fee or pay authorized under this Rule 200.4.

Chapter III

300.0 Signs and Advertising

- 300.1** The appropriate Best Western logo shall be incorporated into all branded signs, including outdoor billboards, as detailed in the Brand Identity Manual as approved by the Board. A budget, dated, cluttered, or disjointed sign is not permitted as may be determined by Best Western Brand Identity Administration. The Member or Applicant shall have the right to appeal to the Board regarding compliance with this Rule. The decision of the Board shall be final.
- 300.2** Each Member shall display on the Property a Best Western-approved primary sign as detailed in the Brand Identity Manual.
- 300.3** Placement, size, and type of all branded signs shall be approved by Best Western Brand Identity Administration. All Property branded signs shall comply with the current Rules and Regulations and the Brand Identity Manual.
- 300.4** Best Western branded signs may only be obtained from a Best Western-endorsed vendor.
- 300.5** The Member shall be responsible for the cost of installation of any and all Best Western signs and shall be responsible for maintaining such signs in first-class condition.
- 300.6** Upon termination or cancellation of Membership, the former Best Western Member shall remove all Best Western branded signs, names, and marks, and any part thereof, or any display of a Best Western mark, logo, or emblem. The cost of removal of Best Western identification upon termination or cancellation of Membership shall be the responsibility of the former Member. If Best Western must take action to require or complete the removal, destruction, or alteration of Best Western branded signs, names, marks, or any other Best Western identification, the former Member shall be responsible for costs and

fees, including attorneys' fees, incurred by Best Western.

- 300.7** All logos not conforming to Best Western standards shall be removed or replaced to meet Best Western requirements at the Member's expense.
- 300.8** In cases where zoning prohibits display of an approved sign which meets Best Western's minimum requirements, Members shall submit zoning ordinances, plus graphics and dimensions to Best Western Brand Identity Administration for review. The Member or Applicant must request a variance in writing from the local city board and, if denied, appeal to the next level of government. If local ordinances prevail, the Member or Applicant shall be required to comply with Best Western's minimum requirements in the following manner.
- A. All allowed branded signs shall be installed in the most advantageous combination of permitted locations and sizes within the primary Property entry area, including entry drive, canopy, porte cochere, and lobby main entrance.
- B. When the canopy or the porte cochere are the only permitted locations to display the Property name, then the Best Western logo shall be displayed as outlined in the Brand Identity Manual.
- C. The Member or Applicant shall have the right to appeal to the Board regarding compliance with this rule. The decision of the Board shall be final.
- 300.9** Each Member shall use either the appropriate hotel descriptor text or logo immediately preceding the individual Property name in directories and travel guides, brochures, postcards, hotel letters, envelopes, business cards, Yellow Pages, courtesy cars/vans, and in all media as outlined in the Brand Identity Manual or policies and directives of the Board. If the Member elects to use the appropriate descriptor text rather than the logo immediately preceding the Property name to meet this requirement, the appropriate descriptor logo shall be placed elsewhere in advertisement or display.
- 300.10** All Best Western branded signs, names, and marks shall be reproduced in their true proportions and entirety and, when reproduced in color, in the approved colors, in accordance with the Brand Identity Manual.
- 300.11** No Member shall permit the use or display of any merchandise or advertising bearing the Best Western logo in any non-member lodging facility.
- 300.12** No Member shall permit the use or display of any merchandise or advertising of a non-member facility at, or in connection with, the advertising of a Member Property except as provided in the Brand Identity Manual, as may be changed from time to time by the Board.

- 300.13** All branded signs including outdoor billboards, shall conform to quality standards, design specifications, and approved art in accordance with the Brand Identity Manual.
- 300.14** All branded signs, including supporting structures and bases, shall be well-maintained, properly lighted, and in a good state of repair and operation at all times. All branded signs are subject to assessment during Quality Assurance assessments.
- 300.15** A Property may post rates on outdoor billboards and signs. However, all rate posting shall meet the following minimum standards: (a) All rooms of the advertised room type shall be offered at the advertised price; (b) all rate posting shall conspicuously indicate the type of room offered and shall indicate the number of persons accommodated at the advertised price if the posted rate is based on a number of occupants; and (c) the posted rate shall be available at all times during which the rate is being posted unless the rate posting conspicuously indicates all restrictions placed on the availability of the posted rate. Any rate posting shall conform to the Best Western rate sign posting graphic standards. All rate posting shall represent a bona fide offer to sell the advertised rooms at the advertised price.
- 300.16** All signs and identification of any other motel/ hotel chain shall be removed before installing the Best Western sign and beginning operation as a Best Western Property.
- 300.17** The Member is cautioned that it is the Member's responsibility to ensure that all branded signs comply with prevailing laws and ordinances. Compliance with the standards and criteria of Best Western does not assure compliance with state and local laws and ordinances.
- 300.18** To the extent of any inconsistency between the provisions of Chapter III of these Rules and Regulations and any manuals, brochures, guidelines, drawings, or specifications adopted pursuant to Chapter III, the provisions of these Rules and Regulations shall apply.
- 300.19** Each Member shall display in plain view at the front desk an ownership plaque in accordance with the Brand Identity Manual.
- 400.4** No Member shall permit the referral of Best Western guests to non-member properties unless all available Best Western rooms in a given area are filled.
- 400.5** Future reservations shall be solicited of each guest at the time of check-in and check-out. This shall be done consistently as a part of the registration and check-out procedure.
- 400.6** Front desk personnel of all Properties are required to be proficient in sending and receiving reservations.
- 400.7** Standards for arrival times that require guarantees and guaranteed policies will be set periodically by Best Western. Each Member shall, when required by Best Western, select from these standards the desired guarantee policy for the Property. Members shall comply with the selected policy for the entire period for which the selection is made.
- 400.8** Each Member shall honor room reservations made with either an advance deposit or credit card guarantee or a 4pm/6pm hold if accepted by the Property, at the rate confirmed at the time of booking. If for any reason a room is not available, the Member shall arrange for comparable accommodations in the area, if possible at a nearby Best Western; if not, at a comparable hotel or motel. The room shall be provided at no charge to the guest for the first night's stay. Transportation and a telephone call to notify the guest's home or office of the change shall also be provided without charge.
- 400.9** Room rental rates for each Best Western and group rates, if applicable, are established by the Member based on such considerations as investment, location, competition, season and any other matters deemed pertinent by the Member in its sole discretion. Each Member shall furnish accurate and current room rate information and current group rate information, if applicable, for publication and use in the reservations system. Serious, repeated or unexplained failures to provide accurate and current room rate information may be deemed to constitute continued violations, deficiencies or infractions of applicable Rules and Regulations and may result in cancellation of Membership in accordance with paragraph 1100.6 and the procedure set forth in Chapter XII of these Rules and Regulations.

Chapter IV

400.0 Reservations System

- 400.1** Each Member shall participate in and comply with such reservations system as may be approved and adopted by the Board, including any and all alterations, amendments, deletions or supplements thereto.
- 400.2** Each Member shall execute such documents and agreements as Best Western deems necessary to effectuate Member participation in and compliance with such reservations system.
- 400.3** Intentionally omitted.
- 400.10** Each Member shall furnish accurate and current information in a timely manner for publication and use in the reservations system.
- 400.11** Intentionally omitted.
- 400.12** Intentionally omitted.
- 400.13** Intentionally omitted.
- 400.14** Children 12 years old or under stay free when accompanied by a parent or grandparent in the same room.

Chapter V

500.0 Administrative

- 500.1 All fees, dues and assessments payable by Members to the Corporation shall be established by the Board.
- 500.2 All Members shall pay such fees, dues and assessments as may be established by the Board.
- 500.3 All Members shall pay a monthly fee established by the Board.
- 500.4 All monthly charges are due and payable on or before the 15th of each month. An additional charge shall be assessed for late payment.
- 500.5 Annual Dues shall be non-refundable on **December 1**.
- 500.6 A. Applications for Membership shall be made on application forms as prescribed by the Board and accompanied by payment in full of the appropriate fee as established by the Board. Applicants shall be elected to Membership in the Association by favorable vote of a majority of the Board. Voting on Membership Applications may be by mail or at any special or regular meeting of the Board.
- B. The Board may in its sole discretion consider Membership Applications for lodging facilities which are proposed for construction or under construction. The Board may approve such applications subject to one or more contingencies or conditions imposed by the Board in its sole discretion and, in the case of facilities proposed for construction, may allow the applicant 12 months in which to begin construction (poured concrete footings on approved site). If such conditional or contingent approval is given, the applicant shall not be entitled to Membership until the Board has received proof, satisfactory to it, that all such conditions or contingencies have been timely satisfied. The Board may permit Applicants who have received contingent approval for properties under construction to have a listing in the reservations system under certain conditions. Applications given contingent or conditional approval as provided in this paragraph (B) shall not be transferable to any other location.
- C. The Board may act upon Membership Applications by or on behalf of prospective purchasers or transferees of lodging facilities for which current Memberships are held by approving such applications subject to one or more contingencies or conditions imposed by the Board in its sole discretion. If such contingent approval is given, the Applicant shall not be entitled to Membership until the Board has received proof, satisfactory to it, that all such conditions or contingencies have been timely satisfied. Such final approval, if granted, shall be effective from the date of close of sale or transfer. The Board may direct that customary membership services to the Property remain uninterrupted during any contingency period, upon the applicant's

agreement to timely comply with the stated conditions and pay the established fees, dues and assessments for said period and the cost of all goods or services provided by or ordered through Best Western whether or not the application is ultimately approved. However, in no event shall this continuation of customary membership services be construed as granting Membership status to the Applicant.

D. The Board may act upon other Membership Applications by approving such applications subject to one or more contingencies or conditions imposed by the Board in its sole discretion. If such contingent approval is given, the Applicant shall not be entitled to Membership until the Board has received proof, satisfactory to it, that all such conditions or contingencies have been timely satisfied. Such final approval, if granted, shall be effective from the date the final approval is granted. The Board may direct that customary membership services to the Property may commence during any contingency period, upon the Applicant's agreement to timely comply with the stated conditions and pay the established fees, dues and assessments for said period and the cost of all goods or services provided by or ordered through Best Western whether or not the application is ultimately approved. However, in no event shall this commencement of customary membership services be construed as granting Membership status to the Applicant.

500.7 A. All Applicants for new Membership, including those made by or on behalf of prospective purchasers or transferees of lodging facilities for which current Memberships are held, shall remit a non-refundable evaluation fee with their applications. The amount of the evaluation fee shall be established by the Board from time to time to defray, in whole or in part, the administrative costs, including assessment costs, of evaluating such new Membership Applications.

B. All Applicants shall also remit an affiliation fee with their applications in an amount established from time to time by the Board. The affiliation fee shall be non-refundable 30 days after either approval by the Board of the application or upon conditional approval by the Board of the application and the Applicant's agreement to satisfy the stated conditions in timely manner. If (i) an application is initially denied by the Board or, (ii) in the case of an application for lodging facilities which are proposed for construction, the Applicant withdraws the application within six months of the initial Board action on the application and prior to the start of construction, then in either such event, the affiliation fee, less any amounts owing Best Western by virtue of agreements made pursuant to paragraphs 500.6 (C) and (D) of the Rules and Regulations, shall be refunded to the Applicant. The refund shall be paid only after (i) return is made to

- Best Western or its designated agents of any and all Best Western Property in possession of the Applicant, including the Best Western sign and reservations equipment, if any; and (ii) discontinuance by the Applicant of any use or display of any Best Western marks, service marks, membership marks, trademarks, trade names and business symbols, including without limitation, the Best Western emblem and logo.
- 500.8** A. An Applicant granted conditional approval for a Property proposed for construction may apply for extensions of time related to the conditional approval so long as construction has not yet commenced. Extensions may be granted by Best Western in six (6) month increments. The total amount of time that may be allowed to begin construction shall be three (3) years from the date of conditional approval. Each such Applicant seeking an extension shall submit:
1. Any such request at least thirty (30) days prior to the then-expiring period allowed for commencement of construction;
 2. A progress report describing, at a minimum, the current status of financing, architectural plans, specifications, satisfaction of zoning requirements, and plans for commencement of construction; and
 3. Payment of a non-waivable extension fee, with the extension fee determined by the Board from time to time. The extension fee shall be nonrefundable as of the date that the extension period begins.
- B. In the event that a request for extension is not timely submitted, an extension shall not be granted and the applicant may not re-apply for Membership at the same location for ninety (90) days following the end of the extension period. Any such re-application following the expiration of an extension shall be accompanied by all fees required under Rule 500.6.
- 500.9** All Members are required to use the name "Best Western" as part of the name of their Property either as the sole name or in combination with another name. All advertising of a Member Property bearing Best Western as its sole name, however, shall include the statement "individually owned." Legal entities such as corporations, partnerships, firms or associations that own, lease or operate properties are not permitted to use the name "Best Western" as any part of their legal name.
- 500.10** All Members shall accept all approved credit cards for payment of room rent and services.
- 500.11** A Member or designated operating manager or active management employee of each Best Western Property shall attend either the Annual Convention or a District Meeting each year.
- 500.12** All new Members are required to send a representative of their hotel, motel or resort to an Orientation Seminar before they are permitted to operate their facility as a Best Western Property. This representative shall be an on-site employee of the Property, serving in some operational or management capacity. In addition, all Members shall participate in the "Tools for Success" program at their own expense.
- 500.13** All Members shall accept reservations from bona fide travel agents on a year-round, space-available basis and pay at least the standard 10 percent commission on the gross room rental, except for bookings on special package programs made at net rates as specified by Best Western.
- 500.14** Each Member and each contingently approved Applicant shall keep in full force, at all times, a policy (or policies) of insurance which:
- A. Is a public liability and property damage policy. Coverage shall be on a commercial general liability form including the broad form endorsement or its equivalent. Coverage shall include premises and operations, owners and contractors protective, products and completed operations, personal injury and contractual liability.
 - B. Is a policy covering liability for owned automobiles, non-owned automobiles and hired automobiles.
 - C. Is a policy for cyber liability.
 - D. Is issued by an insurance carrier which is rated no lower than "B+" in the most current edition of A.M. Best's Key Rating Guide and is licensed to do business in the state in which the Member is domiciled. Any other insurance carriers, risk prevention groups, captive insurance companies or liability insuring entities must be approved by the Best Western Board before submitting the Certificate of Insurance to Best Western. Approval shall be at the Board of Directors' sole discretion.
 - E. Names Best Western International, Inc. as an additional insured, on all insurance policies including, but not limited to, primary, excess and umbrella policies, providing coverage to Best Western for its active and passive negligence for claims arising from acts occurring at or concerning the subject property by use of ISO Form CG20-26-11-85 or its equivalent. Members not providing insurance as set forth in this paragraph (D) agree to indemnify Best Western for all claims and damages which would have been covered by insurance meeting the requirement of paragraph (D) of this rule.
 - F. Provides minimum liability limits in such amounts as may be established from time to time by Best Western's Board.
 - G. Provides liability coverage on an "occurrence" basis. The Best Western Board may authorize an exemption from

this provision, and permit liability coverage on a “claims made” basis, where the Member demonstrates an inability to obtain “occurrence” coverage. In the event that “claims made” coverage is authorized, the Member shall obtain tail coverage, with liability limits as though an “occurrence” policy had been in force, providing retroactive coverage to the date of the Member’s last “occurrence” policy or the first date of contingent approval for Membership, whichever is later.

H. If at any time a Member changes from a “claims made” to an “occurrence” form of liability insurance, one of the following coverages shall be obtained:

1. An open-ended reporting period for losses occurring during the time of coverage under “claims made” policy, or the first date of contingent approval for Membership, whichever is later.
2. Prior acts coverage back to the Member’s first date of “claims made” coverage or the first date of contingent approval for Membership, whichever is later.

I. The Member’s insurance shall be primary in all cases. Any other insurance maintained by Best Western is for the protection of Best Western only and is not supplementary or excess insurance for the Member.

J. Provides that the insurance companies issuing such insurance shall notify Best Western in writing at least thirty (30) days prior to any cancellation, alteration or non-renewal of the policy. Each Member and each contingently approved Applicant shall annually provide Best Western with a Certificate of Insurance, on forms provided by Best Western, evidencing a policy or policies meeting the above requirements. The Certificate of Insurance shall be provided with the contingent Applicant certification agreement or prior to or upon expiration of the current Certificate of Insurance on file with Best Western. Failure to provide the Certificate of Insurance shall result in automatic termination in accordance with the provisions of Article II, Section 7 of the Bylaws. As a condition of contingent approval, each Applicant, upon notification by Best Western that Best Western intends to contingently approve the Application, shall provide Best Western with a Certificate of Insurance, on forms provided by Best Western, evidencing a policy or policies meeting the above requirements. This requirement shall be met prior to activation of services, installation or display of any Best Western signs, or advertising or disclosure of any Best Western association. Failure to maintain the insurance coverage required by this rule shall be grounds for termination of Membership in accordance with the provisions of Article II, Section 8 of the Bylaws, immediate suspension of services and termination of contingent approval as may

be prescribed in the Rules and Regulations of Best Western.

500.15 It is required that each Best Western affiliated Member permit assessment of all accommodations, facilities, and procedures by a Best Western accredited assessor to determine compliance with these Rules and Regulations and the Regulatory Documents, and as deemed necessary by the Board. Every effort will be made to provide the Member with advance notification of a scheduled assessment, but it may not always be possible to do so. When possible, not less than 24 hours advance notice will be given. There will be no notice given where an unannounced assessment is intended.

500.16 The quality control assessment program is designed to assist the Member and Best Western Headquarters in identifying potential problems at the Property. The report measures the cleanliness and condition of the Property, the amenities and services furnished, and how well the Member complies with the established Rules and Regulations.

500.17 A perfect score in the assessment program is 1,000 points in the assessment report or the Guest Rooms/Public Areas Condition Report. A score of less than 850 points, a point loss of more than 50 points in housekeeping, or a point loss of more than 100 points in maintenance may result in stricter and more frequent assessment requirements. A score of less than 800 points in an assessment report or the Guest Rooms/Public Areas Condition Report will result in the Member Property being placed into probationary status. The Board may establish a fee for any assessment which is scheduled as a more frequent assessment under this rule. A Property, once placed into probationary status, will remain in the status until such time as the assessment report or the Guest Rooms/Public Areas Condition Report score equals or is greater than 800 points or until cancellation of the Membership pursuant to paragraph 1100.6 of these Rules and Regulations. The Board may impose stricter assessment requirements on probationary properties.

Properties scoring less than 880 points on a Guest Rooms/Public Areas Condition Report are required to pay for their next assessment, with such cost determined annually by the Board.

500.18 The complete facilities may also be assessed by a member of the Board, a Regional Governor or other member of the Best Western administrative staff.

500.19 Although not specifically required, it is desirable that the owner or manager of the Property accompany the Best Western accredited assessor on the assessment and review the report with the assessor prior to the Best Western accredited assessor’s departure from the Property.

500.20 A. All Properties will be scheduled for assessment in the manner provided by the Regulatory Documents, as may be amended.

B. All facilities associated with a Member Property shall be made available for assessment. These facilities include:

1. All land, buildings and improvements which are owned or leased by the Member;

or

2. Facilities which are represented by the Member as being available to provide goods, services or amenities to the Member's guests where the goods, services or amenities provided by the facility are represented as being owned, managed or controlled by the Member.

C. All leases or management contracts for facilities associated with the Member Property shall include provisions permitting assessment and renovation, as provided in Chapter V of the Rules and Regulations.

D. All facilities associated with the Member Property shall be presumed to be available for assessment and renovation unless established to the contrary by the Member and a waiver is secured from Best Western.

E. Waivers from the requirements of this rule may be granted by Best Western, upon such terms and conditions as it, in its absolute discretion, may determine.

500.21 A. Subject to paragraph (B) below, the Board of Directors may adopt and implement programs and requirements to (i) provide regular maintenance of Member Properties, (ii) maintain a fresh and high quality appearance of Member Properties, (iii) conform to design, appearance, or operating criteria for Member Properties, and (iv) refurbish and renovate Member Properties, to help ensure that each Member Property offers the public fresh and high quality accommodations that are competitive with other lodging available to the public and are current with lodging industry trends. For purposes of Rule 500.21, such programs are individually and collectively referred to as "Refurbishment Programs." Any Refurbishment Program adopted by the Board of Directors or the Members is applicable to all Members, and shall include requirements for "Best Western," "Best Western Plus" and "Best Western Premier" Properties.

B. Any Refurbishment Program adopted by the Board of Directors shall, prior to implementation, be submitted to the Members for their vote and approval, in accordance with the Bylaws, if (i) the cost of required item(s) is more than US\$150 per room, per Member Property if purchased through Best Western Supply (the "Expenditure Limitation"), or (ii) the Board of Directors should reasonably expect that most Member Properties will need to hire a "trade person" to install the item(s).

For the purposes of this Rule "trade person" means a person who is skilled in a particular trade or craft. The Board will not mandate in any 12-month period Refurbishment Programs that alone or in the aggregate equal or exceed the Expenditure Limitation. The Expenditure Limitation will be adjusted in accordance with Article II, Section 6(D) of the Bylaws every 5 years, with the first adjustment being made on January 1, 2014.

C. Nothing in this Rule 500.21 will amend, supersede or consider any current programs or requirements, including without limitation, Best Western's New Construction Guidelines or Renovation & Refurbishment Guidelines (sometimes referred to as the New Construction and Refurbishment Guidelines).

D. Nothing in this Rule 500.21 limits the authority of the Board of Directors to grant individual Members deviations, variances or waivers from any current or future Refurbishment Programs or other requirements if the Board, in its discretion, determines that a deviation, variance or waiver is appropriate. Nor does anything in this Rule 500.21 limit the authority of the Board to impose any specific conditions upon Applicants for Best Western Membership or Members granted a conditional extension of their Membership after a hearing such as described in Chapter XII of the Corporation's Rules and Regulations.

E. This Rule 500.21 shall, to the extent possible, be construed consistently with all other rules dealing with the same or related subject matter, but in the event of a conflict between this Rule and any other rules, this Rule 500.21 shall govern.

500.22 It is recommended that existing Members voluntarily proposing renovation or refurbishing submit proposed plans and specifications to the Design Department for review to avoid possible conflict with Best Western guidelines and avoid unnecessary expenditure for products which may be subsequently disapproved. Pursuant to a request by Best Western, an Applicant or Member may be required to submit drawings, color boards and specifications to the Design Department for review before purchase or installation. Any redecorating, refurbishment and renovation not first securing the approval of the Design Department of Best Western may not, at the sole discretion of the Board, be considered to be undertaken or completed in compliance with orders, directives or conditions of the Board and may subject the Membership to cancellation pursuant to paragraph 1100.6 of these Rules and Regulations. In the event of disagreement between the Member or Applicant and the Design Department and/or Review Committee relative to the review and/or correction of property deficiencies, the Board shall have the final decision.

- 5500.23** Intentionally omitted.
- 500.24** Each Best Western Property shall be operated in a high ethical and moral standard consistent with Best Western's concept of providing quality accommodations at fair and reasonable prices.
- 500.25** Best Western Members shall comply with all prevailing laws, ordinances and regulations pertaining to the operation or construction of a hotel/motel or resort property.
- 500.26** Each Best Western Member will maintain the premises, including coffee shops, restaurants, lounges, meeting/banquet rooms and other public areas, in a clean, safe and orderly condition.
- 500.27** Efficient, courteous and high quality services shall be provided by each Best Western Member.
- 500.28** Any deviation from these Rules and Regulations shall have the prior written approval of the Board. A file of all written waivers shall be maintained at the property and available for assessors to verify waiver.
- 500.29** Each Best Western Member shall use reasonable means to encourage the use of other Best Western affiliated hotels/motels on a worldwide basis by the traveling public.
- 500.30** Each transaction with the guest shall be conducted in a courteous, cordial, friendly and professional manner that reflects fair and ethical policies and practices.
- 500.31** Personnel shall be properly trained to serve the guests in a professional manner. Completion of Best Western's online training is required for all Front Desk staff at each Property, within 90 days following the Front Desk staff person's effective hire date, with specific online training to be based on the online curriculum available at the time of hire. Each Member will be billed annually for training on a cost recovery basis. Effective December 31, 2009, each Property is required to have at least one staff person at the Property that has completed a *Because We Care* (formerly known as *I Care*) training program instructed by Best Western and has passed the certification exam. In the event of turnover of the only qualified staff person, another staff person must complete the Best Western training and pass the certification exam within 90 days. Additionally, by December 31, 2012, each Property will complete *Because We Care Clean* (formerly known as *I CARE 2*) training. Furthermore, effective June 1, 2013, each Property will be required to implement and thereafter maintain a General Clean and Preventative Maintenance Program. By April 1, 2015, or within ninety (90) days of future hire date, the Front Office Manager/Supervisor shall complete the Best Western Front Office Manager/Supervisor training

program as determined by the Board of Directors.

By December 31, 2015, or within one (1) year of future hire date, the Front Office Manager/Supervisor shall complete and then maintain certification in a relevant Front Office Manager/Supervisor certification program as determined by the Board of Directors. If the Front Office Manager/Supervisor has a higher level certification (e.g., CLM, CHA, or CHO), Front Office Manager/Supervisor certification is not required.

- 500.32** All guest contact personnel shall be neat, well-groomed and properly attired.
- 500.33** In order to foster, promote and continue Best Western's image as a provider of high quality service to the traveling public, including families, it is declared to be in the best interest of all Members to uniformly prohibit the offer, sponsorship or provision of any entertainment which could be classified as adult, pornographic, lewd, sexually explicit or obscene. Prohibited entertainment shall include, without limitation, the showing of or offer to show any movie or film with an "X" or similar rating or any movie or film that is equivalent to "X" rated and the offering of nude dancing or modeling. The Board shall have final discretion in determining whether there has been a violation of the purpose and spirit of this rule.
- 500.34** All Best Western Members are expected to comply with Best Western's guaranteed reservations system as prescribed in the Regulatory Documents.
- 500.35** The hotel staff of a Best Western Property shall give prompt and courteous attention to any guest concern. When complaints are received at Best Western Headquarters with reference to a particular Property, if the complaint relates to accommodations or service, Best Western Headquarters shall have the authority to resolve the matter upon the first contact, in which case a record of the complaint and resolution will be forwarded to the hotel, and the hotel will be charged a fee according to the following schedule:

Property Cost	Hotel Size 1 - 100 Rooms	Hotel Size 101 - 200 Rooms	Hotel Size 201+ Rooms
Free	First 4 Complaints	First 5 Complaints	First 6 Complaints
\$100 Each	Complaints 5 - 10	Complaints 6 - 10	Complaints 7 - 10
\$250 Each	Complaints 11+	Complaints 11+	Complaints 11+

The number of complaints shall be measured in each Best Western fiscal year.

If the complaint relates to billing, a matter beyond the Property's control (e.g., power outage), or a Property policy (e.g., no children in the fitness center), the guest may be advised that the complaint will be investigated and that the guest can expect to receive a response directly from the Property, in which case the complaint shall be acknowledged by the Property within two (2) business days and resolved within seven (7) calendar days, with a copy of the written response and resolution directed to the Office of Customer Service at Best Western Headquarters.

If multiple customer service complaints are received for the same event, e.g., sports teams, weddings, etc., only one (1) charge will be billed to the hotel.

500.36 The acceptance of pets of guests is recommended, subject to prevailing laws that may apply. Service animals shall be permitted in any area accessible by their handlers or owners.

500.37 Each Best Western Property shall be of soundproof construction, in a desirable location, have an attractive exterior and provide year-round heating and/or cooling.

500.38 Each Best Western Member Property shall have a restaurant on or within 500 feet of the premises, except when individual circumstances warrant a variance approved by the Board. Although a restaurant is located within 500 feet of the premises, it shall not qualify the Member Property under this rule if that restaurant is located at any other lodging establishment.

500.39 A. Best Western Member Properties which do not have on-site, full-service restaurants, shall be required to provide a complimentary (free of charge) breakfast buffet consisting of the following:

1. A breakfast buffet must include (a. through t.):
 - a. Choice of two: sliced breads. White, wheat, rye, sourdough, etc. comply.
 - b. Choice of one: bagel, English muffin, croissant, or biscuit.
 - c. Choice of two: sweet rolls, muffins, Danish, cinnamon roll, and specialty loaves (e.g., banana bread).
 - d. Butter or margarine, and assorted jellies and jams (if bagels are offered, cream cheese must be provided).
 - e. Choice of three dry cereals: Raisin Bran and at least two other options including Corn Flakes, Special K, etc. One children's cereal is recommended.
 - f. Choice of one: oatmeal, grits, or Cream of Wheat.
 - g. Guest-accessible refrigerated juice dispensing machine offering choice of at least two juices: one must be orange juice. (Not applicable to Best Western Premier product descriptor Properties.)

- h. Choice of three fruits: one must be fresh.
- i. Regular and decaffeinated coffee (premium quality coffee such as Maxwell House, Folgers, Douwe Egberts, or approved national or regional roaster or super premiums, such as Starbucks, Peet's, Seattle's Best), and two choices of tea.
- j. Two creamers (one dairy and one non-dairy).
- k. Sugar and choice of two types of sugar substitute (saccharin-based, e.g., Sweet 'N Low, aspartame-based, e.g., NutraSweet, and sucralose-based, e.g., Splenda, comply).
- l. Choice of two milks: whole, two percent, and/or skim.
- m. Choice of one egg type: hard boiled, scrambled, omelet, etc.
- n. Salt and pepper.
- o. One hot item (choice of freshly baked waffles, pancakes, French toast, cinnamon buns, biscuits with gravy, an egg product).
- p. Coffee – 100% Columbian or Arabica (may use local vendor).
- q. Two flavors of yogurt, personal-container sized or an approved dispenser for bulk yogurt with clear plastic cups and lids.
- r. One gluten-free cereal, offered upon request, with approved signage.
- s. One dairy-free milk alternative, offered upon request, with approved signage.
- t. A glass-front refrigerator placed on or under the breakfast bar

2. That in addition to the Best Western breakfast buffet requirements of Rule 500.39 A. 1, the breakfast buffet of all Best Western product descriptor Properties shall include choice of one: waffles, pancakes, French toast or crepes, freshly prepared or prepackaged from a Best Western approved vendor.

That in addition to the Best Western breakfast buffet requirements of Rule 500.39 A. 1, the breakfast buffet of all Best Western Plus product descriptor Properties shall include:

- a. Choice of one: waffles, pancakes, French toast or crepes, freshly prepared or prepackaged from a Best Western approved vendor.
- b. Hot eggs and hot breakfast meat, or breakfast sandwich with egg and meat.

That in addition to the Best Western breakfast buffet requirements of Rule 500.39 A. 1, the breakfast buffet of all Best Western Premier product descriptor Properties shall include:

- a. Choice of one: freshly prepared waffles, pancakes, French toast or crepes.
 - b. Hot eggs and hot breakfast meat.
 - c. Prepared non-instant oatmeal.
 - d. Fresh fruit cereal toppings.
 - e. Fresh squeezed orange juice (not from concentrate), no dispensers.
3. That in addition to the Best Western breakfast requirements of 500.39 A. 1 and 2, the breakfast buffet of all Best Western Member Properties shall include a Build-Your-Own Breakfast concept as follows:
- a. The breakfast buffet of all Best Western product descriptor Properties shall include a minimum of two Build-Your-Own Breakfast concepts.
 - b. The breakfast buffet of all Best Western Plus and Premier hotels shall include a minimum of three Build-Your-Own Breakfast concepts.
 - c. Glass condiment containers, with clear lids, serving spoons, and a variety of at least three condiments offered for each Build-Your-Own Breakfast concept shall be provided. Condiment suggestions are as follows:
 - Build-Your-Own Yogurt: dried fruit, nuts, granola, berries, shaved coconut, trail mix, and jam.
 - Build-Your-Own Oatmeal: brown sugar, nut pieces, granola, chocolate chips, berries, and dried fruit.
 - Build-Your-Own Waffles/Pancakes/French Toast: cherries, chocolate chips, powdered sugar, cinnamon, and fruit.
 - Build-Your-Own Breakfast Sandwich: salsa, shredded cheese, ketchup, and tomatoes.
 - Build-Your-Own Omelet: glass condiment containers do not apply, but at least three omelet fillings are required.
 - d. Properties offering Build-Your-Own Breakfast concepts shall display approved signage that indicates the Build-Your-Own Breakfast offerings.
- B. In addition, Best Western Member Properties shall be required to provide a complimentary (free of charge) "Grab & Go Breakfast" consisting of the following:
1. At a minimum, a Grab & Go Breakfast shall include:
 - a. One piece of whole fruit.
 - b. One breakfast bar.
 - c. One bottled water.
 - d. All items provided in a bag with a Best Western-approved sticker.
 2. The Grab & Go Breakfast must be offered Monday through Friday, at least one hour before the breakfast meal period starts or upon guest request.
3. This Section (B) does not apply to Best Western Member Properties that (1) have on-site restaurants offering a full-service breakfast menu during the breakfast meal period or (2) offer a room-service breakfast menu during the breakfast meal period.
- C. In addition, each Best Western Member Property must provide seating at a minimum rate of 20 percent of rooms (e.g., 10 seats per 50 rooms) with a minimum of two tables and six chairs. (New Construction and Conversion Applicants: Refer to the Guidelines addendum for seating requirements, which the Board may change from time to time.)
- D. For Properties offering a free (at no additional charge) complying breakfast, a special and prominent designation will be provided, at the Property's discretion, in all channels where individual property listings include amenities/services available and Best Western has the ability to provide such designation.
- E. To qualify for a **"Free Breakfast"** designation, a Property must offer, at a minimum, the applicable requirements of Sections A and B above, at no additional charge.
- F. To qualify for a **"Free Hot Breakfast"** designation, a Property must offer, at a minimum, the breakfast buffet described in Sections A and B above, and hot breakfast consisting of:
- Choose one from 1, one from 2, and one from 3 below:
1. Freshly prepared waffles, French toast, pancakes, or biscuits and gravy.
 2. Scrambled eggs, omelets, or eggs cooked to order.
 3. Ham, bacon, sausage, or Canadian bacon.
- Free full-service menu breakfasts may also qualify as a "Free Hot Breakfast", if approved by Best Western in advance.
- G. **Advertising Free Breakfast.** Properties that do not meet the above minimum standard for the breakfast buffet described in Sections A and B above, at no additional charge, may not advertise free breakfast in any publication, website, bill board, etc. Properties found to serve less than this minimum but still advertising free breakfast shall be assessed a 240 point loss against minimum standards.
- H. **Advertising Free Hot Breakfast.** Properties that do not meet the above minimum standard for the "Free Hot Breakfast" designation may not advertise free hot breakfast in any publication, website, billboard, etc. Properties found to serve less than this minimum but still advertising free hot

breakfast shall be assessed a 240 point loss against minimum standards.

I. All Best Western Member Properties that have an on-site full-service restaurant that charges for breakfast: (i) shall offer breakfast inclusive room rates; and (ii) may offer breakfast exclusive room rates.

- 500.40** The Member shall be responsible for loss or damage to any Best Western equipment furnished in conjunction with the affiliation which is in their care, custody or control.
- 500.41** All Best Western Members and personnel shall display a courteous and professional attitude toward officers, directors, employees and staff of Best Western.
- 500.42** All Members shall participate in all mandatory programs and promotions as may be adopted by the Board.
- 500.43** Each Property shall take all steps which may be necessary to maximize guest satisfaction and minimize guest complaints. In order to assure compliance with this rule, Best Western will monitor each property on a rolling 12-month basis. The receipt of more than 1.7 guest complaints for every 10 rooms during the monitoring period (the ratio of the number of complaints to the number of rooms shall not exceed .17) shall be conclusive evidence of a violation of this rule.
Effective January 7, 2007.
- 500.44** Members shall at all times respect the privacy of guests and shall institute reasonable measures and precautions designed to safeguard guest privacy. Violation of this rule shall be grounds for Membership termination.
- 500.45** A. The number of rentable guest rooms of an approved or conditionally approved Best Western Property, as provided by rule 500.6 of the Rules and Regulations of Best Western, may not be increased or decreased more than 10 rooms or 10%, whichever is greater, without the prior approval of the Board in accordance with the procedures established herein.
1. An application to increase or decrease the number of rentable guest rooms shall be as prescribed by the Board and accompanied with payment of fees as established by the Board. The Board may require additional information.
 2. An increase or decrease of more than 10 rooms or 10%, whichever is greater, shall be determined by reference to the most recent Membership Application & Agreement or property unit count on file with the Association, whichever is greater, and shall be a cumulative total of guest rooms increased or decreased at the Best Western Property since the effective date of this rule.
 3. The notification, impact studies, and approval procedures shall be as prescribed in Article II, Section 2(C) of the Bylaws

and the Board policies interpreting and implementing that Section 2(C), except:

- a. Payment for the impact study shall be by the individual making the request to increase or decrease the unit count;
- b. The impact study shall only consider the impact of the increase or decrease requested; and
- c. The Board of Directors may waive impact studies for unit count decreases.

B. 1. Properties described in Article II, Section 1, (E)(1) of the Bylaws, pertaining generally to Properties whose rental units are each separately owned, may be associated with a Membership and the designated Best Western Property. Such an association shall be upon such terms and conditions as may be established by the Board.

2. In the event that an ambiguity or inconsistency exists in the application of the provisions of this section, or of Section 2(C) of Article II of the Bylaws, the Board shall have the right to resolve the ambiguity or inconsistency in its sole and exclusive discretion.

- 500.46** English speaking staff must be available if requested and be available within a reasonable time of such request having been made.
- 500.47** Snacks and hot beverages in guest rooms or public areas are to be available for guests.
- 500.48** Convenient arrangements for early morning call/alarm are to be available.
- 500.49** Intentionally omitted.
- 500.50** Each Property will be billed a registration fee for the District Meeting and Annual Convention the month prior to the meeting. Each fee shall not increase annually more than the lesser of (1) five percent or (2) the rate of inflation for the previous year, as measured by the United States Bureau of Labor Statistics Consumer Price Index (all items for all urban areas). The registration fee for fiscal year 2014 District Meetings will be \$399.
With regard to District Meetings only, if a Voting Member represents more than one Property in a District, one Property will be billed the full registration fee and the additional Properties will receive a discount of \$150 off their registration fee. Additionally, a property that sends more than one attendee will receive a \$150 discount for each additional attendee.
- 500.51** Whenever there exists a marketing cooperative established by a majority vote of the Membership in their state (including the District of Columbia), province, territory or country (including regions such as the Caribbean), each Member shall participate in their respective state, province, territory or country marketing cooperative and abide by all established guidelines adopted by the cooperative.

- 500.52** Effective March 1, 2012, or as soon afterward as is practicable, all Members are required to award Best Western frequency program participants points, miles or partner rewards for all rate plans with the exception of rate plans associated with online travel agencies, tour operators, employee rate, FIT/wholesale/net rates, motorcoach/bus, crew, FX, and extended stays longer than thirty (30) nights.
- 500.53** The Board may assess a Member a fee of \$50 per occurrence for each complaint charged to its Member Property after any monitoring period in which the Member Property received a number of complaints exceeding the permitted guest complaint ratio. The per-complaint fee may be charged until the Member completes a monitoring period in compliance with the permitted guest complaint ratio. Charged complaints shall not include those categories of complaints that the Board determines Members cannot reasonably be expected to be able to control such as, without limitation, complaints resulting from electing not to participate in a non-mandatory advertising or marketing campaign, or complaints resulting from the failure of a third party to deliver a reservation to the property.
Effective January 7, 2007.
- 500.54** The Board may assess a Member a fee of \$75 per occurrence for each guest complaint that its Member Property does not respond to or make reasonable efforts to resolve within the established time frame.
Effective January 7, 2007.
- 500.55** In addition to any other applicable requirements, within 45 days following the change in ownership of a Best Western Member Property, the transferee, at its cost, must complete the same training requirements applicable at the time to new Members joining Best Western. The training costs will be billed on a cost recovery basis.
- 500.56** Best Western's certification is required for at least one housekeeping supervisory staff person at each Property, with certification costs to be billed to the Property on a cost recovery basis. In the event of turnover of the certified staff person, the Property will have 60 days to certify another member of staff.
- 500.57** On each December 31st, a "Brand Annual Minimum Standard" requirement for each brand (e.g., Best Western®, Best Western Plus®, Best Western Premier®) will be established by calculating the percentage of "8," "9," and "10" scores in Medallia for "Overall Experience" received by all Properties in that brand during the period January 1st to December 31st of that year multiplied by .80, using electronic surveys only.
- 500.58** Each Best Western Property is required to assign and maintain a full time General Manager, empowered, responsible, and accountable for the daily operations of the

Property. The General Manager shall attend either the Annual Convention or a District Meeting each year.

Chapter VI

600.0 Lobby and Front Office

- 600.1** All Properties shall provide a lobby of appropriate size and furnishings commensurate with the size of the Property and services offered. Ten (10) square feet per room for 40 through 150 room Properties or a minimum area of 400 square feet. Six (6) square feet per room in excess of 150 rooms. Deviation on larger Properties is subject to Best Western's prior approval.
- 600.2** The front office and registration/check-out area shall be maintained in an orderly and clean manner. An efficient, hospitable and courteous attitude shall be displayed to the guest at all times.
- 600.3** Business shall always be referred to the nearest Best Western, unless by so doing the guest's best interest and comfort are not adequately served.
- 600.4** Alternate accommodations should be provided to the guest if accommodations are not available in the contacted inn, to take advantage of the opportunity to render service to future guests and maintain the loyalty of that Best Western guest.
- 600.5** Additional charges shall not be made for reasonable requests for additional services, such as extra towels, soap, glasses, ironing boards, folding table and chairs, bedboards, blankets, etc.
- 600.6** Rooming guests in unprepared accommodations is prohibited.
- 600.7** The telephone switchboard shall be answered as promptly as possible in a pleasant, courteous manner. All incoming calls shall be answered using the words "Best Western." Callers should not be left holding dead lines, be asked to wait or otherwise be inconvenienced through inefficient service.
- 600.8** All Best Western Properties shall provide for registration or checking in of guests 24 hours a day. In the event the front desk is closed for certain hours, a bell or some other arrangement shall be provided for guest services. "No vacancy" signs are not recommended.
- 600.9** Best Western Regulatory Documents shall be available for front office use.
- 600.10** All front desk personnel shall be in uniform or otherwise neatly attired.
- 600.11** Intentionally omitted.
- 600.12** Facilities for storing luggage, in case of late checkouts, are to be available.
- 600.13** Assistance with luggage is to be available upon request.
- 600.14** A telephone for internal/external calls located in public areas is to be provided for guest use.

- 600.15 Photocopy facilities shall be available on-site, seven days a week, during normal business hours (minimum of 14 out of 24 hours).
- 600.16 Intentionally omitted.
- 600.17 Intentionally omitted.

Chapter VII

700.0 Buildings, Grounds and Public Areas

- 700.1 Exterior and interior of buildings shall be maintained in good condition and in a good state of repair at all times. Painted surfaces should be free of peeling paint, soil and obvious cracks in masonry, and should present an attractive appearance in accordance with Best Western standards.
- 700.2 Adequate free parking space shall be provided. The parking area shall be paved and well marked with stripes. It shall be clean and free of refuse and obstructions.
- 700.3 All parking areas, curbing, concrete bumpers and driveways shall be in a good state of repair and free of excessive cracking, crumbling, chuckholes or unsightly repairs.
- 700.4 Snow removal shall be performed when necessary by plowing and/or use of a melting compound. Icy conditions shall be corrected with an appropriate melting compound or traction providing material.
- 700.5 Sufficient lighting shall be provided in all parking areas to provide for guest security and safety to automobiles. Lighting should be on timing devices to go on at dusk and off at sunrise, and should be properly adjusted as seasons change.
- 700.6 The entrance to a Property shall be clearly identified and driveways unobscured so that incoming guests can readily locate the front office and/or restaurant and lounge facilities. Driving areas where view is obstructed should be clearly marked for slow driving.
- 700.7 Appropriate, attractive landscaping shall be provided. Grounds and landscaping shall be kept neat and clean. Lawn and planted areas should be free of weeds and properly edged.
- 700.8 Grounds shall be walked daily to remove debris and trash from shrubbery and planted areas.
- 700.9 Fire extinguishers shall be located in accordance with prevailing codes, be charged and in view, and bear required inspection certificates or tags.
- 700.10 One self-service ice machine and one soft drink machine shall be provided for each 60 rooms. Machines for one- or two-story properties shall be centrally located for convenient access by guests on each floor. One self-service ice machine and one soft drink machine should be provided on every other floor in Properties of more than two stories. Automatic ice machines shall dispense a controlled portion of sanitary ice. The dispenser may be operated, at the hotel owner's option, by room key or token. Ice shall

be available free of charge to guests 24 hours a day, and its location well identified.

- 700.11 Ice machines shall be electrically grounded and maintained in a clean, safe, attractive condition.
- 700.12 Drink machines shall be electrically grounded, properly stocked, clean and in good condition.
- 700.13 Interior corridor carpeting shall be vacuumed daily and be free of wrinkles, litter, debris and clutter. Interior corridors shall be well lighted. Ceiling and woodwork shall be clean and in good repair.
- 700.14 Stairways, walkways and elevators shall be kept clean, uncluttered and well lighted; metal railings, treads and floor covering shall be kept in good condition.
- 700.15 No storage of any kind will be permitted in any interior corridors, hallways, exterior covered corridors, walkways or breezeways.
- 700.16 Stairway lighting, treads, risers and hand rails shall comply with the National Safety Council, OSHA or other appropriate government agency standards. Treads and landings shall have non-slip surfaces.
- 700.17 Exit lights shall be on emergency circuits and in operation at all times, in accordance with applicable prevailing codes.
- 700.18 Swimming pools are required, except where individual circumstances warrant a variance approved by the Board. Pools shall be a minimum of 400 square feet, except where a size variance is granted by the Board, and be heated if so advertised.
- 700.19 Swimming pool area, including deck, shall be neat, clean, attractive and maintained to a high degree of cleanliness year-round. Area shall be kept free of litter and refuse, especially breakable items such as bottles, dishes and articles made of metal or glass that could endanger the safety of guests. Exterior swimming pools that are closed to the public must have pool covers that have stretching capabilities and are securely fastened on all sides or are made of another pre-approved product to eliminate the collection of refuse or rainwater and subsequent unsightly stagnant conditions.
- 700.20 Pool depth should be marked to indicate every two-foot change in depth; such markings are to appear on both the vertical sides of the pool and on the pool deck or apron. Shallow and deep ends should also be clearly identified at pool deck level.
- 700.21 Pools shall be maintained in accordance with state regulations.
- 700.22 Pumps, filters and underground equipment areas shall be clean, neat, properly vented and maintained at all times. Covers for below ground equipment area shall be properly in place at all times.
- 700.23 Chemical balance of pool water shall be maintained at proper levels in accordance

with prevailing codes. Daily tests should be conducted and recorded.

700.24 Adequate pool furniture shall be provided, commensurate with size of property. Furniture shall be maintained in good, clean condition, present no hazardous or unsafe conditions and enhance the overall appearance of the pool, deck and area.

700.25 Doors, locks and hardware shall be regularly inspected for easy, efficient operation and good appearance.

700.26 All guest room entrance doors shall be solid-core or metal. Entrance doors (other than interior corridor doors) shall be weather-stripped at top and sides for sound transmission reduction and all wooden entrance doors shall be flush panel. Hollow-core doors may be used for guest unit bathroom doors.

700.27 All guest room entrance doors shall be equipped with a lock that is self-locking. The lock shall be electronically activated and must be UL listed (CSA for Canada). All guest room entrance doors shall be equipped with a one-inch bored-in deadbolt lock, designated as Grade 2 type. Deadbolt locks shall be operable only with a latch from the interior and emergency key from the exterior. The emergency key is any instrument specifically designed to open that locking device and should be maintained by the general manager or security of the hotel.

Combination locks with panic features shall function so that the deadbolt cannot be retracted from the outside by the use of a guest key or the master key. The deadbolt shall be retracted from the outside only by the use of an emergency key. The room number shall not be displayed on the key.

Electronically activated locking devices are required and must provide the following features:

All entrance door locksets shall be electronically activated and always remain in the locked position without having to operate an interior spanner button or any similar device. The lockset shall only unlock by the use of a guest, master or emergency key. A key is defined as a key card or any device specifically manufactured to operate the lockset.

The lockset shall be keyed to at least three levels of security - the guest key, the master key (or housekeeper's key in some instances) and the emergency key. The emergency key shall be maintained by the general manager or security of the hotel and the master keys only by assigned hotel staff. All functions, except the fail-safe feature designed to completely override the guest room lockset, should be performed in a non-mechanical manner.

All lock sets shall automatically re-code with each use of a newly assigned guest key, voiding all previously issued guest keys.

Room numbers shall not be displayed on the key.

A fail-safe feature shall be provided to allow entrance to the guest room in the event of a system or power failure.

If battery operated, a low battery warning feature shall be provided at the guest room lockset level.

An audit trail/interrogation feature is required and should be maintained only by the general manager or security staff of the hotel.

An automatic time-out feature is required at the guest room lockset level to void all keys left in the lockset past a predetermined length of time.

700.28 All guest room entrance doors are to be equipped with a chain- or bar-type door guard. This door chain/guard should be installed in such a manner that the strength of the attachment is equal to the strength of the chain. The bar-type guard or chain should allow for a maximum door opening of one inch.

700.29 All guest room entrance doors are to be equipped with one-way door viewers with a minimum of 180-degree viewing. All door viewers are to be metal, not plastic. The viewers should be installed four feet, nine inches from the floor and installed with a substance such as "Lock-Tite" or equivalent, to ensure that it is tamper-proof.

700.30 All guest rooms with interconnecting doors shall have two solid-core or metal doors equipped with a lock that is self-locking and a one-inch bored-in deadbolt lock on each door. Locks shall have all metal components. A 1/2 inch bored-in deadbolt may be used on doors with a metal frame. It is recommended that both doors be weather-stripped to minimize sound transmission. A knob on the guest room side of the interconnecting door with a tamper-proof plate on the other side of the door complies with the self-locking requirement. When half-inch deadbolts on interconnecting doors are replaced, it is recommended that they be replaced with one-inch deadbolts.

700.31 All sliding doors are to be equipped with a hook lock built-in within the door handle, as well as a secondary locking device. This secondary locking device shall be a safety bar ("charley bar"), a sliding door deadbolt or a pin-type lock. The hook shape is to resist the parting motion of sliding door and jamb. Sliding doors shall be installed to ensure that the sliding panel is on the inside and the stationary panel is on the outside, unless otherwise waived by the Board.

700.32 All ground level wooden or metal balcony/patio doors without a walkway shall have a bored-in deadbolt. All wooden or metal private balcony/patio doors above the first floor without a walkway shall have a locking device. All other secondary doors with walkways shall have all required locking

devices. A key accessible deadbolt is only required in one entry door.

- 700.33** All guest room windows that open shall provide a lock which secures the window in a closed position.
- 700.34** All public restrooms shall be clean and well-maintained and have sufficient paper and hand washing supplies. Restrooms shall be well lighted and free of offensive odors.
- 700.35** Every Best Western Property shall provide repair and maintenance of all facilities, equipment, machinery, paving, lighting, electrical systems, plumbing, heating, air-conditioning, guest room interior, bathrooms, exterior walls, stairways, swimming pools and equipment, keys and locks, roofs and guttering.
- 700.36** All reports for repair should be made promptly and a system established to make certain that repairs affecting guest comfort, convenience and safety are completed.
- 700.37** Ice machines and vending machines shall be inspected daily by maintenance personnel.
- 700.38** Maintenance or building superintendent should be supervised closely by the general manager; constant checking should be done to make certain normal repair maintenance work is performed promptly.
- 700.39** It should be remembered that maintenance personnel are also guest contact personnel. They should be well-groomed, clean and properly uniformed.
- 700.40** Restaurant, lounges, meeting/banquet rooms and other public areas shall be maintained in good condition and in the highest degree of cleanliness.
- 700.41** All fencing shall be maintained in good condition and in a good state of repair at all times. Painted surfaces shall be free of peeling, excessive cracking (weather checking), or excessive fading of paint. Gates, if provided, shall be likewise in good condition and operable.
- 700.42** A. All Properties that have three (3) stories or more are required to provide an elevator.
B. All Properties that use the Best Western Plus or Best Western Premier descriptor are required, by June 30, 2015:

1. To provide an elevator at all Properties of two (2) stories or more. It is recommended that the elevator be located near the lobby.
2. The following minimum number of elevators are required at all Properties with two (2) stories or more:

Number of Guest Rooms	Minimum Number of Elevators
1 - 99 Rooms	At Least One (1)
100 - 199 Rooms	At Least Two (2)
200 - 299 Rooms	At Least Three (3)
300 - 399 Rooms	At Least Four (4)
400 - 499 Rooms	At Least Five (5)

3. In Properties with four (4) stories or more, even with less than 100 guest rooms, at least two (2) elevators shall be provided.

4. If the Property has multiple buildings with guest rooms, at least eighty percent (80%) of all guest rooms must be either:
(i) on the first (ground-level) floor; or
(ii) serviced by an elevator.

5. If a Best Western Plus Property is in the top twenty-five percent (25%) of all Properties with respect to percent of "8," "9," and "10" scores for Medallia "Overall Experience" on December 31, 2014, for the prior twelve (12) month period, the Best Western Plus Property shall have until June 30, 2017 to comply with the elevator requirements.

6. If more than one (1) elevator is required at a Best Western Plus Property, the Best Western Plus Property shall have until June 30, 2017 to comply with the elevator requirements.

C. The Board of Directors shall have the authority to grant waivers and extensions based upon good cause shown. The Property shall have the burden of establishing the reasonableness of the waiver or the extension.

- 700.43** Bottled or canned water (spring or mineral water) is to be available to the guest on site 24 hours a day, free or at charge (an acceptable solution is to offer water in a vending machine).

Only where tap water is not safe to drink (as determined by the appropriate regulatory authority), there must be a notice in the room and a minimum of 1 liter of bottled water per day will be provided in the room, free of charge.

- 700.44** Additional complimentary toiletries shall be available on-site to guests, on request, 24 hours daily, free of charge. The following items, if not provided in guestrooms, shall be available at reception: razor, shaving foam, toothbrush, toothpaste, comb, sanitary napkins (an acceptable solution is to offer sanitary napkins via a vending machine in a public restroom) and sewing kits.

Chapter VIII

800.0 Housekeeping Department

- 800.1** The housekeeper's office and area shall be maintained in a neat, clean and safe manner and be free of refuse and fire hazards.
- 800.2** The housekeeping department office and area shall be adequately supplied; all equipment shall be maintained in good operating condition.
- 800.3** Floor shall be maintained in a good sanitary condition and in an excellent state of repair.
- 800.4** Housekeeping staff (regularly employed) shall be neatly uniformed.

- 800.5 When linen shows holes, excessive stains or heavy mending, it shall be removed from service immediately.
- 800.6 In-house laundry is to be maintained in a clean, neat and safe condition and provide good ventilation and lighting.
- 800.7 Floor covering in laundry is optional; tile is recommended as bare concrete stains linens.
- 800.8 Laundry equipment shall be kept clean and in good operating condition. Washers shall be free of corrosion; dryers should be free of excessive lint and properly vented.
- 800.9 Laundry personnel should be properly uniformed.
- 800.10 Every working housekeeper shall have an operable vacuum cleaner in good condition.
- 800.11 Housekeeping carts shall be kept in a good state of repair and be well painted, clean, neat, well organized, properly supplied and free of squeaks or other noises that might disturb guests.
- 800.12 Professional housekeeping procedures shall be followed at all times.

Chapter IX

900.0 Guest Rooms and Bathrooms

- 900.1 Guest rooms and bathrooms shall be attractive, comfortable, professionally designed, in good taste and maintained on a daily basis in the highest degree of cleanliness and safety.
- 900.2 Walls, ceilings, windows and sills shall be in excellent condition, clean and free of dust, lint, stains, fingermarks and smudges.
- 900.3 All guest rooms shall have good quality, approved flooring. Flooring shall be vacuumed daily; obvious debris and litter shall be removed from under beds and other furniture. Flooring under beds shall be vacuumed at least weekly.
- 900.4 Rooms shall be free of odor and insects.
- 900.5 Pillows, box springs and mattresses shall be of hospitality grade quality and in good physical condition. Ticking should be free of stains. Pillows should be plump and bed support solid.
- 900.6 Each guest room shall be numbered with easily distinguishable, uniform numbers. Doors, locks, and hardware shall be regularly inspected for easy, efficient operation and good appearance. If any guest room entrance door locks are inoperable, the guest room shall be placed "out of service" and not rented until the lock is repaired.
- 900.7 Guest rooms shall be equipped with adequate furnishings that are attractive, comfortable, in excellent condition and free of dust, lint, fingermarks, smudges and scratches. Furniture should be constantly upgraded to eliminate worn finish or upholstery. Refer to Best Western's Renovation & Refurbishing Guidelines for furnishing requirements per room.

- 900.8 Every bed shall be supplied with clean bedding in good condition, that is free of odor, discoloration and stains. This includes all bedding: top coverings, blankets, mattress pads, pillow cases and bed sheets.
- 900.9 Top coverings shall be coordinated to guest room décor and be free of snags, tears, holes and frayed edges. Faded or stained spreads shall be removed from service.
Bedding must comply with the following:
 - Top coverings must be coordinated to guest room decor and be free of snags, tears, holes and frays.
 - Untucked bed coverings must have finished edges.
 - Heatset quilting (polyester fabrics melted together with dots) is not acceptable.
 - Faded, worn or stained bed coverings may not be kept in service.
 - Undersides of decorative bed coverings (e.g., throws, duvets or coverlets) must be of equal or better quality than the face.
 - The length of the bedcovering must allow at least one inch overhang past the top of the foundation or box spring.
 - Triple sheeting (bed made with bottom sheet, top sheet covered by blanket or duvet, and third sheet covering the blanket or duvet) is an acceptable alternative to decorative coverings if the ensemble includes a decorative top sheet and another decorative element (scarf or coordinated decorative pillows). If exposed, the top sheet must have a tone on tone damask pattern (stripe, block, or similar), decorative piping, or another enhancement, unless it is a solid color other than white or is patterned.
 - The foundation or box spring may not be visible to the guest when the bed is made up.
- 900.10 Effective January 1, 2010, all beds with foundations or box springs must have a decorative covering to conceal the foundation or box spring. Bed frames and legs or bed base must also be concealed unless they are decorative and coordinated with the room furnishings. Acceptable methods of concealment include, but are not limited to, bed skirts/dust ruffles or box spring covers/huggers. All coverings must coordinate with the overall design of the bed covering and room décor.
- 900.11 Guest bedrooms shall have individually controlled thermostats to provide for guest-controlled heating and cooling; units should operate quietly and have clean filters and grills.
- 900.12 Each guest room shall provide one (1) light fixture at the following locations:
 1. Each night stand (Two lamps are desirable at the night stand between two double beds. One fixture with two lamps is acceptable.)
 2. Games/parsons table

3. Credenza/mirror
4. Desk

Shades and lamps, light fixtures and bulbs shall be dusted daily, and have no frayed cords or stained, bent or broken shades. Adequate lighting shall be provided in all areas of the room. Refer to the Best Western Renovation & Refurbishing Guidelines for adequate lighting requirements per room.

- 900.13** At least one light shall be operated by switch at the entrance door.
- 900.14** Each guest room shall contain one waste basket. (See Chapter X.)
- 900.15** Intentionally omitted.
- 900.16** Bedroom draperies shall be in good condition and open and close with cords or pull wands. Drapery rods shall be firmly fastened to wall or ceiling, properly strung and in good operating condition. Refer to Best Western's Renovation & Refurbishing Guidelines for additional drapery specification requirements.
- 900.17** On or before December 31, 2012, all cathode ray tube ("CRT") televisions shall be replaced with televisions that comply with the following Television Guidelines. Flat panel televisions purchased prior to July 1, 2011 that do not meet the following Television Guidelines will be deemed acceptable for Best Western and Best Western Plus hotels until seven (7) years after the original date of manufacture by which time they must be replaced with a television that meets the following Television Guidelines.

Television Guidelines

Any televisions purchased for use in guest rooms must meet the following guidelines with respect to minimum sizes and HD programming in accordance with this Rule 900.17. All televisions shall be commercial grade LCD, LED or plasma flat panel televisions with HDMI, Proidium chip and VGA ports. All measurements are diagonal.

Television Amenity by Descriptor	Best Western	Best Western Plus	Best Western Premier
Guest Room	Minimum one (1) 32" or larger	Minimum one (1) 37" or larger	Minimum one (1) 42" or larger
Suite <i>without</i> full wall and door separator	Minimum one (1) 42" or larger, clearly viewable from both the seating area and the sleeping area; or Minimum two (2) 32" or larger		
Suite <i>with</i> full wall and door separator	Minimum two (2) 32" or larger	Minimum one (1) 37" or larger and (1) 32" or larger	Minimum one (1) 42" or larger and one (1) 32" or larger
HD Programming Delivery and Display			High Definition (minimum of five channels)

By December 31, 2024, all televisions, for all Best Western branded hotels, shall be replaced

with televisions that comply with the following Television Guidelines:

Television Size – Minimum (Measured Diagonally)

- Lobby and Breakfast Area: 50" Television
- Fitness Area: 50" Television
- Guestrooms: 50" Television(s) with Streaming/Casting Capability

Television Grade

- All televisions shall be commercial grade.
- Televisions in guest rooms shall support streaming and popular applications (e.g., Netflix, Hulu, Amazon, Apple, and Disney) via a guest personal device (e.g., iPad) and the television.

Implementation

As an exception to the December 31, 2024 date of implementation, televisions will be considered compliant until seven (7) years after the original date of manufacture by which time they must be replaced with a television that meets these Television Guidelines.

- 900.18** Each guest room shall contain an operating direct-dial telephone and complete dialing instructions.
- 900.19** Intentionally omitted.
- 900.20** Intentionally omitted.
- 900.21** An indication is to be provided in each guest room on how to obtain emergency assistance, such as fire, police, ambulance and medical, as well as instruction notices.
- 900.22** Intentionally omitted.
- 900.23** A directory of services shall be provided in each guest room describing the various facilities and services provided by the hotel and the hours such facilities and/or services are available. The location of vending and ice machines shall be noted.
- 900.24** Guest room and bathroom doors should be equipped with doorstops to eliminate noise and damage to walls or fixtures. It is recommended that doors have a stop at top corner of door or a doorknob wall-mounted stop. For bathroom doors, it is recommended that a small rubber bumper be affixed to the bath fixture if door opens against tub or toilet.
- 900.25** The individual Property should advertise in its rooms, in good taste, its own services and promotions. Printed material should be held to a minimum to avoid a cluttered appearance. Any printed material, including endorsements when using the name and/or logo of Best Western, shall contain the current form of logo approved by Best Western. On-premises advertising or promotion of any hotel, motel or resort other than Best Western is prohibited.
- 900.26** Closet/clothes hanger area shall be clean and neat and shall include at least eight matching wooden or permanent hangers, two with skirt clips.

- 900.27** All bathrooms shall provide a tub/shower combination or shower of ceramic or other approved materials with a non-skid surface or device.
- 900.28** Each bathroom shall contain two rolls of good-quality toilet tissue.
- 900.29** Plumbing fixtures and all chrome shall be clean, polished, in good condition and free of tarnish and water spots.
- 900.30** Bathroom tile walls and floors shall be cleaned and dried daily and be free of lint, hair and water spots. Tile grouting shall be clean, in a good state of repair and free of mildew or discoloration.
- 900.31** Vanity, mirror and sink shall be of modern design, in a good state of repair, cleaned daily and free of soil, water spots and streaks. Vanities shall have at least a seven-inch skirting to conceal exposed plumbing.
- 900.32** Toilet seats and lids shall be clean and sanitary, with no chipped or worn surfaces, bare wood or other composition visible. Seats and lids shall be free of discoloration or stains and not be loose on hinges. Seats shall have required bumper supports. Paper bands are not recommended.
- 900.33** Bathrooms shall contain good quality terry cloth items of proper grade and in recommended amounts. (See Chapter X.) Sufficient towel bars shall be provided to accommodate the required amount of towels and shall be conveniently located for easy access.
- 900.34** Each bathroom shall contain one waste basket. (See Chapter X.)
- 900.35** Shower curtain and rod, tub tracks and glass doors shall be clean and free of soap residue, water minerals and mildew.
- 900.36** Each guest bath shall be supplied with good-quality toilet and facial tissue holders. Facial tissues of standard size shall be provided in permanently mounted holders or in a permanent decorative holder approved by Best Western.
- 900.37** Light fixtures, electric outlets and switches shall be operable and clean at all times.
- 900.38** At least one robe hook should be provided in each bath area.
- 900.39** Kitchen areas and kitchen equipment shall be of modern design and shall be kept clean and in excellent physical condition and appearance.
- 900.40** All bathrooms shall provide adequate ventilation. Window ventilation usually is adequate, but if windows are not available, exhaust vents and fans shall be provided and maintained in an operable condition.
- 900.41** Electric shaver points or outlets near a suitably lit mirror shall be provided.
- 900.42** A hair dryer shall be provided in all guest rooms.
- 900.43** An iron and ironing board shall be provided in each guest room. Tabletop ironing boards are not acceptable. Freestanding wall-mounted units are acceptable. The iron must be full size (not travel size).
- 900.44** Hot and cold running water shall be provided in each guest bathroom.
- 900.45** A laundry bag is to be provided for each guest room.
- 900.46** Mechanical fans shall be available upon guest request if the property does not provide air conditioning in the guest room.
- 900.47** A minimum of 10% of the guestrooms shall have beds with a minimum mattress size of 72 inches by 84 inches (california king) or 76 inches by 80 inches (standard king).
- 900.48** All guest rooms shall be required to have coffee or tea makers with complimentary tea or coffee "packets, bags or filter". Decaffeinated coffee or tea must also be provided. Normal accompaniments, i.e., sugar, sweetener, milk or non-dairy creamer, stirrer are to be provided. Disposable cups or china/ceramic cups shall be provided. Consumables (coffee, tea, accompaniments and cups) must be replenished daily.
- 900.49** Each guest room shall be provided with a clock, (e.g., clock radio).
- 900.50** Intentionally omitted.
- 900.51** Guest room televisions shall deliver a minimum of at least eight different channels of programming, including at least one English-speaking channel that includes international news. A 24-hour all-news channel is not required. Further:
1. The television must have good, clear picture and sound.
 2. The television must have a remote control and full mute function. The remote control must not be attached to anything.
 3. If the television is video-on-demand enabled, it must have clear, easy to follow instructions and the cost should be clearly stated.
 4. Televisions on metal pedestal stands are unacceptable.
 5. If used, security mountings must be high-quality and inconspicuous
- 900.52** All guest rooms shall have a radio or some other source of music (e.g., portable radio, clock radio, radio on tv, music channel on television or hard-wired hotel music system).
- 900.53** Hotels shall have a minimum of 50% of their guest rooms designated as non-smoking. Rooms will be identified with a permanent notice on the guest room external door as a non-smoking room. Rooms will also have at least one notice within the room, identifying the room as a non-smoking room.
- 900.54** A reasonably accessible electrical outlet must be professionally installed either (i) by

hardwiring it into the wall above the desk or work surface (32" - 36" above finished floor), or (ii) in the desk or work surface, or (iii) in the desk or (iv) by providing a work surface lamp that has an outlet conveniently integrated in its base. If no desk is provided, one reasonably accessible, unused outlet must be located within 6' of the parsons or activity table.

Chapter X

1000.0 Logo Items and Room Supply Requirements

1000.1 Following are the minimum allowable room supply requirements:

- A. Two (2) tumblers per bed. Tumblers shall be sanitized in accordance with applicable government regulations. Sanitized glasses shall be placed in an approved glass bag. Alternatively, the top and rim of the glass may be covered with approved shrink-wrap plastic or a fitted heavy paper glass cap. When disposable glasses are used, they shall be pre-sanitized and pre-wrapped.
- B. Consistent with the requirements of this section, Best Western shall have the authority to establish a "branded" bath amenity program for each Best Western hotel brand. Each guest bathroom shall offer 2 bars of packaged soap in the shower/tub and basin/vanity area. Minimum requirements are at least one 3/4 size bar (2 1/2" x 1 1/2" x 1/4" or .6 ounces) and one 1 1/2 size bar (3" x 1 3/4" x 1/2" or 1.2 ounces). A Best Western approved soap dispenser and dispensed product are allowed in the bath area in lieu of a bar of soap provided a 1 1/2 size facial bar is available at the vanity area. It is recommended that a 1 1/2 size deodorant bar be provided in the bath area.

Each guest bathroom shall offer bottled shampoo (packet/sachets not acceptable) or a conveniently located shampoo/shower/bath gel dispenser.

Extra soap and/or shampoo shall be available upon request.

C. One (1) ice bucket per room (3 qt. minimum).

D. Two (2) waste baskets per room, one to be placed in the vanity area (at least one waste basket should be a minimum 13 qt. size).

E. "Do not disturb" device or sign for each room.

1000.2 Consistent with the requirements of this section, Best Western shall have the authority to establish a one-vendor bedroom linen and bathroom terrycloth program (while also retaining the existing green terrycloth program). The Board shall have the authority to determine the appropriate weight for terrycloth items and thread count for linens. Subject to this authority, the following minimum guest room linen standards apply:

Bath terry:

1 cloth bath mat (bath towel may be substituted). Bath terry to be constructed with a minimum of 86% natural fiber, e.g., cotton, bamboo, etc. Ring Spun fiber preferred. Dobby border preferred. Minimum weight per dozen: 6.9 lbs.

Room with one bed:

- 2 bath towels. Minimum size: 25" x 52". Minimum weight per dozen: 12.0 lbs.
- 2 hand towels. Minimum size: 16" x 27". Minimum weight per dozen: 3.0 lbs.
- 2 face cloths. Minimum size: 12" x 12". Minimum weight per dozen: 1.0 lbs.
- The sizes listed above are to be measured on new product before shrinkage.

Room with two beds:

- 3 bath towels. Minimum size: 25" x 52". Minimum weight per dozen: 12.0 lbs.
- 3 hand towels. Minimum size: 16" x 27". Minimum weight per dozen: 3.0 lbs.
- 3 face cloths. Minimum size: 12" x 12". Minimum weight per dozen: 1.0 lbs.
- The sizes listed above are to be measured on new product before shrinkage.

Bedroom linens:

Mattress Pad Requirement:

Each bed shall have a mattress pad.

Sheeting Requirements:

Each bed shall be triple sheeted, or double sheeted with washable duvet cover with removable insert as further defined.

Triple sheeting is defined as making up a bed with:

- a. A compliant minimum T-200 first (bottom) sheet, either fitted or flat;
- b. Topped with a second (middle) sheet beneath which the guest will typically sleep;
- c. Topped with a compliant blanket appropriate to the descriptor; and
- d. Topped with a third (top) sheet as described below as appropriate to the descriptor.

Double sheeting with washable duvet cover and removable insert is defined as:

- a. A compliant minimum T-200 first (bottom) sheet, either fitted or flat;
- b. Topped with a second (middle) sheet beneath which the guest will typically sleep; and
- c. Topped with a washable duvet cover with a compliant blanket insert.

Decorative Element Requirements:

At Best Western descriptor hotels, triple sheeting is acceptable with the third (top) sheet exposed:

- a. Provided the bed has an additional decorative element. Acceptable elements include the addition of a decorative pillow (throw or bolster style), or a scarf.
- b. The third (top) sheet must be decorative in nature, e.g., tone on tone stripe, tone on tone block, festooned, etc.

At Best Western Plus descriptor hotels, triple sheeting is acceptable with the third (top) sheet exposed:

- a. Provided the bed has two (2) additional decorative elements, e.g., the addition of a decorative pillow and a scarf.
- b. The third (top) sheet must be 100% polyester jacquard or matelasse patterned fabric with a minimum weight of 6 oz./sq. yd.; may be white or colored.

At Best Western Premier descriptor hotels, triple sheeting is acceptable with the third (top) sheet exposed:

- a. Provided the bed has two (2) additional decorative elements, e.g., the addition of a decorative pillow and a scarf.
- b. The third (top) sheet must be 100% polyester jacquard or matelasse patterned fabric with a minimum weight of 6 oz./sq. yd.; may be white or colored.
- c. The blanket between the second (middle) sheet and the third (top) sheet must be down, synthetic down, or duvet blanket.

Pillows:

A minimum of 3 pillows are required on a full size or smaller bed; and a minimum of 4 pillows (standard size) are required on a Queen or King Size Bed, with all pillows to be enveloped in a pillow protector, and a pillowcase which is manufactured with minimum T-250 (250 threads per square inch) percale with a minimum of 50 percent cotton content. All pillows must meet Best Western specifications.

Additional decorative pillows may be used as a supplement to, but not in lieu of, the required quantity of pillows.

The pillows shall be of the following minimum standard: Fiber type 6 denier per filament, polyester fiber clusters comprised of a blend of hollow low void, high void and antimicrobial fibers with a cluster cohesion of less than 6.0 Newtons, 100% cotton T-180 ticking with the following size and weight of fill specifications:

Required Size Medium Support	
Standard 20"x 26"	22 oz
Queen 20"x 30"	27 oz
King 20"x 36"	33 oz

If you choose to provide gentle and/or firm pillows in addition to the MEDIUM SUPPORT pillows described above, the following specifications apply. The pillows shall be of the following minimum standard: Fiber type 6 denier per filament, polyester fibers cluster comprised of a blend of hollow low void, high void and antimicrobial fibers with a cluster cohesion of less than 6.0 Newtons, 100% cotton T-180 ticking with the following size and weight of fill specifications:

Optional Size Gentle Support	Optional Firm Support
Standard 20"x 26"	20 oz 24 oz
Queen 20"x 30"	25 oz 29 oz
King 20"x 36"	31 oz 35 oz

The law tag must be affixed to all pillows as required, for compliance and to fulfill assessment requirements.

- Bedding includes: top coverings, blankets, mattresses pads, pillow cases and bed sheets which are of proper size for the box spring and mattress on which they are used.

- 1000.3 All Members shall choose a minimum of three items for use at the Property that shall bear the approved Best Western logo.
- 1000.4 A minimum of three logo items are to be displayed in the public areas in addition to signage.
- 1000.5 If in-room stationery is provided, it shall comply with the Brand Identity Manual.

Chapter XI

1100.0 Violations and Sanctions

- 1100.1 If a Member Property is operated, managed or maintained in a manner that results in violations, deficiencies or infractions of applicable Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, or orders or directives issued by the Board, the Member Property may be placed on probation.
- 1100.2 Probation involving assessment deficiencies requires receipt of an assessment report or a Guest Rooms/Public Areas Condition Report made by a Best Western accredited assessor indicating the Property has scored below the minimum of 800 points. Written notice shall then be sent to the Member by traceable expedited courier service with a copy of the assessment report, requiring correction of the deficiencies noted on the assessment report or a Guest Rooms/Public Areas Condition Report within a specified period.
- 1100.3 A Property, once placed into probationary status, will remain in that status until such time as a Guest Rooms/Public Areas Condition Report score equals or is greater than 800 points, until the reason for the probation has been cured or until cancellation of the Membership.
- 1100.4 When failure to maintain Property to Best Western standards results in probation, a

fee established by the Board may be assessed to cover the cost of the field staff assessment.

- 1100.5** If a Member fails to pay dues or other fees or assessments (other than Annual Dues) within the time period provided for in the Bylaws, Rules and Regulations or orders or directives issued by the Board, and if such dues, fees or assessments remain unpaid for thirty (30) days after the date of written notice of delinquency is sent to the Member by Best Western Headquarters, or no other satisfactory arrangement has been made for liquidation of the indebtedness, the Board may cancel the Membership pursuant to Article II, Section 8(C) and (D) of the Bylaws and Chapter XII of these Rules and Regulations. This Section does not govern automatic termination of Membership for failure to pay Annual Dues by September 15, which is dealt with in Article II, Section 2(B)(2) of the Bylaws, and does not limit the Board's option to restrict services under Rule 1100.8.
- 1100.6** If a Member fails to conform to the obligations or meet the standards set forth in the Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, or orders or directives of the Board, the Board may cancel the Membership pursuant to Article II, Section 8 of the Bylaws and Chapter XII of the Rules and Regulations.
- 1100.7** If a Member Property is operated, managed or maintained in a manner that results in:
- A. Receipt of two (2) consecutive assessment scores or Guest Rooms/Public Areas Condition Report scores which are below 800 points;
 - or
 - B. Receipt of two (2) assessment scores or Guest Rooms/Public Areas Condition Report scores less than 800 points during any 18-month period;
 - or
 - C. Receipt of three (3) assessment scores or Guest Rooms/Public Areas Condition Report scores less than 800 points during any 24-month period;
 - or
 - D. Receipt of a single assessment score or Guest Rooms/Public Areas Condition Report score below 600 points;
- the Board may cancel the Membership pursuant to Article II, Section 8 of the Bylaws and Chapter XII, Paragraph 1200.2(E) of the Rules and Regulations.
- 1100.8** Where grounds exist for termination of Membership, the Board or its designee may, in addition to any other remedy, restrict any or all Membership services. During an administrative restriction, full fees continue to accrue.
- 1100.9** The Board shall establish a program automatically restricting Properties on the Best Western reservation system when they score below 600 points on a Guest Rooms/Public Areas Condition Report. The Property

will remain restricted subject to the Property's status being determined by the Board.

Chapter XII

1200.0 Procedure for Cancellation of Membership

- 1200.1** A. Unless payment in full is received within the time specified or other satisfactory arrangements are made to liquidate the delinquent indebtedness contained in a notice sent to a Member pursuant to paragraph 1100.5 of Chapter XI of these Rules and Regulations, the President and Chief Executive Officer or his designee shall send to the Member by certified mail notice containing the following information:
- 1. Statements of amounts delinquent;
 - 2. Nature of charges;
 - 3. Citation of the Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, or orders or directives of the Board upon which the nature, amount and delinquency of the charges are based; and
 - 4. Notification that the Board will consider the cancellation of the Membership and that a written demand for a hearing to show cause why the Membership should not be cancelled shall be received by the President and Chief Executive Officer or his designee by certified mail within fifteen (15) days after mailing of this notification.
- B. Failure to make timely written demand for a hearing shall be deemed consent by the Member to any action taken by the Board with respect to cancellation of the Membership.
- C. If the Member makes timely written demand for a hearing, the provisions of paragraphs 1200.3 and 1200.5 of this chapter shall apply.
- 1200.2** A. If the President and Chief Executive Officer or his designee believes a Member is in violation of Article II, Section 8(A)(2) or 8(A)(3) of the Bylaws or paragraph 1100.6 of these Rules and Regulations, and the violation is such that a corrective period is allowed, he or his designee shall send written notice of such violation to the Member by traceable expedited carrier. The notice shall specify in detail the violations charged to exist and the facts believed to support the charged violations, and shall cite the Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, or orders or directives of the Board charged to have been violated. For alleged violations of paragraph 1100.7, or violations for which no corrective period is allowed, compliance with this notice provision is not required.
- B. The Board, by policy, may from time to time establish time periods during which the charged violations may be corrected to avoid further action. Any period for correction shall in no event exceed sixty (60) days

from the date of notification provided for in rule 1200.2(A). If the alleged violations contained within the notice to the Member are subject to corrective period, said period shall be stated in the notice.

C. Within twenty-one (21) days after the mailing of the notification of violation, the Member shall make written answer to the charges, which shall be sent by traceable expedited carrier to the President and Chief Executive Officer or his designee. The answer shall state specifically whether the charged violations will be corrected within the prescribed corrective period or whether the existence of the charged violations is challenged. If the charged violations have been corrected within the twenty-one (21) days, the answer shall so specifically state. Additionally, if corrective action may still be taken within the established corrective period, the Member shall notify Best Western when the charged violations have been corrected. Such notification shall be mailed no later than the last date of the corrective period.

D. If the President and Chief Executive Officer or his designee, upon receipt of Member's written answer, determines that the violations originally charged do not exist, have been satisfactorily corrected, or will be corrected within the prescribed corrective period, no further action on the part of the Member or Best Western is required. In the event the Member does not correct the charged violations within the prescribed corrective period and notify Best Western in writing of such event, or if the charged violations have not been corrected to Best Western's satisfaction, then the President and Chief Executive Officer or his designee shall give notice to the Member by traceable expedited carrier, that grounds for cancellation exist. The notice shall contain:

1. Statement of the specific violation that has not been satisfactorily corrected;
2. Statement of the facts upon which the violation charged is based;
3. Citation of the Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, or orders or directives of the Board charged to be violated; and
4. Notification that the Board will consider the cancellation of Membership and that any written demand for a hearing to show cause why the Membership should not be cancelled shall be received by the President and Chief Executive Officer or his designee by traceable expedited courier within fifteen (15) days, or such shorter period as may be set by the President and Chief Executive Officer or his designee by traceable expedited courier within fifteen (15) days, or such shorter period as may be set by the

Board under Article II, Section 8(D) of the Bylaws, after mailing of this notification.

E. In the case of violation of Chapter XI, paragraph 1100.7, or in the case of a violation for which no corrective period is allowed, the President and Chief Executive Officer or his designee shall notify the Member, by traceable expedited carrier, that grounds exist for cancellation of the Membership which are not subject to corrective action. The notice shall contain the information required under subparagraph (D)(2), (3) and (4) of this section.

F. If the Member fails to make timely answer to the notification by the President and Chief Executive Officer or his designee provided for in paragraph (A) of this section, the President and Chief Executive Officer or his designee shall cause a written notice to be sent to the Member containing the items set out in subparagraphs (1), (2), (3) and (4) of paragraph (D) of this section. Failure to make timely written demand for a hearing shall be deemed consent by the Member to any action taken by the Board with respect to cancellation of the Membership.

1200.3 A. If a Member makes timely written demand for a hearing as provided in paragraph (C), Section 8, Article II of the Bylaws, a hearing shall be held by the Board within sixty (60) days after receipt by the President and Chief Executive Officer or his designee of such demand. The President and Chief Executive Officer or his designee shall notify the Member in writing, traceable expedited carrier, no fewer than fifteen (15) days before the hearing, that a hearing will be held, specifying the place, date and time for such hearing.

B. At the time of making written demand for a hearing by the Board, the Member may make written answer to the charged violations with the answer being sent to the President and Chief Executive Officer or his designee in the same manner as the demand for hearing, and which answer shall fairly meet the charges.

C. The Board may provide a lesser notice and opportunity to be heard prior to cancellation of a Membership as provided in Article II, Section 8(D) of the Bylaws.

1200.4 A. Upon failure of the Member to make written demand for a hearing, the Board may thereafter at any time cancel the Membership in accordance with paragraph (C) of Section 8, Article II of the Bylaws.

B. Failure by the Member to make timely demand for a hearing shall relieve the Board of entertaining any oral argument during the Board meeting, if any, dealing with the matter of the Member's cancellation. Such failure will not, however, permit the Board to dispense with the presentation of evidence or argument to support cancellation of Membership or relieve the Board of any obligation to consider:

1. Any written response received by the Board or by the President or Chief Executive Officer or his designee:
 - (a) not later than fifteen (15) days before said Board meeting; or
 - (b) before transmittal of the matter of the Member's cancellation to the Board members if consideration of the matter and vote thereon is done electronically or;
2. Any correspondence or other written matter between the Association and the Member dated no later than thirty (30) days after the distribution of the notification by the President and Chief Executive Officer or his designee required under Article II, Section 8 of the Bylaws.

1200.5 In cases in which the Member has been granted a hearing pursuant to a timely written demand, the following rules shall apply:

- A. Only persons having a direct interest in the cancellation proceeding shall be entitled to attend, although the Board, in its discretion, may permit such other persons to attend under such conditions as the Board may determine.
- B. Any party to the cancellation proceeding may be represented by counsel, but if the Member intends to be so represented, the name, address and telephone number of his counsel shall be provided to the President and Chief Executive Officer or his designee in writing no fewer than three (3) days before the scheduled hearing.
- C. No fewer than three (3) days before the scheduled hearing, there shall be provided to the President and Chief Executive Officer or his designee by or on behalf of the Member, a written statement containing the following:
 1. Names and addresses of witnesses, if any, the Member intends to call at the hearing;
 2. Documentary evidence or exhibits, if any, to be introduced by the Member;
 3. Any special requests;
 4. Statement of issues to be presented to the Board as the Member may anticipate; and
 5. Any offer of compromise.
- D. At or before the hearing, the President and Chief Executive Officer or his designee will present to each member of the Board a written statement containing the following:
 1. Name and address of the Member;
 2. Name and address of the Member's Property;
 3. Nature and character of the uncorrected violations charged as grounds for cancellation;
 4. Detailed statement of facts upon which the charged violations are based;

5. Citation of the Bylaws, Rules and Regulations, New Construction Guidelines, Renovation & Refurbishing Guidelines, or orders or directives of the Board charged to be violated;
6. Listing of correspondence or other communications between the Association and the Member relating to the violations charged, with a copy of each attached;
7. Recommended action to be taken by the Board; and
8. Statement of all sums due and owing from the Member to the Association and all sums due and payable.

E. The order of proceeding during hearings shall be as determined by the Board, provided the Member has a full and fair opportunity to present relevant and material evidence in support of his position. The burden of proof of charged violations sufficient to justify cancellation of Membership and of compliance with the procedures required by the Bylaws and these Rules and Regulations shall be upon the Association.

F. The Board shall be the sole judge of the relevancy and materiality of proffered evidence; conformity to legal rules of evidence shall not be required. All evidence shall be taken in the presence of all of the parties, except any party who has been given notice of the hearing and who fails or refuses to attend other than by reason of exclusion from the hearing by the Board, unless such exclusion is based upon gross and disruptive misconduct at the hearing. In the event a party is excluded for gross and disruptive misconduct, the Board shall make a specific finding of such misconduct before ordering the party's exclusion from the hearing. The Board may, in its sole discretion, receive and consider evidence by way of affidavit, written statement or letter or telephone call, but shall give such evidence only such weight as the Board deems appropriate.

G. Whenever the Board deems it necessary to view and inspect the Member Property, it shall advise the Member of its intention and of the date and time that the assessment shall take place. Whenever the Member requests that any inspection be made, the Board in its sole discretion may grant or deny the request; in the event the Board shall agree to make an inspection, the Member shall pay, in advance, all the expenses incurred by the Board members.

H. Any inspection made under this rule may be made by one or more members of the Board as directed by the Board. Any interested party may be present at such inspection.

I. A hearing on cancellation may be reopened at the sole discretion of the Board at any time before a final decision is rendered. A rehearing may be granted at the sole discretion of the Board and upon such terms

and conditions as the Board may direct, provided that written petition for rehearing, specifying the grounds for the petition, shall be sent to the President and Chief Executive Officer or his designee by traceable expedited carrier within fifteen (15) days of the date notice of the final decision of the Board is distributed to the Member.

Chapter XIII

1300.0 Procedure for Termination of Contingently-Approved Applicants

- 1300.1** Contingently-approved applicants are subject to termination of approval, as specified by rule 1300.2, for any violation of the Rules, Bylaws or Board policies which would constitute grounds for placing a Member on probation or grounds for terminating a Membership. By way of example, without limitation, a contingently-approved Applicant is subject to termination of approval, as specified by rule 1300.2, for
- A. receipt of a single assessment score below 800 points;
 - B. receipt of customer complaints, during a single six-month monitoring period, in excess of the maximum number permitted by rule 500.43; and
 - C. failure to strictly and timely comply with each and every condition of approval. The Board may, as a condition of approval, impose stricter standards on contingently-approved Applicants.
- 1300.2** Where grounds for termination exist, the Board may summarily terminate approval of a contingently-approved Applicant or may impose additional or stricter conditions of approval. A contingently-approved Applicant shall have no right to probation, no right to hearing and no right to vote until full Membership has been granted.

Member-Approved Ballots

The following are Ballots that were approved by the Best Western Membership but are not part of the Articles of Incorporation, Bylaws or Rules and Regulations. These Member-approved ballots apply to every Member in that they are Regulatory Documents as defined by Article I of the Bylaws.

AAA/CAA Official Appointment

Approved February 2009 – Beginning April 1, 2009, Best Western will annually renew each Member's American Automobile Association/Canadian Automobile Association (AAA/CAA) Official Appointment on behalf of the Member and add the cost to the Member's Best Western monthly statement.

Approved December 2006 – To approve the requirement that each North American Best Western Property which has not received a BWI exemption, shall receive designations as (1) a AAA/CAA designated Diamond-rated property, and (2) a AAA/CAA Official Appointment property, by December 31, 2007. Each North American Property shall maintain these AAA/CAA designations in accordance with the Compliance Rules set forth in the Proposal Explanation, throughout the term of its Best Western Membership, unless notified by BWI's President that the AAA/CAA designation(s) is not required.

NOTE: The Exemption Rules set forth in the Ballot's Proposal Explanation are as follows:

Exemption from Compliance Rules:

Any Property which has received a statement in writing from AAA/CAA that it is not eligible for consideration as a AAA/CAA designated Diamond-rated hotel property may apply for, and upon submission of the AAA/CAA statement of ineligibility to BWI may receive, an exemption from the Compliance Rules described below ("Exemption"). By way of example, a Property which has received a statement from AAA/CAA that the Property is ineligible for consideration because it is a "Historic Property", listed on the National Register of Historic Places, may apply to BWI for and may receive an exemption from the Compliance Rules. Exemptions will not be granted for any failure of a Property to obtain AAA/CAA approval by reason of a failure to maintain quality standards or the like.

NOTE: The Compliance Rules set forth in the Ballot's Proposal Explanation are as follows:

Compliance Rules:

- All Properties which are designated as AAA/CAA designated Diamond-rated properties on December 31, 2006, shall be required to obtain OA designation by December 31, 2007.
- All Properties which are not designated as AAA/CAA designated Diamond-rated properties by or on December 31, 2006, and which have not received an Exemption, shall be required to obtain AAA/CAA Diamond-rated designation and OA designation by December 31, 2007.
- All Properties which are AAA/CAA designated Diamond-rated properties and are OA properties on December 31, 2007, shall be required to maintain a AAA/CAA designated Diamond-rated designation and OA designation throughout the

term of their Best Western Membership, unless the Voting Member for that Property receives a communication, signed by the President of BWI, stating that AAA/CAA Diamond-rated designation and/or OA designation is no longer a requirement of Membership for that Property.

Advertising Assessment

Approved November 2012 – The advertising assessment approved by the Membership in December 2010 shall be amended such that it does not have an expiration date.

Approved December 2010 – The advertising assessment approved by the Membership is as follows:

- a. Each Best Western Property shall be assessed \$11.00 (USD) per room per month, with an effective date of February 1, 2011 and continuing through December 31, 2014; and
- b. The Board of Directors shall have the authority to increase the advertising assessment once each fiscal year, with no such annual increase exceeding the greater of (1) two percent (2%) of the prior year's assessment, or (2) the rate of inflation for the previous year as measured by the United States Bureau of Labor Statistics Consumer Price Index (all items for all urban areas), effective December 1, 2011.

Sales and Marketing Assessment

Approved November 2017 – The sales and marketing assessment shall be:

Effective Date	Percentage of Gross Rooms Revenue ("GRR")
January 1, 2018	.4 % of GRR
January 1, 2020	.5 % of GRR
January 1, 2022	.6 % of GRR

Marketing and Technology Assessment

Approved November 2018 – Effective December 1, 2018, there shall be the following technology and marketing assessment:

Effective Date	Percentage of Gross Rooms Revenue ("GRR")
December 1, 2018	.33 % of GRR
December 1, 2019	.66 % of GRR
December 1, 2020 and thereafter	1.0 % of GRR

Best Western Distribution System

Approved November 2016 – Effective November 23, 2016, Best Western shall have visibility and equal access to guest room rates offered by Properties through any non-Best Western distribution channel such that those rates may be offered through Best Western channels.

Approved June 2016 – Effective June 15, 2016, Best Western Properties shall use Best Western electronic distribution systems as the exclusive method of offering rooms to intermediaries.

Best Western Rewards® Program

(Formerly Gold Crown Club International (“GCCII”))

Approved December 21, 2011 – Members shall award Best Western Rewards (“BWR”) program points, miles or partner rewards to a BWR participant for all rooms with qualified rates, up to a maximum of ten (10) rooms, when paid for by a BWR participant and when associated with the BWR participant’s stay at the Property.

Approved February 2009 - Effective April 1, 2009, a Free Night Award (FX Rate) program and reimbursement structure was adopted.

Approved November 2022 - Effective January 1, 2023, or as soon thereafter as is practicable and upon reasonable notice to the Membership, the Free Night Award (FX Rate) program and reimbursement structure changed as follows:

A. Free Night Award (“FX Rate”) reimbursement structure (inclusive of applicable taxes) for Properties is as follows:

- i. If the occupancy of the Property is 90% or greater when the FX room night is consumed, the Property will be reimbursed at 90% of the Property’s average daily rate (“ADR”).
- ii. If the occupancy of the Property is 70% or greater and less than 90% when the FX room night is consumed, the Property will be reimbursed at 70% of the Property’s ADR.
- iii. If the occupancy of the Property is less than 70% when the FX room night is consumed, the Property will be reimbursed at the greater of 40% of the Property’s ADR or US \$40.00.
- iv. US \$40.00 is the minimum FX redemption reimbursement regardless of occupancy.

B. Properties will provide at least 10% of total rooms (a minimum of three (3) rooms) and no more than 50% of total rooms for FX redemptions.

As adopted in 2009, no fees (including Travel Agent commission, Best Western Rewards (BWR) assessment, GDS fees and Lynx fees) will be charged on Free Night Award (FX Rate) reimbursement.

Best Western Rewards® (BWR®) Elite Member Property Recognition Program

Approved November 2012 and amended November 23, 2016 – Effective January 1, 2013, with amendments effective January 1, 2017, or as soon thereafter as practicable:

Best Western Properties shall provide minimum BWR recognition to BWR members in Gold, Platinum, Diamond, and Diamond Select categories (“Elite Members”) as follows:

- a. BWR Elite Members shall be provided the option to select either: (i) BWR bonus points; or (ii) a snack and beverage/hotel amenity for each hotel stay.
- b. The BWR Elite Recognition option of receiving BWR bonus points per stay shall be five hundred (500) BWR bonus points per stay.
- c. The snack and beverage BWR offering shall include at a minimum two (2) complimentary beverages and two (2) approved snack options in a BWR branded bag.
- d. If a hotel amenity is offered, it shall be of at least equal value to the snack and beverage offering.
- e. All properties will be required to display a BWR Elite Program display at the front desk, as designed by Best Western International, Inc. (“Best Western”).
- f. During check in, a Property representative shall thank the BWR Elite Member for their business and loyalty.

If a Property does not satisfy a minimum BWR Elite Member recognition requirement, the following shall occur:

When complaints are received at Best Western Headquarters with reference to a particular Property, if the complaint relates to BWR Elite Member recognition, Best Western Headquarters shall have the authority to resolve the matter upon the first contact, according to the following schedule:

Property Cost Per Complaint	Hotel Size 1 - 50 Rooms	Hotel Size 51 - 100 Rooms	Hotel Size 101 - 150 Rooms	Hotel Size 151 - 200 Rooms
Free	First 3 Complaints	First 4 Complaints	First 5 Complaints	First 6 Complaints
\$30 Each	Complaints 4 - 8	Complaints 5 - 10	Complaints 6 - 12	Complaints 7 - 14
\$60 Each	Complaints 9 - 12	Complaints 11 - 15	Complaints 13 - 18	Complaints 15 - 21
\$100 Each	Complaints 13 & over	Complaints 16 & over	Complaints 19 & over	Complaints 22 & over

In increments of 50 additional rooms over 200, Properties will receive one additional free complaint, one additional \$30 complaint, and one additional \$60 complaint. The number of complaints shall be measured in each Best Western fiscal year.

This program is separate and distinct from first contact resolution regarding accommodations and service as defined in Rules and Regulations 500.35.

The Best Western Board of Directors shall have the authority to amend the BWR Elite Program.

Best Western Rewards® Rates

Approved May 2017 - Effective May 24, 2017, each Property’s Best Western Rewards rates shall be at least USD and CAD \$5.00 (as applicable), lower than the lowest non-qualified promotional rates (e.g., Best Value) for the equivalent room type and stay

restrictions (e.g., advance purchase or length of stay) published on digital channels.

Approved November 2022 - Effective January 1, 2023, or as soon thereafter as is practicable and upon reasonable notice to the Membership, each Property's Best Western Rewards rates shall be:

- (i) The BWR Flexible Rate shall be at least 7% off RACK.
- (ii) AAA/CAA and AARP rates shall be at least 5% off RACK.
- (iii) Relative to RACK, the discount for the BWR Flexible Rate shall be at least 2% greater than the discount for AAA/CAA and AARP (e.g., if the AARP discount is 5% off RACK, then the BWR Flexible Rate discount shall be at least 7% off RACK).

In addition, the BWR Flexible Rate shall be equal to or less than any OTA loyalty program rate.

Pay for Points

Approved November 17, 2021 - Effective January 1, 2022, or as soon afterwards as is practicable and upon reasonable notice to the Membership, participation in Pay with Points (FX2) shall be required for all Best Western Properties on a non-Last Room Availability ("non-LRA") basis.

Booking.com Agreement

Approved May 2015 - Effective as soon as practicable upon the execution of a brand-level corporate lodging agreement ("Agreement") with Booking.com B.V. ("Booking.com"):

1. All Best Western branded hotels in North America (each a "Hotel"; collectively, "Hotels") shall conduct business with Booking.com, subject to the terms and conditions of the Agreement, unless a Hotel's contracted commercial term is more favorable to the Hotel, in which case the Hotel's more favorable contracted commercial term shall apply.
2. Hotels shall compensate Booking.com for bookings made by Booking.com customers on publicly available rates in an amount equal to fifteen percent (15%) of the net room revenue under the standard program and eighteen percent (18%) of the net room revenue under the preferred program. Payments will be made in the form of commissions, with commissions paid via the rules established for the BestCheque commission payment system (or its successor). Participation in the preferred program is by Booking.com's invitation only and is subject to Booking.com's preferred program requirements.
3. Hotels shall provide to Booking.com Last Room Availability ("LRA") access to Hotel inventory in the Best Western LYNX system and through the Best Western connection with Booking.com.
4. Hotels' connections to Booking.com shall be facilitated through the brand's connection (a transaction fee will apply).

5. A Hotel's publicly available rates and rate plans provided to Booking.com shall be equal to the Hotel's publicly available rates and rate plans made available through any Hotel, Best Western, or third-party booking or distribution channel, and shall be subject to contractual consequences for a violation (e.g., honoring the lower publicly available rate). This limitation does not apply to Best Western Rewards® rates, qualified rates through a partner membership program (e.g., AAA/CAA, AARP, etc.), or corporate negotiated rates.

Chain and Consortia Marketing Program

Approved November 27, 2013 - The Chain and Consortia Marketing Program is amended such that each Property shall pay to Best Western a cost recovery fee for each net room night reservation received under the Chain and Consortia Marketing Program (the "Fee"). For fiscal year 2014, the Fee shall be \$2.25 per net room night. The Board of Directors (the "Board") shall establish the Fee for each subsequent fiscal year based on a pass-through cost analysis. The Board-established Fee shall not exceed three percent (3%) of the previous fiscal year's Best Western reservations systems brand average daily rate. All other terms and conditions of the Chain and Consortia Marketing Program remain unchanged.

Approved December 2006 - All North American Properties shall participate in the Best Western Chain and Consortia Marketing Program, administered in accordance with the Chain and Consortia Marketing Program Terms and Conditions, and Compliance Rules.

NOTE: The Program Terms and Conditions set forth in the Ballot's Proposal are as follows:

Chain & Consortia Marketing Program Terms and Conditions:

- No Chain & Consortia Partner will be eligible to participate in the Program unless it has generated at least \$1 million dollars in net reservations value for the Properties during the previous year, as calculated based on the reservations value of net bookings received by the Properties through the Best Western LYNX central reservation system.
- For AMERICAN EXPRESS and CARLSON WAGONLIT TRAVEL, as Chain & Consortia Partners participating in the Program, the Properties shall pay a fee of USD \$1.00 for each net room night reservation received, commencing January 1, 2007. This fee shall replace any other participation fee(s) previously paid by the Properties or BWI for participation in the AMERICAN EXPRESS and CARLSON WAGONLIT TRAVEL programs.
- For other Chain & Consortia Partners participating in the Program, Properties shall pay a maximum fee of USD \$1.00 for each net room night reservation received from that Chain & Consortia Partner. This fee amount may be lower for certain Chain & Consortia Partners, but shall not be higher than USD \$1.00 for each net room night reservation received.

- BWI will always identify to the Membership, in advance, the participating Chain & Consortia Partners, as well as changes to, additions to, and/or removal of participating Chain & Consortia Partners.
- The fee of USD \$1.00 for each net room night reservation received shall be paid in addition to any other rate discount payable, or standard commission available, to the participating Chain & Consortia Partner.
- Properties shall not discriminate in receiving reservations generated by any Chain & Consortia Partner.
- Fees incurred shall be stated on each Property's monthly member statement, and shall be paid in accordance with applicable BWI Regulatory Documents (e.g. bylaws, articles, rules and regulations, etc.).
- Void where prohibited by law. BWI reserves the right to suspend or terminate part of or the entire Program at any time, at its sole discretion, upon written notice to the Properties, which notice shall be issued and signed by the President of BWI.

Comprehensive Approach to OTA Business to Save Members OTA Commissions

Approved May 2015 – Best Western shall institute a marketing program that gives Best Western the authority to enter into brand-level agreements (“Agreements”) with online travel agencies or distribution partners (collectively, “OTAs”), provided the following general terms and conditions are included in any such Agreement:

1. All Best Western branded hotels in North America (each a “Hotel”; collectively, “Hotels”) shall be subject to the terms and conditions of the Agreements unless the Hotel's contracted commercial terms are more favorable to the Hotel, in which case the Hotel's more favorable contracted commercial terms and conditions shall apply.
2. For non-package bookings, Hotels shall compensate OTAs in an amount not to exceed fifteen percent (15%) of the net revenue paid by OTA customers on all publicly available rates. (Hotels shall have the ability to increase commissions above the baseline amount at their discretion.) The commission shall apply to all publicly available rates, including promotional rates (e.g., Advance Purchase, MLOS, etc.), but shall not apply to Best Western Rewards® rates, qualified rates through a membership program, or corporate negotiated rates.
3. Payments shall be made in the form of a net rate (paid by a single use or virtual credit card) or commission (paid via the rules established for the BestCheque commission payment system or like payment system as determined by Best Western).
4. Hotels shall provide to OTAs Last Room Availability (“LRA”) access to Hotel inventory in

the Best Western LYNX system and through the Best Western connection with the OTA.

5. Hotels' connections to OTAs shall be facilitated through the brand's connections (a transaction fee will apply).

Enhanced General Manager Training Requirements

Approved November 2012 – Effective January 1, 2013, or as soon afterwards as is practicable and upon reasonable notice to the Membership:

All Best Western General Managers shall be required to satisfy all Best Western General Manager Professional Development (“GMPD”) Program requirements.

New General Managers, defined as the individual responsible for every day operations at the hotel, shall be required to complete an on-line examination and complete the appropriate level of GMPD training. The results of the on-line examination shall determine if the General Manager enrollee is required to participate in the Level 1 GMPD Training Program or the Level 2 GMPD Training Program.

The Level 1 GMPD Training Program shall require successful completion of:

1. A pre-requisite on-line course prior to attending the Best Western Level 1 GMPD Training Program;
2. A 5-day leadership training course; and
3. A 5-day orientation/operations course

The Level 2 GMPD Training Program shall require successful completion of a 5-day orientation/operations course.

If a General Manager enrollee is required to successfully complete the Level 1 GMPD Training Program, the 5-day orientation/operations course must be successfully completed within ninety (90) days of being hired as a General Manager, and the 5-day leadership training course must be successfully completed within six (6) months of being hired as a General Manager.

If a General Manager enrollee is required to successfully complete the Level 2 GMPD Training Program, the 5-day orientation/operations course must be successfully completed within ninety (90) days of being hired as a General Manager.

Hotels shall be responsible for the costs associated with General Managers attending each 5-day course on a cost-recovery basis.

Continuing Education

All Best Western General Managers shall earn a minimum of 2 professional development points per year and 8 professional development points over a 3-year period. Points may be earned as follows:

One point for:

- Attending a full-day General Manager Professional Development continuing education training program;
- Attending the Annual Best Western Convention;
- Attending a Best Western Education & Training or Best Western corporate staff led full-day training program; or

- Successfully completing a Best Western Education & Training certified online course curriculum, including approved partner online content (e.g., American Hotel & Lodging Association Educational Institute (“AH&LA EI”), eCornell, Mindleaders, etc.).

A full-day is considered 6 or more hours of training. One-half (½) point can be earned for programs between 3 and 6 hours in length.

The Board of Directors shall have the authority to approve additional courses for continuing education credits.

If a General Manager obtains an AH&LA EI CHA or CLM designation, or a similar designation as approved by the Board of Directors, during any three-year period after successfully completing the required GMPD course, the continuing education requirement for the then current three-year period will be considered fulfilled as long as the designation is maintained.

Expedia

Approved November 2014 – Effective as soon as practicable upon the execution of a brand-level corporate lodging agreement with Expedia, Inc. (“Expedia”):

1. All North American Best Western branded hotels (a “Hotel”; collectively, “Hotels”) shall conduct business with Expedia, subject to the terms and conditions of the agreement, unless a Hotel’s contract term(s) is more favorable to the Hotel, in which case the Hotel’s more favorable contract term(s) shall apply.
2. For non-package bookings, Hotels shall compensate Expedia an amount equal to fifteen percent (15%) of the net revenue paid by the Expedia customer on all publicly available rates, with payments made in the form of a net rate or commission, and with commissions paid via the rules established for the BestCheque commission payment system.
3. Hotels shall provide to Expedia Last Room Availability (“LRA”) access to Hotel inventory in the Best Western LYNX system and through the Best Western connection with Expedia.
4. Hotels’ connections to Expedia shall be facilitated through the brand’s switch connection.
5. Hotels’ publicly available rates and rate plans provided to Expedia shall be equal to the Hotels’ publicly available rates and rate plans made available through any Hotel, Best Western, or third-party booking or distribution channel, and shall be subject to a contractual penalty for a violation. This limitation does not apply to Best Western Rewards rates and partner membership programs (e.g., AAA/CAA, AARP, etc.).
6. Hotels shall be in the Expedia Traveler Preference program by which Expedia offers its customers the ability to choose whether to pay Expedia at the time of booking (Expedia Collect) or pay the hotel upon check-in (Hotel Collect):

a. Expedia Collect bookings will be processed using Single Use or Virtual Credit Card or other acceptable payment forms in the future.

b. Hotel Collect commissions will be processed by Best Western’s BestCheque program.

7. On an opt-out basis, Hotels shall establish and make available to Expedia a package and an opaque net rate plan, which shall be non-LRA. These net rates shall be provided to Expedia at a twenty-five percent (25%) discount.
8. Hotels shall be assessed an annual marketing investment fee of \$250 (for the brand to invest in Expedia Media Solutions).

Government Business Eligibility

Approved July 2014 – All Best Western Properties shall apply for all applicable government agency certifications such that they will be eligible for participation in federal government travel programs. Each Property will be responsible for ensuring that any certification number is updated in accordance with the terms of the applicable government program. Best Western will solicit all Properties for their preferences whether rates will be loaded as last room availability (“LRA”) or non-last room availability (“non-LRA”) in the applicable programs at the then-current, approved federal per diem rate. For those Properties that do not respond to the solicitation with a selection of LRA or non-LRA, the rates will be loaded as non-LRA so that the Property may open and close the rates as necessary. Commissions and other fees associated with each program will apply.

High-Speed Internet Access

Approved April 2006 – To require free high-speed Internet access (HSIA) at each North American Best Western Property by 11/30/06 (1) in each guest room (100%), and (2) in some public areas. All current HSIA standards, specifications and non-compliance procedures will continue to be in effect, as modified from time to time by the Best Western International, Inc. Board of Directors.

Approved January 2004 – To require high-speed Internet access (HSIA) at each North American Best Western Property by 9/01/04, and to require implementation of the Property terminal unit (PTU) replacement project at each North American Best Western Property for completion by 6/01/04. All guest room and some public area HSIA access must be free, and must be provided in at least 15% of the guest rooms and some public areas. The current specifications follow. Specifications may be modified from time to time by the Best Western International, Inc. Board of Directors.

NOTE: Contact Best Western International, Inc. for the current specifications.

Hotel Reservation Service Group Agreement

Approved May 2015 – Effective as soon as practicable upon the execution of a brand-level, global corporate

lodging agreement (“Agreement”) with Hotel Reservation Service Group (“HRS Group”):

1. All Best Western branded hotels in North America (each a “Hotel”; collectively, “Hotels”) shall conduct business with HRS Group, subject to the terms and conditions of the Agreement, unless a Hotel’s contracted commercial term is more favorable to the Hotel, in which case the Hotel’s more favorable contracted commercial term(s) shall apply.
2. Hotels shall compensate HRS Group an amount equal to twelve percent (12%) of the net room revenue on bookings made by HRS Group customers on all publicly available rates, with payments made in the form of commissions, and with commissions paid via the rules established for the BestCheque commission payment system (or its successor).
3. Hotels shall provide to HRS Group Last Room Availability (“LRA”) access to Hotel inventory in the Best Western LYNX system and through the Best Western connection with HRS Group.
4. Hotels’ connections to HRS Group shall be facilitated through the brand’s connection (a transaction fee will apply).
5. A Hotel’s publicly available rates and rate plans provided to HRS Group shall be equal to the Hotel’s publicly available rates and rate plans made available through any Hotel, Best Western, or third-party booking or distribution channel, and shall be subject to contractual consequences for a violation (e.g., honoring the lower publicly available rate). This limitation does not apply to Best Western Rewards® rates, qualified rates through a partner membership program (e.g., AAA/CAA, AARP, etc.), or corporate negotiated rates.
6. Hotels will have the option to join HRS Group’s corporate discount program, which is a program focused on unmanaged, small- and medium-sized enterprises.

Implement Google Business Photos to Optimize Search Results

Approved November 27, 2013 – Effective upon certification of the results by the Designated Accountant, with compliance required by December 31, 2014:

All Best Western Properties shall obtain 360-degree panoramic virtual tours with street-view technology through Google (“Google Business Photos”).

Photographs and virtual tours displayed on bestwestern.com must be consistent with Google Business Photos displayed on Google Assets.

Industry-Wide Research and Benchmarking Studies

Approved June 2016 – Effective June 15, 2016, Best Western shall have the authority to provide Property reservation data (redacted such that it does not provide personally identifiable information or payment information (e.g., credit card information), to industry

advocacy organizations (e.g., the American Hotel & Lodging Association (“AH&LA”) and the Hotel Association of Canada (“HAC”)) such that they may gather and analyze relevant data for the purpose of lobbying on behalf of the hotel industry and providing benchmarking results to Best Western and its branded hotels.

Loading as Open Non-LRA Rate Plans without Participation Fees

Approved July 2014 – All rate plans that are non-last-room available (“non-LRA”) and that do not require an up-front participation fee shall be loaded as open in each Property’s property management system and in Best Western’s reservations systems. Properties shall have the ability to open and close these rate plans as they deem appropriate consistent with Best Western’s inventory management programs. When applicable, rates shall be loaded annually, and Properties shall be notified in advance of the loading activity so they can effectively manage their rates and inventory.

Performance-Based Advertising Initiative

Approved November 2012 – Effective February 1, 2013, or as soon afterwards as is practicable and upon reasonable notice to the Membership:

With regard to “Digital Opportunities” only, each Best Western Property shall pay a ten percent (10%) commission on each consumed stay. “Digital Opportunities” shall include: Google Hotel Price Ads, Paid Search (e.g., sponsored advertisements on search engines such as Google, Bing, Yahoo, etc.), TripAdvisor Check Rates, TripAdvisor Business Listings Program, and future digital marketing channels and opportunities. This commission shall only apply to commissionable rates booked directly through a Digital Opportunity.

Photographs and Virtual Tour Requirements

Approved June 29, 2011 – All Best Western Properties shall display and maintain professional-quality photographs of their Properties on bestwestern.com that are less than three (3) years of age such that they properly reflect the Property’s condition and amenities being offered. Virtual tours displayed on bestwestern.com must be consistent with the photographs. The effective date shall be February 1, 2012.

Rate Levels System Enhancement

Approved June 29, 2011 – The Rate Level System Enhancement as set forth in the Ballot Proposal (as set out below), with an effective date of December 1, 2011, or as soon afterward as the technology implementation is achievable; and authorization for the Board of Directors to approve future improvements to rate levels.

1. All LYNX rate plans will be organized into Rate Levels. Each rate plan will be linked to one Rate Level and that Rate Level will determine whether the rate plan is available or not.
2. The first Rate Level will represent BAR. All standard LYNX rate plans with Last Room Availability (“LRA”) will be linked to BAR. The

BAR Rate Level will have both individual room type and total room counters which can be adjusted by the Property. The BAR Rate Level will have the full range of status conditions currently supported for rate plans, which can be adjusted by the Property. Members may choose to link other rate plans with BAR at their discretion.

3. There will be 7 additional Rate Levels. Each Rate Level will have both individual room type and total room counters which can be adjusted by the Property. Each Rate Level will have the full range of status conditions currently supported for rate plans, which can be adjusted by the Property. The Member may use any number of Rate Levels beyond BAR up to 7 additional levels for a total of 8. The Member can name each Rate Level and determine which rate plans are linked to which Rate Level.
4. Once Rate Levels are implemented for a Property, the Property will no longer be able to manipulate availability for an individual rate plan in LYNX; rather, the Property will manipulate availability for a Rate Level.
5. Members will be able to change the Rate Level link for any rate plan except those LRA plans automatically linked to BAR.
6. Members will continue to manage blackout dates, for those LRA plans which permit blackout dates, as they do today.
7. The FX plan, and other minimum allocation plans, will be linked to BAR. However, Members will continue to manage minimum allocation as they do today.
8. The Property will continue to manage rates as they do today. The implementation of Rate Levels will not impact how rates for rate plans are managed. Both static rate plans and percentage-off plans can and will be linked by the Member to a Rate Level.
9. The Property will be provided an ability to view and adjust availability for Rate Levels through Member Web as part of the Rate Level implementation.
10. The Property will be provided an ability to view and adjust availability for Rate Levels through their Two-Way PMS on or after the date of implementation, as soon as is practicable, depending on the development and upgrade schedule for each PMS vendor. Rate Levels will not otherwise alter the functionality of the individual Two-Way PMS.
11. Members will be provided the ability to: name their Rate Levels; change Rate Level names; associate rate plans with Rate Levels; and change those associations. This may initially be provided manually through EDS but ultimately will be provided through Member Web or a similar electronic solution.

Rate Program - AAA/CAA and AARP Rates

Approved November 2022 - Effective January 1, 2023, or as soon thereafter as is practicable and upon reasonable notice to the Membership, each Property's AAA/CAA and AARP rates shall be at least 5% off RACK.

Rate Program - Low Rate, Guaranteed!

Approved December 21, 2011 - Effective February 1, 2012, or as soon afterward as is practicable, the "Low Rate, Guaranteed! Program" consumer guarantee shall be amended as follows:

The Best Western Low Rate, Guaranteed! Program guarantees that consumers will always find the lowest rate published on the internet on bestwestern.com. If a consumer finds a lower rate, excluding taxes and fees, on another distribution channel with the same criteria per the terms, conditions, and claim processing requirements of the Program as set forth in the Proposal (as amended from time to time by the Board of Directors), the Property shall match the lower rate at the Property's cost, and the consumer will be given a \$100 Best Western Travel Card.

In each fiscal year, the offending Property will be charged for the Best Western Travel Cards issued in conjunction with the Low Rate Guarantee as follows:

1. Will not be charged for the first three Best Western Travel Cards.
2. Will be charged \$75 for each of the next five Best Western Travel Cards.
3. Will be charged \$100 for all subsequent Best Western Travel Cards.

Properties that participate in Best Western's Property Revenue Management Program are exempt from financial responsibility for Best Western Travel Cards issued under this Program.

The Board of Directors may terminate the Program at any time without prior notice in its sole discretion.

Rate Program - Mandatory BBN Corporate Rate

Approved August 2007 - To approve the requirement that under the Best Western Best Available Rate (BAR) strategy with the objective to increase corporate business, the Best Business Net (BBN) rate be established as a non-commissionable mandatory participation rate, with last room availability and limited black-out dates (15 nights annually), equal to 90% of the Best Business Worldwide (BBW) rate under the BAR strategy.

Rate Program - Mandatory Dynamic Net Tour Rate

Approved August 2007 - To approve the requirement that under the Best Western Best Available Rate strategy (BAR) with the objective to increase leisure travel business, each Best Western Property shall participate in the Dynamic Net Tour rate program, and shall offer the Dynamic Net Tour rate as a leisure

non-commissionable net tour operator rate equal to 90% of the Property's BBW rate under bar, without last room availability.

Rate Program – Net Rate Program Simplification

Approved July 2009 – To approve that the Best Western Net Rate Program be loaded into the reservation system in “open status” with a minimum discount of 20% off BAR (Best Available Rate). Hotels can, at any time, increase, decrease, or close out Net Rate Program room allocation.

Requests for Proposals

Approved November 2012 – Effective January 1, 2013, or as soon afterwards as is practicable and upon reasonable notice to the Membership:

Best Western Properties shall provide information and business rules to Best Western on an annual basis for purposes of Best Western responding to Requests for Proposals on behalf of Best Western Properties.

In the event a Best Western Property does not respond to a Request for Proposal by the due date noted on the solicitation, Best Western shall be authorized to respond to the Request for Proposal on behalf of the Best Western Property consistent with the information and business rules established by the Best Western Property on an annual basis.

In the event a Best Western Property does not provide information and business rules for responding to Requests for Proposals on an annual basis, Best Western shall respond to Requests for Proposals on behalf of the Property at a rate of twenty percent (20%) off of average Best Available Rate (“BAR”) by season.

Required Rapid Response Visits for Low Scoring Properties

Approved June 29, 2011 – Effective December 1, 2011, each Best Western Property that scores less than 840 points on two Guest Room Public Area (“GRPA”) assessments over a trailing 24-month period will be required to receive a Rapid Response visit. The Rapid Response visit will be conducted as soon as practicable following the second assessment that results in a GRPA score less than 840, and must be completed within 30 days after the GRPA assessment. The Property that receives the Rapid Response visit will pay a cost recovery fee for the visit, currently \$1,900, but which may be adjusted by the Board of Directors to account for actual costs. A Rapid Response visit under this program will restart the 24-month period.

Sales Champion Designation and Certification Training

Approved December 21, 2011 – All Best Western branded hotels shall designate an employee as its Sales Champion by February 29, 2012. The designated Sales Champion shall be an individual who is responsible for sales operations at the hotel

and shall be the contact person for Worldwide Sales. Sales Champions must successfully complete Sales Champion training within ninety (90) days of being designated and annually thereafter (prior to the one-year anniversary of the date of the certification). If at any time a Sales Champion terminates his or her employment with the hotel or is replaced for any reason, the hotel must designate a new Sales Champion within thirty (30) days of the event requiring a new designation. Sales Champion training and certification shall be at no cost to the Property.

Smith Travel Research

Approved February 9, 2011 – Effective April 1, 2011, all Best Western North American Properties shall participate in Smith Travel Research reporting, enabling them to optimize their revenue.

Approved February 9, 2011 – Effective April 1, 2011, or as soon afterword as is practically achievable, Best Western International, Inc. will program a computer system to electronically submit performance data to Smith Travel Research (“STR”) on behalf of STR-participating properties. The computer program will automatically aggregate property performance results from the Two-Way interface for the reporting period, and submit those results to STR. This system will eliminate the need for manual reporting at the property level.

Technology Assessment

Approved July 2015 – Effective August 1, 2015, each Best Western Property shall pay a technology assessment of four-tenths of one percent (0.4%) of Property Room Revenue. Effective January 1, 2018, each Best Western Property shall pay a technology assessment of five-tenths of one percent (0.5%) of Property Room Revenue.

TripAdvisor Reviews on bestwestern.com

Approved June 29, 2011 – Best Western International, Inc. may post TripAdvisor ratings and the five most recent reviews (with the ability to link to additional reviews) for all Properties on bestwestern.com as long as business terms of an agreement with TripAdvisor are agreeable to the Best Western International, Inc. Board of Directors. The effective date shall be February 1, 2012, or as soon afterward as is practicably achievable.

Two-Way Interface

Approved August 2006 – To approve the PMS to CRS Two-Way Interface Proposal requiring property management systems with a two-way interface that has been endorsed by Best Western International, Inc. at each North American Best Western Property by December 31, 2009, and the Data Rules of Use, Compliance Rules, and other provisions of the Proposal Explanation.

Data Rules of Use:

BWI shall use all specific Property and Members' guests' data obtained from the Property's PMS (“Data”) in accordance with the Data Rules of Use detailed below. These Data Rules of Use shall not limit

the use of any data (including Data) independently acquired by BWI or acquired from any other source.

1. BWI and Members shall be responsible to comply with all applicable laws regarding the collection, use, transfer, storage, and security of Data, including but not limited to all applicable data privacy laws and requirements.
2. BWI shall maintain and use all Data in accordance with its privacy policy, published at <http://www.bestwestern.com>, as amended from time to time by BWI, and applicable data privacy laws and requirements.
3. Data acquired through any PMS will not be used by the BWI membership development department for the purposes of new member acquisition development.
4. No Data will be used by BWI to perform Property-specific financial analysis for the purpose of a Member's fees or dues calculation, validation or verification.
5. Data will be stored in BWI's data center, located in Phoenix, Arizona, or a third party data facility as contracted for by BWI, and will be secured via information security processes, including but not limited to the use of firewalls, networks, servers, and database security mechanisms intended to best safeguard the Data. BWI shall be responsible to safeguard the Data regardless of where or by whom stored.
6. Property specific or guest specific Data will not be sold or rented to third parties, or transferred to Smith Travel Research, without the approval of the specific Member from whose Property the respective Data has been obtained. These restrictions shall not apply to aggregated Data.

Fees:

Until November 30, 2015:

Best Western will charge the Member Property an ongoing technical support fee to recover the cost of providing ongoing, support to Two-Way PMS vendors and Members. This ongoing support includes:

- necessary re-certification of vendors when software changes are made;
- trouble-shooting vendor software in support of Member-reported-issues;
- coordinating with Members and vendors for software updates, fixes, and problem resolution;
- and proactively monitoring Member Property performance using the Two-Way interface.

The technical support fee will not exceed \$65 per month.

As of December 1, 2015:

The Two-Way Monthly Support Fee shall include a Hotel Support Fee and a Certification Fee.

1. *Hotel Support Fee.* Effective December 1, 2015, the monthly Hotel Support Fee shall be thirty-eight dollars (\$38) regardless of the Property Management System ("PMS") product used by the Property. The Board of Directors

shall have the authority to increase the Hotel Support Fee once each fiscal year, with no such annual increase exceeding the greater of (a) two percent (2%) of the prior year's Hotel Support Fee, or (b) the rate of inflation for the previous year as measured by the United States Bureau of Labor Statistics Consumer Price Index (all items for all urban areas).

2. *Certification Fee.* The Certification Fee shall be calculated as the annual total cost for ongoing certification, divided by the number of endorsed PMS products, distributed evenly among the Properties that make up the install base for each PMS product as of April 1 and October 1 for the following 6-month billing period. The lowest Certification Fee shall be one dollar (\$1) per month, regardless of the number of installations of each PMS product. The annual total cost for ongoing certification per PMS product shall be fifty-three thousand dollars (\$53,000). The Certification Fee shall be recalculated semi-annually and billed in June and December, on a cost-recovery basis and shall be approved by the Board of Directors. The following chart details the manner in which the Certification Fee and the Hotel Support Fee shall be calculated:

PMS Install Base (Total Number of Properties)	Hotel Support Fee	Certification Fee *	Total Monthly Fee per Property
10	\$38	\$442	\$480
30	\$38	\$147	\$185
50	\$38	\$88	\$126
75	\$38	\$59	\$97
100	\$38	\$44	\$82
150	\$38	\$29	\$67
200	\$38	\$22	\$60
250	\$38	\$18	\$56
275	\$38	\$16	\$54
300	\$38	\$15	\$53
400	\$38	\$11	\$49
500	\$38	\$9	\$47
750	\$38	\$6	\$44
1,000	\$38	\$4	\$42
1,500	\$38	\$3	\$41
> or = 2,945	\$38	\$1	\$39

* Based on annual certification testing of \$53,000 per PMS product, per year.

Best Western will charge the Member Property a one-time installation fee to recover the Best Western resource costs necessary to effect the implementation of Two-Way. This one-time installation fee is \$1,500.

Compliance Rules:

- All Properties are required to install and maintain a Property Management System that is certified with the Best Western Two-Way Interface and endorsed by Best Western by December 31, 2009. Any Property not installing a PMS will be deemed not in compliance.
- Any non-complying Property will be restricted on the Best Western reservation system and required to comply within 90 days of restriction. Continued or reoccurring non-compliance of this requirement once the Property has been restricted for non-compliance will result in review by the Board for possible cancellation of the Best Western Membership.
- The December 31, 2009 compliance date in this Proposal applies to Members whose Best Western Membership was approved on or before May 31, 2005; unless the compliance date is changed due to their becoming a reaffiliated Member following a change of 50% or more in a Property's ownership where the Best Western Property does not qualify for an automatic transfer "reaffiliation," or due to a requirement of a conditional extension that has been granted as part of the hearing process or Board evaluation because of past due Membership conditions.

Best Western International, Inc. Descriptor Program

Approved April 2010 and Amended December 2011 -

The Descriptor Program is a marketing strategy that includes the use of different names to communicate to guests the types of hotel products and amenities to expect at Best Western Properties (the "Descriptor Program"). Having been approved by the Membership, Best Western Properties will qualify for, be assigned and use one of three descriptors: "Best Western", "Best Western Plus" or "Best Western Premier." Each descriptor has Member approved Design Guidelines and Brand Standards. The Descriptor Program will have no effect on membership fees, dues or Best Western's one class of voting membership.

As approved, the Descriptor Program operates as follows:

1. Best Western Properties will use one of three descriptors: "Best Western", "Best Western Plus" or "Best Western Premier."
2. Best Western's current design requirements remain the fundamental requirements for all Properties. Design Guidelines for each descriptor are established as referenced in Exhibits [A-1](#), [A-2](#) and [A-3](#) (the "Design Guidelines"). The Brand Standards for each descriptor are established as referenced in [Exhibit B](#) (the "Brand Standards").
3. Best Western Properties are required to meet the Descriptor Program's Design Guidelines by February 1, 2014, or earlier if required by a Property Improvement Plan ("PIP") deadline.
4. Best Western Plus Properties are required to meet the Descriptor Program's Design Guidelines within three years of activation on the reservation system as Best Western

Plus (e.g., if activated on February 1, 2011, the deadline is February 1, 2014), or earlier if required by a PIP deadline.

5. Best Western Premier properties shall comply with the Design Guidelines at all times.
6. AAA/CAA ratings no longer apply to the Descriptor Program (i.e., the assignment of descriptors).
7. Any Property may apply for the "Best Western Plus" or "Best Western Premier" descriptor at any time by requesting a design review and by meeting the requirements of the respective Design Guidelines and Brand Standards.
8. Every Best Western Property must maintain at least a AAA/CAA 2-Diamond rating. If a Property falls below a AAA/CAA 2-Diamond rating, or fails a AAA/CAA assessment, that Property must request a design review and complete any resulting PIP within six (6) months.
9. Properties that request a design review will be required to pay a cost-recovery fee for the design review, which is currently estimated to be \$1,900 and may increase in the future as costs rise. Such Properties will be assessed using the Design Guidelines for the requested descriptor. If the Property complies with the applicable Design Guidelines, the Property will be assigned the appropriate descriptor. Otherwise, the Property will receive a PIP. If the Property completes the PIP within one (1) year, as determined by a subsequent design review, the Property will be assigned the applicable descriptor.
10. Any Property may appeal a Descriptor Program PIP to the Best Western Board of Directors (the "Board"). A waiver may be granted only by an affirmative vote of five (5) Board Directors. An extension may be granted only by an affirmative vote of five (5) Board Directors, and for a period of no more than six (6) months; however, extensions up to two (2) years may be granted if the Property has and maintains a Medallia/ GSS Overall Satisfaction score in the top 25% of all Best Western branded hotels, based on a twelve (12) month rolling average (electronic surveys only).
11. A Property must comply with the applicable Brand Standards prior to representing itself to the public as a "Best Western Plus" or "Best Western Premier" Property.
12. Any Property receiving the "Best Western Plus" or "Best Western Premier" descriptor will use signs and collateral material within specified timeframes as referenced in [Exhibit C](#).
13. A "Best Western Premier" descriptor will last for five (5) years. At least six (6) months prior to the end of the 5-year term, each "Best Western Premier" Property must request a design review and complete a PIP (if the design review results in a PIP) within six (6) months, to renew the descriptor for another 5-year term.
14. The Design Guidelines and Brand Standards are "Regulatory Documents" as that term is

defined in Best Western's Bylaws. Future changes to Design Guidelines and Brand Standards shall be presented to Members for approval through ballots in accordance with Section 500.21 of Best Western's Rules and Regulations.

Plus Brand Standards

Approved November 17, 2021 – Effective upon certification of the vote by the Designated Accountant, the following standards shall apply to Best Western Plus Properties:

Due by December 31, 2022
24-hour specialty coffee machine in the Lobby/Breakfast Area
In-room K-Cup or Keurig coffee maker
Water dispenser enabling guests to fill their water bottle in public area
Pillow top mattress or memory foam topper
Lobby music
Due by December 31, 2023
Pavers or stamped concrete under porte cochere
Power or USB outlet at every seat for community table (minimum 4)
5 pieces of cardio equipment (minimum 1 Peloton ^{Fn 2})
Due by December 31, 2024
Minimum Television Size (Measured Diagonally)
Lobby and Breakfast Area: 50" Television(s)
Fitness Area: 50" Television(s)
Guestrooms: 50" Television(s) with Streaming/Casting Capability ^{Fn 1}
Television Grade: All televisions shall be commercial grade
Due Based on Design Visit PIP
Outdoor pool enhanced landscaping and lighting
Sundry shop in lobby
Fitness room minimum 450 square feet
Guestroom desk or mobile work surface with upgraded desk
Guestroom mounted lighted mirror above vanity (36" - 48")
Signature backdrop

^{Fn 1} Guest room televisions shall support streaming and popular applications (e.g., Netflix, Hulu, Amazon, Apple, Disney) via guest personal device (e.g., iPad) and the television.

^{Fn 2} The requirement regarding the "Peloton" brand may be modified by the Board of Directors to a like product based on relevant factors (e.g., pricing, availability, technology, and adoption).

Revenue Management Requirement

Effective January 1, 2022, and as soon as practical through implementation, all Best Western Plus hotels shall use the Best Western Property Revenue Management ("PRM") program and pay a cost-recovery fee as established by the Board of Directors (the "Board") (e.g., currently \$995 per month for a hotel with 120 rooms or less, and \$1,195 per month for a hotel with 121 to 200 rooms). PRM program waivers may be granted based upon business rules established by the Board.

Exhibit “B”

BEST WESTERN INTERNATIONAL, INC.

MEMBERSHIP AGREEMENT

THIS MEMBERSHIP AGREEMENT ("AGREEMENT") SHALL BE BINDING AND EFFECTIVE AS BETWEEN THE UNDERSIGNED PARTIES, TO INCLUDE BOTH THE OWNER/LESSEE AND THE VOTING MEMBER (COLLECTIVELY, "MEMBER"), AND BEST WESTERN INTERNATIONAL, INC. ("BEST WESTERN"), ONLY UPON RECEIPT BY BEST WESTERN OF A FULLY-EXECUTED ORIGINAL OF THIS AGREEMENT, THE TERMS OF APPROVAL LETTER ("APPROVAL LETTER"), AND THE PAYMENT OF ALL REQUIRED FEES.

THIS AGREEMENT INCORPORATES BY REFERENCE THE TERMS AND CONDITIONS AND ALL INFORMATION PROVIDED IN THE APPLICATION FOR MEMBERSHIP ("APPLICATION") AS PREVIOUSLY SUBMITTED TO BEST WESTERN, THE TERMS OF APPROVAL LETTER, BEST WESTERN'S BYLAWS, RULES AND REGULATIONS, AND ALL OTHER REGULATORY DOCUMENTS. ALL CAPITALIZED TERMS HEREIN NOT OTHERWISE DEFINED SHALL HAVE THE MEANING PROVIDED IN BEST WESTERN'S BYLAWS AND RULES AND REGULATIONS.

A. Membership Rights and Obligations

1. Best Western is a Membership organization, organized as a non-profit corporation pursuant to Arizona Revised Statutes § 10-3101, *et seq.*, providing rights and obligations as set forth by the Membership in this Agreement, Best Western's Bylaws, Rules and Regulations, and all other Regulatory Documents (as that term is defined in Best Western's Bylaws). In connection only with the Property designated in this Agreement ("Property"), Best Western agrees to provide to Member all rights, and Member agrees to abide by all obligations, as may be established from time to time in Best Western's Regulatory Documents, all of which are accessible to Member or available upon request. This Agreement incorporates the rights and obligations of the Regulatory Documents, as amended from time to time.
2. Member agrees to timely pay all fees, dues, charges, and assessments imposed generally on the Membership by the Best Western Board of Directors ("Board") or the Membership, and the cost of all goods or services provided by or ordered through Best Western. Member agrees to allow Best Western to automatically debit Member's bank account each month in the amount owing Best Western. Member agrees to electronic monthly statements. Past due amounts shall bear interest at the rate of one and one half percent (1.5%) per month from the due date until paid, provided that such interest charge shall in no way authorize or excuse late payments or limit Best Western's rights and remedies against Member.
3. When grounds for cancellation or termination exist because of a Member default (as more fully set forth below), the Board may, in lieu of cancellation or termination, impose additional conditions to Membership. These may include, for example, higher quality assurance requirements, additional design requirements, or restriction of rights or services.

B. Term

1. The Effective Date of this Agreement is the date of execution; however, Membership rights shall not be granted until such time as the Property has been activated on Best Western's reservations systems and the Extended-Length Term of fifteen (15) years (one-hundred-and-eighty (180) months) has begun.
2. The initial term of this Agreement, and any and all Membership rights, shall begin on the first day the Member's Property is activated on Best Western's reservations systems and will end on the last day of Best Western's fiscal year during which the last day of the one-hundred-and-eightieth (180th) month falls ("Extended-Length Term"). Thereafter, this Agreement may be renewed for additional one-hundred-and-eighty (180) month terms as

provided in Best Western's Bylaws (each a "Renewal Term"). The Extended-Length Term and Renewal Term(s) may be collectively referred to herein as the "Term."

3. If a Membership is transferred during the Term pursuant to Article II, Section 7 (B) or (C) of Best Western's Bylaws, the remainder of the Term will transfer with the transfer of the Membership.

C. Fees and Dues

All fees, dues, charges, and assessments shall be calculated, due, and owing as they apply to all other Best Western Members with the exception of Monthly Fees, which shall be equal to [REDACTED] percent ([REDACTED]%) of the Property's room revenue unless and until otherwise determined by the Membership in accordance with Best Western's Regulatory Documents. Upon resignation, termination, or cancellation of Membership, the Member shall owe certain fees, dues, charges, assessments, and other damages to Best Western, as discussed in greater detail below in Section F.

D. Grant of License

Best Western grants to Member, but only as permitted by its Regulatory Documents, a non-exclusive license to use, at and in connection with the Property, the "Best Western" name and those Best Western trademarks, service marks, domain names, and other identifying marks, words, letters, designs, names, or symbols as set forth from time to time in the Brand Identity Manual (collectively "Best Western Identifying Marks").

E. Resignation, Cancellation or Termination of Agreement

This Agreement shall terminate: (1) upon sale or lease of the Property, or transfer of control of the Property, as more fully set forth in the Bylaws; or (2) upon Member's default of any obligation to Best Western, as more fully set forth in the Bylaws, Rules and Regulations, and Regulatory Documents, to include, for the avoidance of doubt and without limitation, Member's failure to make timely payment of any fees, dues, assessments, or charges owed Best Western, or Member's failure to comply with all applicable laws; or (3) upon Member's resignation from the Membership.

F. Rights and Duties Upon Resignation, Cancellation or Termination of Agreement/License

1. The license provided hereunder shall terminate immediately upon resignation of Member from the Membership or cancellation or termination of this Agreement. Within fifteen (15) days of resignation, cancellation or termination of the Agreement, the Property and Member shall cease use of and remove from public view all Best Western Identifying Marks (e.g. signs and logo'd items) and transfer to Best Western any domains containing any Best Western Identifying Marks (including, but not limited to, any domain names containing "best," "western," "bw," or any combination thereof). This prohibition includes any representation, directly or indirectly, that the Property was formerly affiliated with Best Western.
2. Furthermore, upon resignation, cancellation or termination, Member shall actively take such steps as may be necessary to cause the cessation of all advertising and distribution of promotional material, to include for the avoidance of doubt and without limitation, online material containing any Best Western Identifying Marks, and shall not use anything consisting of or incorporating any part of any Best Western Identifying Marks or which singularly or together are similar in spelling, sound, appearance or otherwise to any Best Western Identifying Mark. Pursuant to this section F, Member shall also take reasonable steps to notify all third-party advertisers marketing the Property, online or in other media, that the Property is no longer affiliated with Best Western. Reasonable steps shall include, but not be limited to, contacting third-party travel websites (e.g., Expedia, Travelocity, Orbitz, Priceline, and Hotwire) to ensure that those third parties cease the advertising and distribution of promotional material containing any Best Western Identifying Marks in connection with the Property. The Member's obligation with respect to correcting all advertising – whether the Member contracted for the advertising or otherwise – is a continuing obligation.

3. For each day that any Best Western Identifying Mark is used in connection with the Property, after fifteen (15) days following resignation, cancellation or termination of this Agreement, Best Western may elect to claim from Member daily damages in an amount equal to fifteen percent (15%) of the average of the Property's room rates per room per day multiplied by the total number of rooms. This amount is payable by Member whether or not Member continues to exercise control over the operations of the Property. It is understood and agreed that said amount is fixed as liquidated damages and not a penalty because of the difficulty of ascertaining the exact amount of damages that may be sustained by Best Western because of such use. It is further understood and agreed that said amount fixed as liquidated damages is a reasonable amount, considering the damages that Best Western will sustain in the event of such unauthorized use.
4. Furthermore, if a Member resigns from the Membership (which it, he, or she may do at any time) or this Agreement is cancelled or terminated by Best Western, the following are immediately due and payable to Best Western:
 - a. *Resignation, Cancellation or Termination:* Upon a resignation, cancellation or termination, the Member shall pay to Best Western:
 - (i) *Monthly Fees.* The lesser of: (x) forty-eight (48) months of Monthly Fees (calculated as the Member's average Monthly Fees during the previous twelve (12) months (but if Monthly Fees have been owed to Best Western for less than twelve (12) months, the average of all prior months) multiplied by forty-eight (48)); or (y) Monthly Fees for the remainder of the Extended-Length Term or Renewal Term (calculated as the Member's average Monthly Fees during the previous twelve (12) months multiplied by the number of months remaining in the Extended-Length Term or Renewal Term); and
 - (ii) *Goods and Services.* The cost of all goods and services provided by or ordered through Best Western for which payment has not yet been received.
 - b. *Continued Operation as a "Best Western" after Resignation, Cancellation or Termination:* In the event that the Property continues to operate as a "Best Western" after resignation, cancellation or termination of this Agreement, in addition to the amount due as noted in paragraph F.4 a, the former Member shall pay full fees, dues, charges, and assessments as the former Member would have been required to pay if still a Member until the Property ceases operation as a "Best Western."
5. It is understood and agreed that the amounts described in section F. 3 and F. 4 are fixed as liquidated damages and not as penalties because of the difficulty of ascertaining the exact amount of damages that may be sustained by Best Western as a result of such resignation, cancellation, or termination. It is further understood and agreed that such amounts fixed as liquidated damages represent a reasonable amount considering the damages that Best Western will sustain from the Member resigning or this Agreement being cancelled or terminated.
6. The rights provided in this section F shall be exercised solely at the option of Best Western.

G. Reservations Systems

1. Member shall comply with all Best Western requirements to securely connect the Property to Best Western's reservations systems.
2. Member shall be responsible for complying with Payment Card Industry Data Security Standards ("PCI-DSS") and all applicable data privacy/security laws. Member shall adopt adequate measures to ensure the safety and security of customer information, including but not limited to Personally Identifiable Information ("PII") and credit card data. In no event shall Member exercise less than reasonable care in securing such information. If Member's data security systems are compromised, Member shall notify Best Western within twenty-four (24) hours of becoming aware of any such incident. Member further agrees and understands that Best Western shall be permitted to take,

at Member's cost, any reasonable actions to protect itself from a data security compromise event at Member's Property, including but not limited to disconnecting the Member from Best Western's reservations systems until the incident is resolved and requiring that the Member provide appropriate documentation and certification that the incident has been resolved (e.g., if applicable, certification from a Payment Card Industry Qualified Security Assessor). Best Western acknowledges it is responsible for the security of cardholder data that it possesses or otherwise stores, processes, or transmits on behalf of the Member and that it will not adversely affect the security of the cardholder data environment of the Member.

3. Best Western has provided or will provide access to computer software that is to be used by the Property to access Best Western supporting applications ("Software"). Software programs are copyrighted by Best Western or licensed to Best Western by third parties. Member agrees to use the Software only for reservation communications with Best Western's reservations systems and with other Members, and for other business purposes relating to the operation of the Property as a Best Western® branded hotel. Member shall not copy, allow to be copied, or disclose any of the Software programs. Member will abide with all licensing and use terms and conditions of any Software provided. Such terms are available upon request.
4. Software may be upgraded by Best Western or its designee from time to time, and Member may be charged an upgrade fee.
5. In the event of failure or interruption of reservation services, it is a Member's responsibility to participate in the troubleshooting process. Best Western shall, in its sole and absolute discretion, make all final problem determinations and may dispatch technical resources as needed to achieve problem resolution.
6. All Software shall be deleted or returned upon demand of Best Western or upon resignation by Member, cancellation or termination of this Agreement, whichever is sooner. Failure to do so will result in a charge for the cost of the Software to the Property's Best Western account.
7. Member hereby assumes all risks and liabilities, whether covered by insurance or not, for loss or damage to or destruction of any Software. Member shall replace, at its expense, any Software which is lost, damaged, or destroyed.

H. Relationship of Parties

Best Western is a non-profit corporation operated on a cooperative basis by and for its Members. The relationship of Best Western to its Members is one of an independent contractor. Neither party has the power to obligate or bind the other in any way. No relationship of partners, joint employers, franchisor/franchisee, joint venturers, or agents is created.

BEST WESTERN BRANDED HOTELS ARE INDEPENDENTLY OWNED AND OPERATED. BEST WESTERN ONLY PROVIDES SERVICES AS DIRECTED BY THE MEMBERSHIP. BEST WESTERN HAS NO RESPONSIBILITY FOR THE USE, CONDITION, MANAGEMENT, MAINTENANCE, POLICIES, PRACTICES, OR OPERATION OF BEST WESTERN BRANDED HOTELS, NOR THE SAFETY OF THE DESIGN OF ANY STRUCTURE OR PRODUCT. BEST WESTERN HAS NO CONTROL (DIRECT OR INDIRECT) OVER, OR RESPONSIBILITY FOR, ANY DECISION RELATED TO OR AFFECTING THE EMPLOYMENT OR SUPERVISION OF ANY PERSON EMPLOYED AT OR PROVIDING SERVICES IN CONNECTION WITH BEST WESTERN BRANDED HOTELS, INCLUDING BUT NOT LIMITED TO RECRUITMENT; HIRING; TERMINATION; DISCIPLINE/SUPERVISION; PERFORMANCE EVALUATION; PAYROLL; SETTING OF WAGES, SCHEDULES, WORKFLOW, QUALIFICATIONS, OR PRODUCTIVITY; MAINTENANCE OF PERSONNEL RECORDS; THE PROVISION OF EMPLOYMENT BENEFITS; OR THE ASSIGNMENT OF RESPONSIBILITIES.

I. Representations to Best Western

Member certifies that all representations made in connection with its Application, the Approval Letter, and this Agreement are true and constitute material representations for the purpose of inducing Best Western to grant Membership. Member

agrees that any misrepresentation shall be grounds for denial of this Application or cancellation of Membership. Member further agrees that any representations made in the future, whether in connection with renewing this Agreement or otherwise, constitute material representations for the purpose of inducing Best Western to grant, continue, or renew Membership, and that any false representation shall be grounds for revocation of a decision regarding the Application or the Approval Letter, or denial of Membership, denial of Membership renewal, or cancellation of Membership.

J. Appointment of Voting Member as Attorney-in-Fact

The undersigned owner/lessee hereby appoints the undersigned Voting Member, and any substituted Voting Member, as its attorney-in-fact with full power and authority to bind owner/lessee in any and all agreements and liabilities which Voting Member may enter into or undertake to Best Western in connection with the Property. This authorization shall continue during the Term of the Agreement and during any renewal or continuation thereof, until terminated in writing by the owner/lessee. This power of attorney shall survive the death or disability of the undersigned Voting Member.

K. Voting Member Obligations

By executing this Agreement, Voting Member hereby acknowledges, consents, and accepts all responsibility associated with such appointment, including, without limitation and for the avoidance of doubt, personal liability to answer for the debts, liabilities, and obligations associated with the Membership, Member, and the Property. Voting Member agrees that it, he or she is to be jointly and severally liable to Best Western. Accordingly, Voting Member must personally execute this Agreement below and complete the form attached hereto and incorporated herein as Addendum A, entitled "Voting Member Information."

L. Remedies

It is understood that Best Western shall have the right to invoke any remedy at law or in equity, whether or not such remedies are herein provided, for any breach of this Agreement, the Approval Letter, the Application, or for any other matter arising out of Member's affiliation or dealings with Best Western. All rights and remedies given to Best Western are distinct, separate, and cumulative and no one of them, whether or not exercised by Best Western, shall be deemed to be an election of that remedy only or to be a waiver or exclusion of any of the others. The obligations of Member and the remedies available to Best Western are binding upon Member's heirs, executors, administrators, successors, assignees, receivers, and trustees in bankruptcy. If Best Western brings an injunctive action against Member, Member waives any requirement that Best Western post a bond. It is also understood and agreed that the amounts described herein as payable by the Member following resignation, termination, cancellation, or default are fixed as liquidated damages and not as penalties for the reasons stated above. Further, it is understood that Best Western's acceptance of payment from the former Member after resignation by a Member, termination or cancellation of this Agreement, or default by the Member shall not be deemed a waiver of any rights Best Western may have against the former Member, all of which are expressly reserved.

M. Limitation of Damages

1. MEMBER AGREES THAT THE MEMBER, THE VOTING MEMBER, AND ANY LEGAL ENTITY ASSOCIATED WITH THE PROPERTY BY WAY OF OWNERSHIP OR LEASE INTEREST, SHALL HAVE NO RECOURSE OF ANY KIND AGAINST BEST WESTERN OR ITS SUBSIDIARIES OR AFFILIATES AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, INSURERS, OR OTHER MEMBERS FOR FAILURE TO GRANT MEMBERSHIP UNLESS MEMBER HAS STRICTLY, ABSOLUTELY, AND TIMELY COMPLIED WITH EACH AND EVERY REQUIREMENT IMPOSED UPON MEMBER BY BEST WESTERN, INCLUDING BUT NOT LIMITED TO THOSE CONTAINED IN THIS AGREEMENT, THE APPROVAL LETTER, THE APPLICATION, AND THE REGULATORY DOCUMENTS TO THE SATISFACTION OF BEST WESTERN. IN THE EVENT THAT BEST WESTERN WRONGFULLY FAILS TO GRANT MEMBERSHIP AFTER MAKING AN ALLEGED COMMITMENT FOR MEMBERSHIP UNDER THIS AGREEMENT AND THE APPROVAL LETTER, OR IF BEST WESTERN IS FOUND TO HAVE WRONGFULLY FAILED TO GRANT MEMBERSHIP IN ANY OTHER SITUATION, MEMBER SHALL HAVE NO RIGHT TO COMPEL BEST WESTERN TO GRANT A

MEMBERSHIP TO MEMBER. MEMBER AGREES THAT MEMBER'S SOLE REMEDY SHALL BE LIMITED TO ACTUAL DAMAGES, WHICH IN NO EVENT SHALL EXCEED THE ENTRANCE FEES PAID BY MEMBER TO BEST WESTERN IN CONNECTION WITH THE SUBMISSION OF ITS APPLICATION, THE APPROVAL LETTER, AND THIS AGREEMENT.

2. MEMBER AGREES THAT IF INFORMATION RELATED TO THE PROPERTY IS OMITTED FROM BEST WESTERN'S RESERVATIONS SYSTEMS OR A MATERIAL ERROR OCCURS IN ANY PROPERTY LISTING ON BEST WESTERN'S RESERVATIONS SYSTEMS THROUGH THE FAULT OF BEST WESTERN, MEMBER'S SOLE REMEDY SHALL BE THE REFUND, WITHOUT INTEREST, OF THE ANNUAL DUES PAID ON BEHALF OF THE PROPERTY FOR THAT SINGLE FISCAL YEAR DURING WHICH SUCH OCCURRED. BEST WESTERN SHALL HAVE NO OTHER LIABILITY IN CONNECTION WITH OR RELATED TO ITS PROVIDING OF RESERVATION SERVICES OR LISTINGS.
3. MEMBER AGREES THAT IT SHALL BE LIMITED TO RECOVERY OF ACTUAL DAMAGES FOR ANY BREACH OR DEFAULT BY BEST WESTERN OF ANY OBLIGATION OR DUTY OWED TO MEMBER, AND MEMBER FURTHER AGREES THAT BEST WESTERN'S LIABILITY FOR ANY DAMAGES SHALL BE LIMITED TO THE AMOUNT OF MEMBERSHIP FEES ACTUALLY PAID BY MEMBER IN CONNECTION WITH THE PROPERTY, DURING A SINGLE FISCAL YEAR IN WHICH THE BREACH OR DEFAULT OCCURRED.

N. Indemnification

Member shall indemnify, defend, and hold harmless Best Western and its subsidiaries and affiliates and its and their respective directors, officers, employees, agents, representatives, insurers, and other Members (hereinafter collectively referred to as "Indemnitees" and individually referred to as "Indemnatee"), from any and all claims, demands, suits, actions, proceedings, losses, liabilities, penalties, causes of action, and damages of every kind and description, including but not limited to any attorneys' fees and costs and expenses (hereinafter collectively referred to as "Losses" and individually referred to as "Loss"), whether or not a lawsuit or other type of action is filed, which may be brought, made, alleged, or claimed by a third party arising out of (or contributed to, in whole or in part, by reason of) any alleged act, omission, fault, mistake, wrongdoing, or negligence of Member or its directors, officers, employees, agents, representatives, or contractors, in connection with, relating to, or incident to the use, condition, or operation of the Property. For the avoidance of doubt, this shall include but is not limited to Losses arising out of, in connection with, relating to, or incident to: (a) Member's (or its directors', officers', employees', agents', representatives', or contractors') failure to comply with applicable law; (b) workers' compensation claims, unemployment disability compensation claims, or discrimination or other employment-related claims of employees or contractors of Member; (c) breach of contract claims, data privacy claims, PCI-DSS claims, consumer deception claims, or tort claims; and (d) infringement related to intellectual property rights (e.g., patent, trademark, copyright). Member shall not settle any Loss against an Indemnatee without the Indemnatee's prior written consent.

O. Attorneys' Fees

In the event that Member breaches any obligation to Best Western, Member is liable to Best Western for all attorneys' fees, costs and expenses incurred by Best Western in connection with the breach or violation, whether or not suit is filed.

P. Best Interests of Best Western

Membership shall be subject to cancellation or termination in accordance with Best Western's Regulatory Documents when the continuation of this Membership would be contrary to the interests of Best Western, its affiliates, subsidiaries or Members, or the public image, goodwill or reputation of any such entity or the "Best Western" name and Best Western Identifying Marks. Such reasons include, by way of example only, conduct of an owner, lessee, Voting Member, or management staff that includes offensive, inappropriate, or discriminatory acts or speech.

Q. Application of Law and Choice of Forum

This Agreement, the Application, the Approval Letter, and the Regulatory Documents shall be governed and construed according to the laws of the State of Arizona without reference to conflicts of laws principles. This Agreement shall be deemed executed in Phoenix, Arizona, USA. Member acknowledges that Best Western is headquartered in Phoenix, Arizona, that the majority of Best Western's records and employees are in Phoenix, Arizona, and that Phoenix, Arizona is the most convenient forum for actions between Best Western and Member.

ALL CLAIMS, DISPUTES, AND ACTIONS ARISING FROM, IN CONNECTION WITH, RELATED TO, OR INCIDENT TO THE APPLICATION PROCESS, THE APPROVAL LETTER, THIS AGREEMENT, CANCELLATION/TERMINATION OF THIS AGREEMENT, RESIGNATION BY MEMBER FROM THE MEMBERSHIP, OR TO ANY RELATIONSHIP BETWEEN THE PARTIES HERETO SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN THE STATE AND FEDERAL COURTS LOCATED IN PHOENIX, ARIZONA, USA. THE PARTIES AGREE THAT SAID COURTS HAVE PERSONAL JURISDICTION TO HEAR AND DETERMINE SUCH ACTIONS AND THAT VENUE THERE IS ALSO PROPER. MEMBER/APPLICANT EXPRESSLY CONSENTS TO AND SUBMITS TO THE JURISDICTION AND VENUE OF SAID COURTS AND WAIVES ANY AND ALL OBJECTIONS TO JURISDICTION OR VENUE OF SAID COURTS.

R. Waiver

Any waiver by Best Western of a breach of any provision of this Agreement, or of any breach of any other requirement or policy of Best Western, shall not operate or be construed as a waiver of any subsequent breach thereof. Any delay by Best Western of enforcement of obligations shall not be deemed to be a waiver of Best Western's right to enforce the obligation.

S. Notices

All notices given by Best Western under this Agreement or otherwise, shall be given to the Voting Member at such location as may be specified by the Voting Member, in writing. Notice to the Voting Member shall constitute notice to each person or entity signing this Agreement. Any notice given to Best Western under this Agreement shall be given in writing to Best Western International, Inc., 6201 North 24th Parkway, Phoenix, Arizona 85016-2023, USA, Attention: Member Care Administration or such other location as may be specified by Best Western.

T. Headings

The headings of the sections of this Agreement are for convenience only and are not to be considered part of this Agreement or used in determining its content or context.

U. Severability

Any provision of this Agreement prohibited by law, or by court decree, in any jurisdiction shall be ineffective to the extent of such prohibition without in any way invalidating or affecting the remaining provisions of this Agreement.

V. Entire Agreement

This Agreement, the Application, the Approval Letter, and the Regulatory Documents (as amended from time to time) embody the entire agreement between the parties with regard to the subject matters herein and therein. There are no promises, terms, conditions, or obligations other than those contained herein and therein. This Agreement, the Application, the Approval Letter, and the Regulatory Documents shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties with regard to the subject matters herein and therein. Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require Member to waive reliance on any representation made by Best Western in its most recent franchise disclosure document (including exhibits and amendments) delivered to Member or its representative.

W. Signatures Required for Execution

The signature of an authorized representative with the authority to bind all owners or lessees identified on the Application is required. If that authority has not been granted, additional signatures are required. This Agreement may be executed in counterparts.

The signature of the Voting Member is also required. The Voting Member's spouse must sign this Agreement when the Voting Member resides in one of the following States, Provinces, or Territories: Arizona, California, Idaho, Louisiana, Missouri, Nevada, New Mexico, Quebec, Texas, Washington, Wisconsin, or Puerto Rico.

For the property located at: _____

ACKNOWLEDGED and AGREED this _____ day of _____, 20____ by:

AUTHORIZED REPRESENTATIVE:

Entity Name

Signature of Authorized Signer

Title of Authorized Signer

Date

-AND-

Each of the undersigned has read and understands the terms, conditions and obligations of this Agreement, and each agrees to be bound by this Agreement.

Signature

Signature

Voting Member Name

Voting Member's Spouse's Name

Date

Date

For the property located at: _____

MEMBERSHIP AGREEMENT

Addendum A Voting Member Information

In Best Western's Membership organization, one individual is designated the Voting Member for purposes of deciding important matters relevant to all Members and the Property itself. The Voting Member is and agrees to be jointly and severally liable to Best Western as provided in the Agreement. Please provide the following information with regard to the Voting Member.

Mr. ☐ Ms. ☐ Mrs. ☐ Full Legal Name _____

Social Security Number _____

Nickname (if any) _____ Email Address _____

Company Name _____

Primary Address _____ Unit # _____

City _____ State/Province _____ Postal Code _____

Office Phone # _____ Ext. _____ Cell phone # _____ Fax # _____

Express Mail Address (If primary address is a P.O. Box)

Company Name _____ Office Phone # _____

Street Address _____ Unit # _____

City _____ State/Province _____ Postal Code _____

Home Address

Street Address _____ Unit # _____

City _____ State/Province _____ Postal Code _____

Phone # _____ Extension _____

Spouse Information (Required when the Voting Member resides in one of the following: Arizona, California, Idaho, Louisiana, Missouri, Nevada, New Mexico, Quebec, Texas, Washington, Wisconsin, or Puerto Rico.)

Mr. ☐ Ms. ☐ Mrs. ☐ Full legal name _____

Social Security Number _____

Primary Address _____

City _____ State/Province _____ Postal code _____

MEMBERSHIP AGREEMENT

Addendum A

Voting Registration Card

I hereby certify that I am the authorized Voting Member for the Best Western Property referenced above. Upon activation of the Property on the Best Western reservations system, as the Best Western Voting Member I will be entitled to one vote on each matter which is submitted to a vote of the Membership in accordance with the Bylaws of Best Western International, Inc. ("Best Western"). This information is submitted in accordance with Article III, Section 4 of Best Western's Bylaws.

Signature

Voting Member Name

Date

Exhibit “C”

EXHIBIT B

FRANCHISE AGREEMENT (TRADITIONAL)

[CITY, STATE]

[Address]

L/C: _____

File #: _____

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“Franchise”) made this ____ day of _____, for the operation of a McDonald’s restaurant located at _____ (the “Restaurant”) by and between:

McDONALD’S USA, LLC,

a Delaware limited liability company,

(“McDonald’s”)

and

(collectively “Franchisee”)

for the purpose of granting the Franchisee the rights necessary to operate the Restaurant.

In consideration of the mutual rights and obligations contained herein McDonald’s and Franchisee agree as follows:

1. ***Nature and Scope of Franchise.***

(a) McDonald’s operates a restaurant system (“McDonald’s System”). The McDonald’s System is a comprehensive system for the ongoing development, operation, and maintenance of McDonald’s restaurant locations which have been selected and developed for the retailing of a limited menu of uniform and quality food products, emphasizing prompt and courteous service in a clean, wholesome atmosphere which is intended to be attractive to children and families and includes proprietary rights in certain valuable trade names, service marks, and trademarks, including the trade names “McDonald’s” and “McDonald’s Hamburgers,” designs and color schemes for restaurant buildings, signs, equipment layouts, formulas and specifications for certain food products, methods of inventory and operation control, bookkeeping and accounting, and manuals covering business practices and policies. The McDonald’s System is operated and is advertised widely within the United States of America and in certain foreign countries.

(b) McDonald's holds the right to authorize the adoption and use of the McDonald's System at the Restaurant. The rights granted to the Franchisee to operate the Restaurant are set forth in this Franchise, including the Operator's Lease ("Lease") which is attached hereto as Exhibit A, incorporated in this Franchise.

(c) The foundation of the McDonald's System and the essence of this Franchise is the adherence by Franchisee to standards and policies of McDonald's providing for the uniform operation of all McDonald's restaurants within the McDonald's System including, but not limited to, serving only designated food and beverage products; the use of only prescribed equipment and building layout and designs; strict adherence to designated food and beverage specifications and to McDonald's prescribed standards of Quality, Service, and Cleanliness in the Restaurant operation. Compliance by Franchisee with the foregoing standards and policies in conjunction with the McDonald's trademarks and service marks provides the basis for the valuable goodwill and wide family acceptance of the McDonald's System. Moreover, the establishment and maintenance of a close personal working relationship with McDonald's in the conduct of Franchisee's McDonald's restaurant business, Franchisee's accountability for performance of the obligations contained in this Franchise, and Franchisee's adherence to the tenets of the McDonald's System constitute the essence of this Franchise.

(d) The provisions of this Franchise shall be interpreted to give effect to the intent of the parties stated in this paragraph 1 so that the Restaurant shall be operated in conformity to the McDonald's System through strict adherence to McDonald's standards and policies as they exist now and as they may be from time to time modified.

(e) Franchisee acknowledges Franchisee's understanding of McDonald's basic business policy that McDonald's will grant franchises only to those individuals who live in the locality of their McDonald's restaurant, actually own the entire equity interest in the business of the Restaurant and its profits, and who will work full time at their McDonald's restaurant business. Franchisee represents, warrants, and agrees that Franchisee actually owns the complete equity interest in this Franchise and the profits from the operation of the Restaurant, and that Franchisee shall maintain such interest during the term of this Franchise except only as otherwise permitted pursuant to the terms and conditions of this Franchise. Franchisee agrees to furnish McDonald's with such evidence as McDonald's may request, from time to time, for the purpose of assuring McDonald's that Franchisee's interest remains as represented herein.

(f) Franchisee agrees to pay to McDonald's all required payments under this Franchise, including, without limitation, the payments set forth in paragraphs 8 and 9 herein and paragraph 3.01 of the Lease. All payments hereby required constitute a single financial arrangement between Franchisee and McDonald's which, taken as a whole and without regard to any designation or descriptions, reflect the value of the authorization being made available to the Franchisee by McDonald's in this Franchise and the services rendered by McDonald's during the term hereof.

2. ***Franchise Grant and Term.***

(a) McDonald's grants to Franchisee for the following stated term the right, license, and privilege:

- (i) to adopt and use the McDonald's System at the Restaurant;
- (ii) to advertise to the public that Franchisee is a franchisee of McDonald's;
- (iii) to adopt and use, but only in connection with the sale of those food and beverage products which have been designated by McDonald's at the Restaurant, the trade names, trademarks, and service marks which McDonald's shall designate, from time to time, to be part of the McDonald's System; and
- (iv) to occupy the Restaurant as provided herein.

The rights granted under this Franchise are limited to the Restaurant's location only.

(b) The term of this Franchise shall begin on _____ and end on _____, unless terminated prior thereto pursuant to the provisions hereof.

3. **General Services of McDonald's.** McDonald's shall advise and consult with Franchisee periodically in connection with the operation of the Restaurant and also, upon Franchisee's request, at other reasonable times. McDonald's shall communicate to Franchisee know-how, new developments, techniques, and improvements in areas of restaurant management, food preparation, and service which are pertinent to the operation of a restaurant using the McDonald's System. The communications shall be accomplished by visits by operations consultants, printed and filmed reports, seminars, and newsletter mailings. McDonald's shall also make available to Franchisee all additional services, facilities, rights, and privileges relating to the operation of the Restaurant which McDonald's makes generally available, from time to time, to all its franchisees operating McDonald's restaurants.

4. **Manuals.** McDonald's shall provide Franchisee with the business manuals prepared for use by franchisees of McDonald's restaurants similar to the Restaurant. The business manuals contain detailed information including: (a) required operations procedures; (b) methods of inventory control; (c) bookkeeping and accounting procedures; (d) business practices and policies; and (e) other management and advertising policies. Franchisee agrees to promptly adopt and use exclusively the formulas, methods, and policies contained in the business manuals, now and as they may be modified from time to time. Franchisee acknowledges that McDonald's or its affiliates own all proprietary rights in and to the McDonald's System and that the information revealed in the business manuals, in their entirety, constitute confidential trade secrets. Without the prior written consent of McDonald's, Franchisee shall not disclose the contents of the business manuals to any person, except employees of Franchisee for purposes related solely to the operation of the Restaurant, nor shall Franchisee reprint or reproduce the manuals in whole or in part for any purpose except in connection with instruction of employees in the operation of the Restaurant. Such manuals, as modified from time to time, and the policies contained therein, are incorporated in this Franchise by reference.

5. **Advertising.** McDonald's employs both public relations and advertising specialists who formulate and carry out national and local advertising programs for the McDonald's System.

Franchisee shall use only advertising and promotional materials and programs provided by McDonald's or approved in advance, in writing, by McDonald's. Neither the approval by McDonald's of

Franchisee's advertising and promotional material nor the providing of such material by McDonald's to Franchisee shall, directly or indirectly, require McDonald's to pay for such advertising or promotion.

Franchisee shall expend during each calendar year for advertising and promotion of the Restaurant to the general public an amount which is not less than four percent (4%) of Gross Sales (as that term is defined in paragraph 7) for such year. Expenditures by Franchisee to national and regional cooperative advertising and promotion of the McDonald's System, or to a group of McDonald's restaurants which includes the Restaurant, shall be a credit against the required minimum expenditures for advertising and promotion to the general public.

6. **Training.** McDonald's shall make available to Franchisee the services of Hamburger University, the international training center for the McDonald's System. Franchisee acknowledges the importance of quality of business operation among all restaurants in the McDonald's System and agrees to enroll Franchisee and Franchisee's managers, present and future, at Hamburger University or at such other training center as may be designated by McDonald's from time to time. McDonald's shall bear the cost of maintaining Hamburger University and any other training centers, including the overhead costs of training, staff salaries, materials, and all technical training tools, and agrees to provide to Franchisee both basic and advanced instruction for the operation of a McDonald's System restaurant. Franchisee shall pay all traveling, living, compensation, or other expenses incurred by Franchisee and Franchisee's employees in connection with attendance at Hamburger University or such other training centers.

7. **Gross Sales.** For the purposes of this Franchise, the term "Gross Sales" shall mean all revenues from sales of the Franchisee based upon all business conducted upon or from the Restaurant, whether such sales be evidenced by check, cash, credit, charge account, exchange, or otherwise, and shall include, but not be limited to, the amounts received from the sale of goods, wares, and merchandise, including sales of food, beverages, and tangible property of every kind and nature, promotional or otherwise, and for services performed from or at the Restaurant, together with the amount of all orders taken or received at the Restaurant, whether such orders be filled from the Restaurant or elsewhere. Gross Sales shall not include sales of merchandise for which cash has been refunded, provided that such sales shall have previously been included in Gross Sales. There shall be deducted from Gross Sales the price of merchandise returned by customers for exchange, provided that such returned merchandise shall have been previously included in Gross Sales, and provided that the sales price of merchandise delivered to the customer in exchange shall be included in Gross Sales. Gross Sales shall not include the amount of any sales tax imposed by any federal, state, municipal, or other governmental authority directly on sales and collected from customers, provided that the amount thereof is added to the selling price or absorbed therein and actually paid by the Franchisee to such governmental authority. Each charge or sale upon credit shall be treated as a sale for the full price in the month during which such charge or sale shall be made, irrespective of the time when the Franchisee shall receive payment (whether full or partial) therefor.

8. (a) **Service Fee.** Franchisee shall pay a monthly service fee on or before the tenth (10th) day of the following month in an amount equal to four percent (4.0%) of the Gross Sales of the Restaurant for the preceding month immediately ended.

(b) **Method of Payment.** Franchisee shall at all times participate in the McDonald's automatic debit/credit transfer program as specified by McDonald's from time to time for the payment of all amounts due McDonald's pursuant to this Franchise. Franchisee shall execute and deliver to McDonald's such documents and instruments as may be necessary to establish and maintain said automatic debit/credit transfer program.

(c) **Interest on Delinquencies.** In the event that the Franchisee is past due on the payment of any amount due McDonald's under this Franchise, including accrued interest, the Franchisee shall be required, to the extent permitted by law, to pay interest on the past due amount to McDonald's for the period beginning with the original due date for payment to the date of actual payment at an annual rate equal to the highest rate allowed by law or, if there is no maximum rate permitted by law, then fifteen percent (15%). Such interest will be calculated on the basis of monthly compounding and the actual number of days elapsed divided by 365.

9. **Initial Fee.** Franchisee acknowledges that: (a) the initial grant of this Franchise constitutes the sole consideration for the payment of an Initial Fee of Forty-Five Thousand Dollars (\$45,000.00) paid by Franchisee to McDonald's; and (b) the fee has been earned by McDonald's (except where the construction of the Restaurant has not been completed within one (1) year from the date of the execution and delivery of this Franchise). If the Restaurant has not been constructed or is not ready for occupancy at the time of the execution of this Franchise, McDonald's shall use its best efforts to expedite the construction and lease of the Restaurant to Franchisee. However, McDonald's shall not be liable to Franchisee in any manner for any delays in or lack of completion of such construction for any reason. McDonald's shall be under no obligation to enforce performance or to seek other remedies for non-performance of any lease, clause, or contract necessary for the construction of the Restaurant and reserves the right, in case construction of the Restaurant should be abandoned, the lease assigned, or other interest in the premises be relinquished, to terminate this Franchise upon reimbursement to Franchisee of the Initial Fee. At such time as the Restaurant is completed and ready for occupancy, the Initial Fee shall be deemed to be earned. If the Restaurant is not ready for occupancy within one (1) year from the date of this Franchise, Franchisee shall have the right to terminate this Franchise and obtain an immediate refund of the Initial Fee upon written request to McDonald's.

10. **Reports.** On or before 11:00 a.m. Central Standard Time on the first business day of each month, Franchisee shall render, in a manner specified by McDonald's, a statement, in such form as McDonald's shall reasonably require from time to time, of all receipts from the operation of the Restaurant for the preceding month immediately ended. On or before the twenty-fifth (25th) day of each month Franchisee shall submit to McDonald's an operating statement and a statistical report for the previous month in form satisfactory to McDonald's. Franchisee shall keep and preserve full and complete records of Gross Sales for at least three (3) years in a manner and form satisfactory to McDonald's and shall also deliver such additional financial and operating reports and other information as McDonald's may reasonably request on the forms and in the manner prescribed by McDonald's. Franchisee further agrees to submit within ninety (90) days following the close of each fiscal year of the Restaurant's operation, a profit and loss statement covering operations during such fiscal year and a balance sheet taken as of the close of such fiscal year, all prepared in accordance with generally accepted accounting principles. The profit and

loss statement and the balance sheet shall, if McDonald's shall request certification, be certified by a certified public accountant. Franchisee shall at Franchisee's expense cause Franchisee's public accountant and certified public accountant, if any, to consult with McDonald's concerning such statement and balance sheet. The original of each such report required by this paragraph 10 shall be mailed to McDonald's at the address indicated in paragraph 22 herein.

McDonald's shall have the right to inspect and/or audit Franchisee's accounts, books, records, and tax returns at all reasonable times to ensure that Franchisee is complying with the terms of this Franchise. If such inspection discloses that Gross Sales actually exceeded the amount reported by Franchisee as Gross Sales by an amount equal to two percent (2%) or more of Gross Sales originally reported to McDonald's, Franchisee shall bear the cost of such inspection and audit.

11. ***Restrictions.*** Franchisee agrees and covenants as follows:

(a) During the term of this Franchise, Franchisee shall not, without the prior written consent of McDonald's, directly or indirectly, engage in, acquire any financial or beneficial interest (including interests in corporations, partnerships, trusts, unincorporated associations, or joint ventures) in, or become a landlord for any restaurant business, which is similar to the Restaurant.

(b) Franchisee shall not, for a period of eighteen (18) months after termination of this Franchise for any reason or the sale of the Restaurant, directly or indirectly, engage in or acquire any financial or beneficial interest (including any interest in corporations, partnerships, trusts, unincorporated associations, or joint ventures) in, or become a landlord of any restaurant business which is similar to the Restaurant within a ten-mile radius of the Restaurant.

(c) Franchisee shall not appropriate, use, or duplicate the McDonald's System, or any portion thereof, for use at any other self-service, carry-out, or other similar restaurant business.

(d) Franchisee shall not disclose or reveal any portion of the McDonald's System to a non-franchisee other than to Franchisee's Restaurant employees as an incident of their training.

(e) Franchisee shall acquire no right to use, or to license the use of, any name, mark, or other intellectual property right granted or to be granted herein, except in connection with the operation of the Restaurant.

The restrictions contained in paragraphs 11(a) and 11(b) herein shall not apply to ownership of less than two percent (2%) of the shares of a company whose shares are listed and traded on a national or regional securities exchange.

12. ***Compliance With Entire System.*** Franchisee acknowledges that every component of the McDonald's System is important to McDonald's and to the operation of the Restaurant as a McDonald's restaurant, including a designated menu of food and beverage products; uniformity of food specifications, preparation methods, quality, and appearance; and uniformity of facilities and service.

McDonald's shall have the right to inspect the Restaurant at all reasonable times to ensure that Franchisee's operation thereof is in compliance with the standards and policies of the McDonald's System.

Franchisee shall comply with the entire McDonald's System, including, but not limited to, the following:

(a) Operate the Restaurant in a clean, wholesome manner in compliance with prescribed standards of Quality, Service, and Cleanliness; comply with all business policies, practices, and procedures imposed by McDonald's; serve at the Restaurant only those food and beverage products now or hereafter designated by McDonald's; and maintain the building, fixtures, equipment, signage, seating and decor, and parking area in a good, clean, wholesome condition and repair, and well lighted and in compliance with designated standards as may be prescribed from time to time by McDonald's;

(b) Purchase kitchen fixtures, lighting, seating, signs, and other equipment in accordance with the equipment specifications and layout initially designated by McDonald's and, promptly after notice from McDonald's that the Restaurant premises are ready for occupancy, cause the installation thereof;

(c) Keep the Restaurant constructed and equipped in accordance with the building blueprints and equipment layout plans that are standard in the McDonald's System or as such blueprints and plans may be reasonably changed from time to time by McDonald's;

(d) Franchisee shall not, without the prior written consent of McDonald's: (i) make any building design conversion or (ii) make any alterations, conversions, or additions to the building, equipment, or parking area;

(e) Make repairs or replacements required: (i) because of damage or wear and tear or (ii) in order to maintain the Restaurant building and parking area in good condition and in conformity to blueprints and plans;

(f) Where parking is provided, maintain the parking area for the exclusive use of Restaurant customers;

(g) Operate the Restaurant seven (7) days per week throughout the year and at least during the hours from 7:00 a.m. to 11:00 p.m., or such other hours as may from time to time be prescribed by McDonald's (except when the Restaurant is untenable as a result of fire or other casualty), maintain sufficient supplies of food and paper products, and employ adequate personnel so as to operate the Restaurant at its maximum capacity and efficiency;

(h) Cause all employees of Franchisee, while working in the Restaurant, to: (i) wear uniforms of such color, design, and other specifications as McDonald's may designate from time to time; (ii) present a neat and clean appearance; and (iii) render competent and courteous service to Restaurant customers;

(i) In the dispensing and sale of food products: (i) use only containers, cartons, bags, napkins, other paper goods, and packaging bearing the approved trademarks and which meet the McDonald's System specifications and quality standards which McDonald's may designate from time to time; (ii) use only those flavorings, garnishments, and food and beverage ingredients which meet the McDonald's System specifications and quality standards which McDonald's may designate from time to time; and (iii) employ only those methods of food handling and preparation which McDonald's may designate from time to time;

(j) To make prompt payment in accordance with the terms of invoices rendered to Franchisee on Franchisee's purchase of fixtures, signs, equipment, and food and paper supplies; and

(k) At Franchisee's own expense, comply with all federal, state, and local laws, ordinances, and regulations affecting the operation of the Restaurant.

13. **Best Efforts.** Franchisee shall diligently and fully exploit the rights granted in this Franchise by personally devoting full time and best efforts and, in case more than one individual has executed this Franchise as the Franchisee, then _____ shall personally devote full time and best efforts to the operation of the Restaurant. Franchisee shall keep free from conflicting enterprises or any other activities which would be detrimental to or interfere with the business of the Restaurant.

14. **INTENTIONALLY DELETED.**

15. **Assignment.** Without the prior written consent of McDonald's, Franchisee's interest in this Franchise shall not be assigned or otherwise transferred in whole or in part (whether voluntarily or by operation of law) directly, indirectly, or contingently, and then only in accordance with the terms of this paragraph 15.

(a) **Death or Permanent Incapacity of Franchisee.** Upon the death or permanent incapacity of Franchisee, the interest of Franchisee in this Franchise may be assigned either pursuant to the terms of paragraph 15(d) herein or to one or more of the following persons: Franchisee's spouse, heirs, or nearest relatives by blood or marriage, subject to the following conditions: (i) if, in the sole discretion of McDonald's, such person shall be capable of conducting the Restaurant business in accordance with the terms and conditions of this Franchise and (ii) if such person shall also execute an agreement by which the person personally assumes full and unconditional liability for and agrees to perform all the terms and conditions of this Franchise to the same extent as the original Franchisee. If, in McDonald's sole discretion, such person cannot devote full time and best efforts to the operation of the Restaurant or lacks the capacity to operate the Restaurant in accordance with this Franchise, McDonald's shall have an option to operate and/or manage the Restaurant for the account of Franchisee or of Franchisee's estate until the deceased or incapacitated Franchisee's interest is transferred to another party acceptable to McDonald's in accordance with the terms and conditions of this Franchise. However, in no event shall such McDonald's operation and management of the Restaurant continue for a period in excess of twelve (12) full calendar months without the consent of Franchisee or Franchisee's estate. In the event that McDonald's so operates and/or manages the Restaurant, McDonald's shall make a complete account to and return the net income from such operation to the Franchisee or to Franchisee's estate, less a reasonable management fee and expenses. If the disposition of the Restaurant to a party acceptable to McDonald's has not taken place within twelve (12) months from the date that McDonald's has commenced the operation or management of the Restaurant on behalf of the deceased or incapacitated Franchisee, then, in that event, McDonald's shall have the option to purchase the Restaurant at fair market value for cash or its common stock at its option.

(b) **Assignment to Franchisee's Corporation.** Upon Franchisee's compliance with such requirements as may from time to time be prescribed by McDonald's, including a Stockholders Agreement in the form prescribed by McDonald's, McDonald's shall consent to an assignment to a corporation whose shares are

wholly owned and controlled by Franchisee. The corporate name of the corporation shall not include any of the names or trademarks granted by this Franchise. Any subsequent assignment or transfer, either voluntarily or by operation of law, of all or any part of said shares shall be made in compliance with the terms and conditions set forth in paragraphs 15(a) and 15(d) herein.

(c) First Option to Purchase. Franchisee or Franchisee's representative shall, at least twenty (20) days prior to the proposed effective date, give McDonald's written notice of intent to sell or otherwise transfer this Franchise pursuant to paragraph 15(d). The notice shall set forth the name and address of the proposed purchaser and all the terms and conditions of any offer. McDonald's shall have the first option to purchase the Restaurant by giving written notice to Franchisee of its intention to purchase on the same terms as the offer within ten (10) days following McDonald's receipt of such notice. However, if McDonald's fails to exercise its option and the Restaurant is not subsequently sold to the proposed purchaser for any reason, McDonald's shall continue to have, upon the same conditions, a first option to purchase the Restaurant upon the terms and conditions of any subsequent offer.

(d) Other Assignment. In addition to any assignments or contingent assignments contemplated by the terms of paragraphs 15(a) and 15(b), Franchisee shall not sell, transfer, or assign this Franchise to any person or persons without McDonald's prior written consent. Such consent shall not be arbitrarily withheld.

In determining whether to grant or to withhold such consent, McDonald's shall consider of each prospective transferee, by way of illustration, the following: (i) work experience and aptitude, (ii) financial background, (iii) character, (iv) ability to personally devote full time and best efforts to managing the Restaurant, (v) residence in the locality of the Restaurant, (vi) equity interest in the Restaurant, (vii) conflicting interests, and (viii) such other criteria and conditions as McDonald's shall then apply in the case of an application for a new franchise to operate a McDonald's restaurant. McDonald's consent shall also be conditioned each upon such transferee's execution of an agreement by which transferee personally assumes full and unconditional liability for and agrees to perform from the date of such transfer all obligations, covenants, and agreements contained in this Franchise to the same extent as if transferee had been an original party to this Franchise. Franchisee and each transferor shall continue to remain personally liable for all affirmative obligations, covenants, and agreements contained herein for the full term of this Franchise or for such shorter period as McDonald's may, in its sole discretion, determine. Upon each assignment or other transfer of this Franchise to any person or persons under the terms and conditions of this paragraph 15(d), the percentage service fee charge owing to McDonald's after the date of such assignment or transfer shall be automatically adjusted to the then prevailing percentage service fee charge required under new Franchises issued by McDonald's for similar McDonald's restaurants at the time of such assignment or transfer.

16. ***Franchisee Not an Agent of McDonald's.*** Franchisee shall have no authority, express or implied, to act as agent of McDonald's or any of its affiliates for any purpose. Franchisee is, and shall remain, an independent contractor responsible for all obligations and liabilities of, and for all loss or damage to, the Restaurant and its business, including any personal property, equipment, fixtures, or real property connected therewith, and for all

claims or demands based on damage or destruction of property or based on injury, illness, or death of any person or persons, directly or indirectly, resulting from the operation of the Restaurant. Further, Franchisee and McDonald's are not and do not intend to be partners, associates, or joint employers in any way and McDonald's shall not be construed to be jointly liable for any acts or omissions of Franchisee under any circumstances.

17. **Insurance.** Franchisee shall, upon taking possession of the Restaurant, acquire and maintain in effect such insurance with such coverages as may be required by the terms of any lease of the Restaurant premises to McDonald's, and in any event, Franchisee shall acquire and maintain in effect not less than the following coverages in the following minimum amounts:

(a) Worker's Compensation insurance prescribed by law in the state in which the Restaurant is located and Employer's Liability Insurance with \$100,000/\$500,000/\$100,000 minimum limit. If the state in which the Restaurant is located allows the option of not carrying Worker's Compensation Insurance, and Franchisee chooses to exercise that option, Franchisee shall nonetheless carry and maintain other insurance with coverage and limits as approved by McDonald's.

(b) Commercial general liability insurance in a form approved by McDonald's with a limit of \$5,000,000 per occurrence/\$5,000,000 aggregate.

(c) All such insurance as may be required under the Lease.

All insurance policies required to be carried hereunder shall name McDonald's and any party designated by McDonald's as additional insureds, as their interests may appear in this Franchise. All policies shall be effective on or prior to the date Franchisee is given possession of the Restaurant premises for the purpose of installing equipment or opening the Restaurant, whichever occurs first, and evidence of payment of premiums and duplicate copies of policies of the insurance required herein shall be delivered to McDonald's at least thirty (30) days prior to the date that Franchisee opens for business and/or thirty (30) days prior to the expiration date of an existing policy of insurance. All policies of insurance shall include a provision prohibiting cancellations or material changes to the policy thereof until thirty (30) days prior written notice has been given to McDonald's.

In the event Franchisee shall fail to obtain the insurance required herein, McDonald's may, but is not obligated to, purchase said insurance, adding the premiums paid to Franchisee's monthly rent. (Franchisee may authorize McDonald's to purchase and to administer the required minimum insurance on Franchisee's behalf. However, McDonald's, by placement of the required minimum insurance, assumes no responsibility for premium expense nor guarantees payment for any losses sustained by Franchisee.) McDonald's may relieve itself of all obligations with respect to the purchase and administration of such required insurance coverage by giving ten (10) days written notice to Franchisee.

All insurance shall be placed with a reputable insurance company licensed to do business in the state in which the Restaurant is located and having a Financial Size Category equal to or greater than IX and Policyholders Rating of "A+" or "A", as assigned by Alfred M. Best and Company, Inc., unless otherwise approved by McDonald's.

18. **Material Breach.** The parties agree that the happening of any of the following events shall constitute a material breach of this Franchise and violate the essence of Franchisee's obligations and, without prejudice to any of its other rights or remedies at law or in equity, McDonald's, at its election, may terminate this Franchise upon the happening of any of the following events:

- (a) Franchisee shall fail to maintain and operate the Restaurant in a good, clean, wholesome manner and in compliance with the standards prescribed by the McDonald's System;
- (b) Franchisee shall be adjudicated a bankrupt, become insolvent, or a receiver, whether permanent or temporary, for all or substantially all of Franchisee's property, shall be appointed by any court, or Franchisee shall make a general assignment for the benefit of creditors, or a voluntary or involuntary petition under any bankruptcy law shall be filed with respect to Franchisee and shall not be dismissed within thirty (30) days thereafter;
- (c) Any payment owing to McDonald's is not paid within thirty (30) days after the date such payment is due;
- (d) Any judgment or judgments aggregating in excess of \$5,000.00 against Franchisee or any lien in excess of \$5,000.00 against Franchisee's property shall remain unsatisfied or unbonded of record in excess of thirty (30) days;
- (e) Franchisee shall cause, suffer, or permit (voluntarily or involuntarily) Franchisee's right of possession as lessee or sublessee of the premises on which the Restaurant is located to be terminated prematurely for any cause whatever;
- (f) Franchisee shall acquire any interest in a business in violation of paragraph 11(a);
- (g) Franchisee shall duplicate the McDonald's System in violation of paragraph 11(c);
- (h) Franchisee shall make or cause a disclosure of any portion of the McDonald's System in violation of paragraph 11(d) or shall make or cause a disclosure of part of the McDonald's System business manuals;
- (i) Franchisee shall violate paragraph 11(e) by use of any name, trademark, service mark, or other intellectual property right exceeding the restrictions of said paragraph 11;
- (j) Franchisee shall knowingly sell food or beverage products other than those designated by McDonald's or which fail to conform to McDonald's System specifications for those products, or which are not prepared in accordance with the methods prescribed by McDonald's, or fail to sell products designated by McDonald's;
- (k) Any assignment or other transfer of any interest of the Franchisee in this Franchise shall occur in violation of paragraph 15(d) herein;
- (l) Franchisee shall deny McDonald's the right to inspect the Restaurant at reasonable times;
- (m) Franchisee shall fail to make or make repeated delays in the prompt payment of undisputed invoices from suppliers or in the remittance of payments as required by this Franchise;
- (n) Franchisee makes any misrepresentations to McDonald's relating to the acquisition and/or ownership of this Franchise;

(o) Franchisee engages in public conduct which reflects materially and unfavorably upon the operation of the Restaurant, the reputation of the McDonald's System, or the goodwill associated with the McDonald's trademarks; provided that engaging in legitimate political activity (including testifying, lobbying, or otherwise attempting to influence legislation) shall not be grounds for termination;

(p) Franchisee is convicted of, pleads guilty or no contest to a felony, or any other crime that is reasonably likely to adversely affect the McDonald's System, the Restaurant, or the goodwill associated with the McDonald's trademarks; or

(q) Franchisee intentionally understates Gross Sales reported to McDonald's.

19. ***Other Breaches.*** If Franchisee fails in the performance of any of the terms and conditions of this Franchise (other than performance of the terms and conditions listed in paragraph 18), Franchisee shall be guilty of a breach of this Franchise which shall not (except in the case of repeated breaches of the same or of different terms and conditions of this Franchise) constitute grounds for termination of this Franchise. McDonald's shall have the right to seek judicial enforcement of its rights and remedies, including, but not limited to, injunctive relief, damages, or specific performance. Notwithstanding any of the provisions of this paragraph 19, any uncured breach of the terms of this Franchise (whether of paragraph 18 or 19) shall be sufficient reason for McDonald's to withhold approval of its consent to any assignment or transfer of Franchisee's interest in this Franchise provided for herein.

20. ***Effect of Termination.***

(a) In the event of any material breach of this Franchise, McDonald's shall have an immediate right to enter and take possession of the Restaurant in order to maintain continuous operation of the Restaurant, to provide for orderly change of management and disposition of personal property, and to otherwise protect McDonald's interest.

(b) Upon termination of this Franchise due to any breach or breaches, Franchisee shall not, without the prior written consent of McDonald's, remove any furniture, fixtures, signs, equipment, other property, or leasehold improvements from the premises either prior to or for a period of thirty (30) days following such termination. McDonald's shall have the option for thirty (30) days following any such termination to purchase Franchisee's furniture, fixtures, signs, equipment, other property, and leasehold improvements or any portion thereof for a sum equal to the fair market value of such property. In the event of such a termination, there shall be no payment by McDonald's for intangible assets of Franchisee.

(c) Upon termination of this Franchise due to the expiration of its term or as a result of any eminent domain proceedings affecting the premises upon which the Restaurant is situated, Franchisee shall not remove any furniture, fixtures, signs, equipment, other property, or leasehold improvements within sixty (60) days prior to the date specified for termination or the date specified for takeover by any public authority. McDonald's shall, upon written notice of its intention to purchase said property at least thirty (30) days prior to such date of termination, have the option to purchase Franchisee's furniture, fixtures, signs, equipment, other property, and leasehold improvements or any portion thereof for a sum equal to the fair market value of such property. In the event of such a termination, there shall be no payment by McDonald's for intangible assets of Franchisee.

(d) Upon termination or expiration of this Franchise, Franchisee shall: (i) forthwith return to McDonald's the business manuals furnished to Franchisee, together with all other material containing trade secrets, operating instructions, or business practices; (ii) discontinue the use of the McDonald's System and its associated trade names, service marks, and trademarks or the use of any and all signs and printed goods bearing such names and marks, or any reference to them; (iii) not disclose, reveal, or publish all or any portion of the McDonald's System; and (iv) not thereafter use any trade name, service mark, or trademark similar to or likely to be confused with any trade name, service mark, or trademark used at any time in the McDonald's System.

21. ***Effect of Waivers.*** No waiver by McDonald's or any breach or a series of breaches of this Franchise shall constitute a waiver of any subsequent breach or waiver of the terms of this Franchise.

22. ***Notices.*** Any notice hereunder shall be in writing and shall be delivered by personal service or by United States certified or registered mail, with postage prepaid, addressed to Franchisee at the Restaurant or to McDonald's at **110 N. CARPENTER STREET, CHICAGO, ILLINOIS 60607**. Either party, by a similar written notice, may change the address to which notices shall be sent.

23. ***Cost of Enforcement.*** If McDonald's institutes any action at law or in equity against Franchisee to secure or protect McDonald's rights under or to enforce the terms of this Franchise, in addition to any judgment entered in its favor, McDonald's shall be entitled to recover such reasonable attorneys' fees as may be allowed by the court together with court costs and expenses of litigation.

24. ***Indemnification.*** If McDonald's shall be subject to any claim, demand, or penalty or become a party to any suit or other judicial or administrative proceeding by reason of any claimed act or omission by Franchisee or Franchisee's employees or agents, or by reason of any act occurring on the Restaurant premises, or by reason of an omission with respect to the business or operation of the Restaurant, Franchisee shall indemnify and hold McDonald's harmless against all judgments, settlements, penalties, and expenses, including attorneys' fees, court costs, and other expenses of litigation or administrative proceeding, incurred by or imposed on McDonald's in connection with the investigation or defense relating to such claim, litigation, or administrative proceeding and, at the election of McDonald's, Franchisee shall also defend McDonald's.

25. ***Construction and Severability.*** All references in this Franchise to the singular shall include the plural where applicable. If any part of this Franchise for any reason shall be declared invalid, such decision shall not affect the validity of any remaining portion, which shall remain in full force and effect. In the event that any material provision of this Franchise shall be stricken or declared invalid, McDonald's reserves the right to terminate this Franchise.

26. ***Scope and Modification of Franchise.*** This Franchise (including Exhibit A and any riders hereto) constitutes the entire agreement between the parties and supersedes all prior and contemporaneous, oral or written, agreements or understandings of the parties. Nothing in this Franchise or in any related agreement, however, is intended to disclaim the representations made in the Franchise Disclosure Document furnished to Franchisee. No interpretation, change, termination, or waiver of any of the provisions hereof shall be binding upon McDonald's unless in writing signed by an officer or franchising director of McDonald's, and which is specifically identified as

an amendment hereto. No modification, waiver, termination, rescission, discharge, or cancellation of this Franchise shall affect the right of any party hereto to enforce any claim or right hereunder, whether or not liquidated, which occurred prior to the date of such modification, waiver, termination, rescission, discharge, or cancellation.

27. **Governing Laws.** The terms and provisions of this Franchise shall be interpreted in accordance with and governed by the laws of the state of Illinois.

28. **Acknowledgment.** Franchisee acknowledges that:

(a) The term of this Franchise is set forth in paragraph 2(b) hereof with no promise or representation as to the renewal of this Franchise or the grant of a new franchise;

(b) Franchisee hereby represents that Franchisee has received a copy of this Franchise, has read and understands all obligations being undertaken, and has had an opportunity to consult with Franchisee's attorney with respect thereto at least seven (7) calendar days prior to execution;

(c) No representation has been made by McDonald's as to the future profitability of the Restaurant;

(d) Prior to the execution of this Franchise, Franchisee has worked at a McDonald's restaurant and has had ample opportunity to contact existing franchisees of McDonald's and to investigate all representations made by McDonald's relating to the McDonald's System;

(e) This Franchise establishes the Restaurant at the location specified on page 1 hereof only and that no "exclusive," "protected," or other territorial rights in the contiguous market area of such Restaurant is hereby granted or inferred;

(f) This Franchise supersedes any and all other agreements and representations respecting the Restaurant and contains all the terms, conditions, and obligations of the parties with respect to the grant of this Franchise; however, nothing in this Franchise or in any related agreement is intended to disclaim the representations made in the Franchise Disclosure Document furnished to Franchisee;

(g) McDonald's or its affiliates are the sole owner(s) of the trademarks, trade names, service marks, and goodwill associated therewith, respectively, and Franchisee acquires no right, title, or interest in those names and marks other than the right to use them only in the manner and to the extent prescribed and approved by McDonald's;

(h) No future franchise or offers of franchises for additional McDonald's restaurants, other than this Franchise, have been promised to Franchisee and any other franchise offer shall only be in writing, executed by an officer or franchising director of McDonald's, and identified as a Franchise Agreement or Rewrite (New Term) Offer Letter;

(i) Neither McDonald's nor anyone acting on its behalf has made any representations, inducements, promises, or agreements, orally or otherwise, respecting the subject matter of this Franchise, which is not embodied herein or set forth in the Franchise Disclosure Document; and

(j) This Franchise is offered to Franchisee personally and to no others, and may not be accepted by any other person, partnership, or corporation, or transferred by assignment, will, or operation of law.

IN WITNESS WHEREOF, the parties hereto set their hands and seals, in duplicate, the day and year in this instrument first above written.

McDONALD'S USA, LLC

Franchisee

By: _____

Date

Prepared By: _____

Date

Exhibit “D”

SDA # _____

PC# _____

DUNKIN' RESTAURANT FRANCHISE AGREEMENT

This Franchise Agreement ("Agreement"), dated _____, 202__ (the "Effective Date"), is made by and between **DUNKIN' DONUTS FRANCHISING LLC**, a Delaware limited liability company with principal offices at Three Glenlake Pkwy NE, Atlanta, GA ("we", "us" or "our"), and the following individual(s) and/or entity: _____
_____ (individually or collectively referred to as "you" or "your").

CONTRACT DATA SCHEDULE

A. Location of the Restaurant:

(number)	(street)	(city or town)	(state)	(zip code)
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B. SDA. This Agreement is being executed, and the Restaurant is being developed, pursuant to the Store Development Agreement dated as of _____, 20__ between us and you (or your affiliate) (as amended, the "SDA"). OR This Agreement is not being executed pursuant to any Store Development Agreement ("SDA").

C. Term: The "Term" of this Agreement begins on the Effective Date and ends _____ (____) years after the first date the Restaurant opens to serve the general public (the "Opening Date"), or, if the Restaurant is an existing Restaurant as of the Effective Date, only _____.

D. Required Opening Date: The "Required Opening Date" means the date which is [fifteen (15) months after the Effective Date] or [_____, 202__, the date by which the Restaurant must be open pursuant to the SDA.]

E. Initial Franchise Fee: _____ dollars (\$_____).

F. Marketing Start-Up Fee: _____ dollars (\$_____) for current event; per Standards for all subsequent branding or re-branding events

G.1. Continuing Franchise Fee Rate: _____ percent (____%) of Gross Sales

G.2. Continuing Training Fee: _____ dollars (\$_____) due upon execution, and annually thereafter at the then-current rate

H. Continuing Advertising Fee Rate: ~~--FIVE--~~ percent (5.0%) of Gross Sales

I.1. Remodel Date: If the Restaurant is a new Dunkin' Restaurant, the date which is **ten (10) years** after the Opening Date, or, if the Restaurant is an existing Restaurant as of the Effective Date, on _____.

I.2. Refurbishment Date: If the Restaurant is a new Dunkin' Restaurant, the dates which are **five (5) years** and **fifteen (15) years** after the Opening Date, or, if the Restaurant is an existing Restaurant as of the Effective Date, on _____.

J. Address for notice to you shall be at the Restaurant, unless another address is inserted here: _____

- K. Addenda: [] _____
- L. The approved source of bakery supply for this Restaurant is _____. You may not change your source of bakery supply without our prior written approval (which shall not be unreasonably withheld).

Form last revised March 2024

TERMS AND CONDITIONS
© AND EFFECTIVE AS OF MARCH 2024

SECTION 1. PARTIES AND SYSTEM

1.A Parties. This Agreement is our grant of a non-exclusive license to you, and your assumption of your obligation, to develop and operate a Dunkin' restaurant business operating under the System (defined below) and the Proprietary Marks (defined below) (a "Dunkin' Restaurant"). The franchisee, location of the Dunkin' Restaurant covered by this Agreement (the "Restaurant"), Term and certain other terms of this Agreement are as specified in the accompanying Contract Data Schedule.

1.B Business Entity Franchisee. If you are a corporation, limited liability company or other entity, then you agree that:

(1) your organizing documents shall provide that your purpose is limited to, and your business, operations and assets shall be limited to, developing, acquiring, owning and operating one or more Dunkin' Restaurants (and, if applicable, Baskin-Robbins restaurants) and conducting all business and financing activities related to those restaurants or as otherwise permitted by this Agreement, and except as provided below, you may not guarantee, co-sign, lend credit, pledge, mortgage or otherwise grant a security interest in any of your assets with respect to any business that is not related to those restaurants (although, if the Restaurant is in a shopping center or other site with multiple retail locations that your affiliate owns, then we will not unreasonably withhold our approval if you request to guarantee, co-sign, lend credit, pledge, mortgage or otherwise grant a security interest in any of your assets to secure a mortgage or other loan to that affiliate covering that site);

(2) Exhibit A to this Agreement completely and accurately describes all of your Owners (defined below) and their ownership interests in you. "Owner" means any person or entity holding a direct or indirect ownership interest (whether of record, beneficially, or otherwise) in you; and

(3) each Owner must execute an agreement in the form we designate undertaking personally to be bound by all provisions of this Agreement and any ancillary agreements between us and you (a "Guaranty"), the current version of which is attached to this Agreement.

1.C System. As a result of the expenditure of time, effort and money, we have acquired experience and skill in the continued development of the Dunkin' franchise system, which involves the conceptualization, design, specification, development, operation, marketing, franchising and licensing of restaurants and associated concepts for the sale of proprietary and non-proprietary food and beverage products, all of which we may periodically develop and modify (the "System"). In connection with the System, we own or have the right to license certain intellectual property. This property, all of which we may periodically develop and modify, includes trademarks, service marks, logos, emblems, trade dress, trade names and other indicia of origin (collectively, the "Proprietary Marks"), as well as copyrights. We also have the right to periodically establish and modify "Standards" for various aspects of the System and the development and operation of Dunkin' Restaurants that include the location, physical characteristics and quality of operating systems and other aspects of restaurants; the products sold and services provided; the qualifications of suppliers; the qualifications, organization and training of franchisees and their

personnel; the timely marketing of products and our brand, including execution of marketing windows; and all other things that we periodically specify affecting the experience of consumers who patronize Dunkin' Restaurants. We make those Standards available to you in our Manuals and in other forms of communication, which we may update from time to time. Complete uniformity may not be possible or practical throughout the System, and we may from time to time vary Standards as we deem necessary or desirable for one or more Dunkin' Restaurants. As franchisee, you have the right and accept the obligation and responsibility to exercise day-to-day control over your franchised business to meet the Standards.

SECTION 2. GRANT OF FRANCHISE, TERM AND RENEWAL

2.A Grant of Rights. Accordingly, for the Term, we grant you the license, and you accept the obligation, to operate the Restaurant at the location specified in the accompanying Contract Data Schedule as a Dunkin' Restaurant using our System and the Proprietary Marks, only in accordance with our Standards and the other terms of this Agreement.

2.B Term and Renewal Term. This Agreement shall not automatically renew upon the expiration of the Term. When the Term expires, you will have an option to renew the right and obligation to operate the Restaurant as a Dunkin' Restaurant for one (1) additional term of twenty (20) years (the "Renewal Term") if, and only if, each and every one of the following conditions has been satisfied:

(1) you must have given us written notice of your desire to exercise this renewal option at least twelve (12) months, but not more than thirty-six (36) months before the end of the Term (the "Renewal Notice Period");

(2) you must have maintained the Standards and otherwise substantially complied with the terms and conditions of this Agreement (and any lease with us or our affiliate, if applicable) throughout the Term; we have not sent you more than three (3) notices to cure or other notices of default under this Agreement over the course of the ten (10)-year period immediately preceding your delivery of the notice to renew in Section 2.B(1) and have not sent you any notice to cure or other notice of default under this Agreement after you provide that notice until the end of the Term; you must not have any uncured defaults under this Agreement at the time you provide that notice; and all your payments and other liabilities and obligations to us under this Agreement (and any lease with us or our affiliate) or otherwise must be current through the expiration of the Term; and

(3) you (a) have demonstrated to us that you have obtained a lease extension or new lease for the Premises (defined below) covering the Renewal Term on terms that meet our requirements and you Remodel the Restaurant on or before the expiration of the Term, in accordance with Section 8.A; or (b) if we reasonably determine, based on our review of the site and other economic factors impacting the market, that the Restaurant should be relocated, you secure a substitute premises that we accept and develop the Dunkin' Restaurant at those premises according to our then current standards and process before the expiration of the Term.

If you have satisfied all of these conditions, then to effectuate the option for the Renewal Term, you (and your Owners, as applicable) must execute and deliver to us, within fourteen (14) days (or any longer period required by law) after delivery to you, both (i) our then-current form of termination and general release that confirms the termination of this Agreement and releases all

claims that the parties may have against each other and their respective affiliates, and all of their respective officers, directors, owners and employees (provided, however, that each party's indemnification obligations for claims arising in connection with this Agreement shall survive termination of this Agreement and shall not be subject to the general release); and (ii) our then-current form of Franchise Agreement and related documents (including exhibits and ancillary agreements) that we are then offering to new franchisees at the time of renewal, the terms and conditions of which (including fee structures) may differ from this Agreement, and in addition, you pay us our then-current renewal fee when you execute that Franchise Agreement.

2.C Non-Exclusive License. This license is non-exclusive and relates solely to the single Restaurant location set forth in the Contract Data Schedule. We retain the right to operate or license others to operate Dunkin' Restaurants and other concepts, and to grant other licenses relating to the Proprietary Marks, at such locations and on such terms as we choose. We may use or license others to use the Proprietary Marks in ways that compete with your location and that draw customers from the same area as your Restaurant.

SECTION 3. DEVELOPMENT AND OPENING OF THE RESTAURANT

3.A Development. If you have not yet located an accepted Premises as of the Effective Date, then although we may assist you in your search, it is solely your responsibility to search for and propose to us a site on which to develop the Restaurant, and you must deliver to us for our review a complete site report and other materials and information we request for a suitable site in time to open the Restaurant on or before the Required Opening Date. You may only develop the Restaurant at a site that we have accepted. You agree that the Restaurant and any parking area or other real estate appurtenant to the Restaurant (collectively, the "Premises") must be designed, laid out, constructed, furnished, and equipped to meet our Standards and specifications, and you must satisfy any conditions we specify to obtain our approval of the development of the Restaurant and Premises. You may not deviate from our approved plans, specifications and requirements without our prior written approval. Any plans that we provide to you, and our approval of any plans you submit to us, relate solely to compliance with our Standards and should not be construed as a representation or warranty that the plans comply with applicable laws and regulations. That responsibility is solely yours. At our written request, you must promptly correct any unapproved deviations in the development of the Restaurant or Premises.

3.B Lease or Purchase. If you have not already done so before executing this Agreement, you must submit to us the proposed purchase agreement or lease for the Premises, along with the acquisition, development and construction costs, and such other information as we reasonably request, so that we can evaluate the proposal. Each purchase agreement or lease must meet our then-current minimum requirements designed to protect us, our affiliates, and our System. If you will lease the Premises from an unaffiliated landlord, the landlord must agree to our then-current form of Option to Assume the lease. If you or your affiliate directly or indirectly acquire ownership or control of the Premises, you must promptly give us written notice of such ownership or control and execute (or cause your affiliate to execute) our then-standard agreement (containing reasonable and customary terms and conditions) giving us the option to lease the Premises from you (or your affiliate) upon expiration or termination of this Agreement or any lease relating to the Restaurant or Premises. The lease will be for the then-remaining term of this Agreement, including any extension or renewal, at "triple-net" fair market value rent for comparable Dunkin' Restaurant locations with arms-length leases. If the parties cannot agree on the fair market value, they will consult a mutually-acceptable real estate professional.

3.C Opening. You must open and begin operating the Restaurant, in accordance with the Standards and other provisions of this Agreement, on or before the Required Opening Date specified in the Contract Data Schedule. You may not open and begin operating the Restaurant until you have finished developing the Restaurant and Premises according to our Standards, you satisfy our other pre-opening requirements, and you obtain our approval to open.

SECTION 4. TRAINING AND ASSISTANCE

4.A Training. Before the Restaurant opens for business, and from time to time thereafter, we will make various mandatory and optional training programs regarding Standards that we have developed or obtained available to you, your management and other Restaurant personnel to assist you in meeting Standards. We will conduct some training programs regarding Standards, and we may require you to conduct training programs through your own properly certified (by us) trainers or supervisors. These programs may be conducted, at our option, at the Restaurant or other site, or through the Internet or other electronic media. You agree to timely and successfully complete, and to require your management and other employees to timely and successfully complete, all training that we designate as mandatory regarding Standards. Some training programs or systems may require the payment of fees.

4.B Costs for Training. You are responsible for your costs incurred in receiving any Standards training and in conducting your own training, including the cost of any materials and the salaries and travel expenses of yourself, your management, and your employees. If the Restaurant fails to meet Standards, then in addition to our other remedies, we may require you, your management and other Restaurant personnel to participate in additional training programs at your expense, and you may be required to reimburse us for the costs of providing such training.

4.C Assistance. We will maintain a continuing advisory relationship with you by providing such assistance as we periodically deem appropriate regarding the development and operation of a Dunkin' Restaurant. We may require that you designate an individual who satisfies the training and other requirements we periodically specify as our primary contact. We may advise you on the Restaurant's construction, design, layout, equipment, maintenance, repair and remodeling; on the training of your Restaurant's managers and crew personnel; on marketing and merchandising; on inventory control and record-keeping; and on other aspects of Dunkin' Restaurant operations. We will make available to you our then-current Manuals setting out our Standards, together with explanatory policies, procedures and other materials to assist you in complying with those Standards.

4.D Franchisee Advisory Council. We have established a franchisee advisory council comprised of members elected by franchisees in accordance with an election process we periodically specify as well as members appointed by us. We will consult with this group or its successor from time to time. This council will serve solely in an advisory capacity with respect to the matters contemplated by this Agreement, provided that the council currently has, and may have from time to time, particular consent, approval, and other rights pursuant to specific programs, arrangements or policies that we periodically establish and modify, or under other agreements with us.

SECTION 5. FEES, PAYMENTS AND REPORTING OF SALES

5.A Initial Franchise Fee. You must pay us the Initial Franchise Fee specified in the Contract Data Schedule in accordance with the SDA or, if this Agreement is not being executed pursuant to an SDA, then upon executing this Agreement.

5.B Marketing Start-Up Payment. In connection with a material branding or re-branding event at the Restaurant such as opening, re-opening or remodel or any other event set forth in our Standards, you agree to undertake promotional activities in the manner and to the extent that we prescribe in accordance with our Standards. We will advise you in writing of the manner and timing of such activities. If we have established a minimum dollar expenditure for your Restaurant's initial opening promotional activities, that amount will be set forth on the Contract Data Schedule.

5.C Continuing Franchise Fee. On or before Thursday of each week, you agree to pay us a Continuing Franchise Fee in an amount equal to (1) the Gross Sales (defined below) of the Restaurant for the seven (7)-day period ending at the close of business on Saturday, twelve (12) days previous, multiplied by (2) the Continuing Franchise Fee percentage stated in the Contract Data Schedule. We will specify the means and manner of payment from time to time, in writing.

5.D Continuing Advertising Fee. On or before Thursday of each week, you agree to pay us a Continuing Advertising Fee in an amount equal to (1) the Gross Sales of the Restaurant for the seven (7)-day period ending at the close of business on Saturday, twelve (12) days previous, multiplied by (2) the Continuing Advertising Fee percentage stated in the attached Contract Data Schedule. The Continuing Advertising Fee should be paid at the same time and in the same manner as the Continuing Franchise Fee, unless we specify otherwise, in writing.

5.E Gross Sales. "Gross Sales" means all revenue related to the sale of approved products and services through the operation of the Restaurant, but does not include money received for the sale of stored value cards and deposited into a central account maintained for the benefit of the Dunkin' Restaurant network; taxes collected from customers on behalf of a governmental body; or the sale of approved products to another entity franchised or licensed by us for subsequent resale. All sales are considered to have been made at the time the product is delivered to the purchaser, regardless of timing or form of payment. Revenues lost due to employee theft are not deductible from Gross Sales. Sales made to approved wholesale accounts are included in Gross Sales for purposes of calculating the Continuing Franchise Fee but not the Continuing Advertising Fee. You must submit any wholesale account for our prior approval using the procedure we specify from time to time. We may withdraw our approval at any time.

5.F Taxes on Fees. If any tax or other fee (other than federal or state income tax based on our income) is imposed on us by any governmental agency due to our receipt of fees or other amounts that you pay to us under this Agreement, then you agree to pay us the amount of such tax or other fee as an additional Continuing Franchise Fee.

5.G Late Fees, Interest and Costs. If you are late in paying all or part of any fee or other amount due to us or our affiliate, then without limiting our other remedies, you must also pay us our then-current late fee and interest on the unpaid amount calculated from the date due until paid at the rate of one and one-half percent (1.5%) per month, or the highest rate allowed by law, whichever is less. You must also pay all collection charges, including reasonable attorneys' fees, that we and our affiliates incur to collect fees that are due.

5.H Gross Sales Reporting and EFT. You agree to participate in our program or procedure that we periodically specify for Gross Sales reporting and payment of fees that are due, whether it is electronic fund transfer ("EFT") or some successor program, in accordance with our Standards. You agree to assume the costs associated with maintaining your capability to report Gross Sales and transfer funds to us. In no event will you be required to pay any sums before the date they are due, as described above.

SECTION 6. ADVERTISING AND MARKETING

6.A Fund. We have established and administer The Dunkin' Advertising and Sales Promotion Fund (the "Fund"), and direct the development of all advertising, marketing and promotional programs for the System. We may use up to twenty percent (20%) of Continuing Advertising Fees for the administrative expenses of the Fund and for programs designed to increase sales and further develop the reputation and image of the brand. The balance, including any interest earned by the Fund, will be used for advertising and related expenses. The content of all activities of the Fund, including the media selected and employed, as well as the area and restaurants targeted for such activities, will be determined by us. We are not obligated to make expenditures for you that are equivalent or proportionate to your contributions to the Fund, or to ensure that you benefit directly or on a pro rata basis from the Fund's activities. Upon your request, we will provide you with an audited statement of receipts and disbursements for the Fund that is audited by an independent, certified public accountant, for each fiscal year of the Fund.

6.B Local Marketing. If you prepare (or cause to be prepared) any advertising, marketing, promotional, customer relationship management, public relations and other brand-related programs for the Restaurant (collectively, "Local Marketing") materials or programs, then you must submit the materials and programs and their proposed use to us for our prior written approval in advance of any use. You may not use any Local Marketing materials or programs that we have not approved or have disapproved. You also must comply with any Standards and other guidelines that we periodically specify concerning any Local Marketing that you implement.

SECTION 7. RESTAURANT OPERATIONS

7.A Standards. You agree at all times to operate the Restaurant in accordance with all of our Standards, as we may implement and modify them from time to time. Without limiting the generality of the foregoing, among other things, you agree to:

(1) keep the Restaurant open and in continuous operation for the days and hours we periodically prescribe, and use the Restaurant and Premises only as a Dunkin' Restaurant business, unless we give written approval to do otherwise (and we may vary the hours of operation for specific restaurants in our sole judgment based on, among other things, economic factors, the restaurant's market, and/or other factors we deem relevant);

(2) install and use only equipment, fixtures, furnishings, fixtures, and signage for the Restaurant (the "Operating Assets") that we approve, and replace them as we may specify;

(3) install and use a retail and back office information system and related equipment and programs that we periodically specify and whose information relating to the Restaurant or the business you operate under this Agreement is continuously accessible to us, for our access and use, through polling or other direct or remote means that we periodically specify;

(4) use only the inventory, supplies, materials, and other products and services for the Restaurant that we periodically specify;

(5) sell all products that we periodically specify as mandatory, sell only those products that we periodically approve, and maintain a sufficient supply of all approved products to meet customer demands at all times;

(6) adopt and implement the training programs and materials for Restaurant personnel that we periodically specify, maintain a sufficient number of properly-trained managers and employees to render quick, competent and courteous service to Restaurant customers in accordance with our Standards, and use only employees that have literacy and fluency in the English language sufficient, in our reasonable opinion, to adequately communicate with customers if their duties include customer service;

(7) comply with all of requirements that we periodically specify, or that applicable law requires, relating to health, safety and sanitation;

(8) comply with Standards from us, prevailing industry standards (including payment card industry data security standards), all contracts to which you are a party or otherwise bound, and all applicable laws and regulations, as any of them may be modified from time to time, regarding the organizational, physical, administrative and technical measures and security procedures to safeguard the confidentiality and security of customer data on your computer system or otherwise in your possession or control and, in any event, employ reasonable means to safeguard the confidentiality and security of customer data;

(9) offer or sell any products to a third party for subsequent resale only with our prior written approval; and

(10) comply with all requirements that we periodically specify relating to delivery service from the Restaurant (if we approve the Restaurant to offer delivery).

7.B Compliance with Laws. You agree to comply at all times with all laws, ordinances, rules, regulations and orders of public authorities pertaining to the occupancy, operation and maintenance of the Restaurant and Premises. You represent and warrant to us that none of your (or your Owners') property or interests is subject to being blocked under, and you and your Owners otherwise are not in violation of, Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, or any other federal, state, or local law, ordinance, regulation, policy, list or other requirement of any governmental authority addressing or in any way relating to terrorist acts or acts of war.

7.C Inspections. You agree that our employees, representatives and agents have the right to enter the Restaurant and Premises, without notice during business hours, to determine your compliance with Standards and this Agreement. During the course of any such inspection, we may (among other things) photograph or video any part of the Restaurant; discuss Restaurant-related operations with the Restaurant's personnel, customers and prospective customers; and select ingredients, products, supplies, equipment and other items from the Restaurant to evaluate whether they comply with our Standards. We agree to establish (and may periodically modify) Standards requiring our employees, representatives and agents, as well as vendors and other third parties with whom we contract, to present reasonable identification upon your or your Restaurant manager's request before entering into restricted areas of the Restaurant which customers cannot typically access. We may require you to immediately remove non-conforming items from the Restaurant at your expense, and we may remove them at your expense if you do not remove them upon request.

7.D Determination of Prices. Except as we may be permitted by law to require a particular price, you are free to determine the prices you charge for the products you sell.

7.E Standards and Conditions of Employment. We and you agree that any materials, guidance or assistance that we provide with respect to the terms and conditions of employment for your employees, employee hiring, firing and discipline, and similar employment-related policies or procedures, whether in the Manuals or otherwise, are solely for your optional use. Those materials, guidance and assistance do not form part of the mandatory Standards. You will determine to what extent, if any, these materials, guidance or assistance should apply to the Restaurant's employees. You acknowledge that we do not dictate or control labor or employment matters for franchisees and their employees and will not be responsible for the safety and security of Restaurant employees or patrons. You are solely responsible for determining the terms and conditions of employment for all Restaurant employees, for all decisions concerning the hiring, firing and discipline of Restaurant employees, and for all other aspects of the Restaurant's labor relations and employment practices.

7.F Designated and Approved Suppliers. During the Term you must purchase or lease all Operating Assets, the retail information system and related equipment and programs, inventory, supplies, materials, and other products and services for the Restaurant only according to the Standards and, if we require, only from suppliers and/or distributors that we designate or approve from time to time (which may include or be limited to us or our affiliates). Currently you must acquire products for your Restaurant through the National DCP, LLC, the purchasing and distribution entity for the Dunkin' Restaurant network. From time to time, we may enter into or require national or regional exclusive supply arrangements with one or more independent suppliers for certain approved products, subject to any then existing arrangements with National DCP, LLC. In evaluating the need for an exclusive supplier, we may take into account, among other things, the uniqueness of the product; the projected price and required volume of the product; the investment required and the ability of the supplier to meet the required quality and quantity of the product; the availability of qualified, alternative suppliers; the duration of the exclusivity; and the desirability of competitive bidding.

7.G Customer Complaints, Hazardous Conditions and Violations. You must promptly submit to us copies of any customer complaints relating to the Restaurant or Premises. You also must promptly submit to us any communications from public authorities about actual or potential violations of laws or regulations relating to the operation or occupancy of the Restaurant or Premises and otherwise notify us immediately if there exists any event or condition at the Restaurant or Premises that poses a threat to the health or safety of your customers. We may specify from time to time the manner of submission of this information to us.

SECTION 8. REPAIRS, MAINTENANCE, REFURBISHMENT AND REMODEL

8.A Repairs and Maintenance. You agree to continuously maintain the Restaurant and Premises, including all Operating Assets, in the degree of cleanliness, orderliness, sanitation and repair as prescribed by our Standards. You agree to make needed repairs (and replacements) to the Restaurant and Premises, including all Operating Assets, on an ongoing basis to ensure that your use and occupancy of the Restaurant and Premises conform to our Standards at all times. You are responsible for the costs associated with maintenance, repairs and replacements, alterations and additions. You may not defer your ongoing obligation to maintain, repair and replace because of a forthcoming refurbishment or remodel.

8.B Refurbishment and Remodel. No later than the Refurbishment Dates described in the Contract Data Schedule, you must refurbish the Restaurant in accordance with our then-current refurbishment Standards as generally described below. No later than the Remodel Dates described in the Contract Data Schedule, you must remodel the Restaurant in accordance with

our then-current remodel Standards as generally described below, including those relating to Operating Assets. You are responsible for the costs of refurbishments and remodels. Our refurbishment Standards generally include enhancements, improvements or upgrades to exterior lighting and signage, pre-order board or other drive-thru equipment and signage, landscape design, new style wall covering and countertops, current seating and guest experience packages and/or production equipment or technology. Our remodel Standards generally include enhancements, improvements or upgrades to the site, building, equipment, technology and operational systems as necessary to bring the Restaurant up to the then-current Brand image and Standards.

SECTION 9. PROPRIETARY MARKS, CONFIDENTIAL INFORMATION AND INNOVATIONS

9.A Ownership of Proprietary Marks. Your right to use the Proprietary Marks is derived only from this Agreement and is limited to operating the Restaurant according to this Agreement and all Standards we implement during the Term. You may not sublicense the Proprietary Marks. Your unauthorized use of the Proprietary Marks is a breach of this Agreement and infringes our and our licensor's rights in the Proprietary Marks. Your use of the Proprietary Marks and any goodwill established by that use are for our and our licensor's exclusive benefit, and this Agreement does not confer any goodwill or other interests in the Proprietary Marks upon you (other than the right to operate the Restaurant under this Agreement). All provisions of this Agreement relating to the Proprietary Marks apply to any additional and substitute trademarks and service marks that we periodically authorize you to use. Neither you nor your Owners may directly or indirectly at any time during or after the Term contest or assist others in contesting the validity, or our licensor's ownership, of the Proprietary Marks or register, apply to register, or otherwise seek to use or in any way control any Proprietary Mark or any confusingly similar form or variation of any Proprietary Mark.

9.B Use of Proprietary Marks. You agree to use only the Proprietary Marks we periodically designate and in the manner that we periodically approve. You may not use the Proprietary Marks to advertise or sell products or services through the mail or by any electronic or other medium, including the Internet, without our prior written approval. Our right to approve any Internet usage of our Proprietary Marks includes approval of the domain names and Internet addresses, website materials and content, social media, and all links to other sites. We have the sole right to establish an Internet "home page" or other website using any of the Proprietary Marks, and to regulate the establishment and use of linked home pages by our franchisees. You agree not to use the Proprietary Marks or the names "Dunkin' Donuts", "Dunkin'", "DD", "Dunk" or anything confusingly similar as part of your corporate or other legal name, or as part of any e-mail address, domain name, social media accounts, or other identification of you or your business, in any medium. In all approved uses of the Proprietary Marks on your business forms such as your letterhead, invoices, order forms, receipts, and contracts, you must identify yourself as our franchisee and your business as independently owned and operated in the manner that we periodically specify. You must modify or discontinue using any Proprietary Mark and/or use one or more additional or substitute trademarks or service marks as we periodically specify.

9.C Notification of Infringements and Control of Proceedings. You agree to notify us promptly if you become aware of any actual or apparent infringement or litigation relating to the Proprietary Marks. We or our licensor may take the action that we or it deems appropriate (including no action) and control exclusively any litigation or other proceeding arising from any infringement, challenge or claim or otherwise concerning any Proprietary Mark. You agree to reasonably cooperate with us (at our expense) with respect to actions that, in the opinion of our or our licensor's attorneys, are necessary or advisable to protect and maintain our and our licensor's interests in any litigation

or other proceeding or otherwise to protect and maintain our and our licensor's interests in the Proprietary Marks. At our option, we or our licensor may defend and control the defense of any claims disputing your use of, or challenging the validity of, or our (or our licensor's) rights in, any Proprietary Mark.

9.D Indemnification for Use of Proprietary Marks. We agree to defend, indemnify and hold you and your successors and assigns harmless from, including by reimbursing any reasonable attorneys' fees and other costs and expenses you incur in connection with, any claims disputing your use of, or challenging the validity of or our (or our licensor's) rights in, any Proprietary Mark we license you under this Agreement, as long as the claim does not arise from your use of any Proprietary Mark in breach of this Agreement, the Manual or the Standards.

9.E System Confidential Information. In this Agreement, "Confidential Information" means information relating to us or the Dunkin' System that is proprietary, provides a competitive advantage to Dunkin' Restaurants, and is not generally available to the public, including development plans for Dunkin' Restaurants; certain proprietary information in the Manuals and Standards, including recipes, products and specifications; data relating to past advertising, marketing, promotional, customer relationship management and other brand-related programs and materials used by Dunkin' Restaurants and future plans for those programs; knowledge of specifications for and suppliers of certain proprietary Operating Assets and other products and services that Dunkin' Restaurants use or sell; and other trade secrets and proprietary know-how relating to the methods of developing, operating and marketing the Restaurant. We and our affiliates own all right, title and interest in and to the Confidential Information. You agree that you and your Owners:

(1) will not use any Confidential Information in any other business or capacity, whether during or after the Term, and will not sell, trade or otherwise profit in any way from the Confidential Information, except during the Term using methods we approve;

(2) will keep the Confidential Information absolutely confidential, both during the Term and thereafter for as long as the information is not in the public domain, and will not make unauthorized copies of any Confidential Information disclosed in written or other tangible or intangible form; and

(3) will adopt and implement all reasonable procedures that we periodically designate to prevent unauthorized use or disclosure of Confidential Information, including restricting its disclosure to Restaurant personnel and others needing to know such Confidential Information to operate the Restaurant, and using confidentiality agreements we specify with those having access to Confidential Information.

"Confidential Information" does not include information, knowledge or know-how that is or becomes generally known in the restaurant industry (without violating an obligation to us or our affiliate) or that you knew from previous business experience before we provided it to you (directly or indirectly). If we include any item in Confidential Information, anyone who claims that it is not Confidential Information must show by reasonable evidence that the exclusion in this paragraph is fulfilled.

9.F Innovations. All ideas, concepts, techniques or materials relating to a Dunkin' Restaurant, whether or not protectable intellectual property and whether created by or for you or your Owners (including the ideas, concepts, techniques or materials developed for you by your employees or contractors to which you own the intellectual property rights) (collectively, "Innovations") must be

promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the System, and works made-for-hire for us. To the extent any Innovation does not qualify as a work made-for-hire for us, by this paragraph you assign ownership of that Innovation, and all related rights to that Innovation, to us and agree to execute (and to cause your Owners to execute) whatever assignment or other documents we reasonably request to evidence our ownership or to help us obtain intellectual property rights in the Innovation. We and our affiliates have no obligation to make any payments to you or any other person with respect to any Innovations. You may not use any Innovation in operating the Restaurant or otherwise without our prior approval.

9.G Franchisee Proprietary Information. We agree to keep confidential any Franchisee Proprietary Information (defined below), except: (1) in connection with anonymous general information disseminated to our franchisees, prospective franchisees or other parties; (2) in the formulation of plans and policies in the interest of the Dunkin' Restaurant network; or (3) if required by law or any legal proceeding. "Franchisee Proprietary Information" means information about your or your Owners' (and/or your or their affiliates') ownership, capital structure or financial results that would by its nature, be considered by a reasonable person to be confidential; provided that Franchisee Proprietary Information does not include any information that is owned by us (or our affiliates) or otherwise is part of the definition of Confidential Information.

SECTION 10. RESTRICTIVE COVENANTS

10.A Acknowledgements. You acknowledge that as our franchisee, you (and your Owners and Restaurant personnel) will receive specialized training, including operations training, in the System that is beyond your present skills and those of your managers and employees. You further acknowledge that you will receive access to our Confidential Information which will provide a competitive advantage to you. As a condition of training you, sharing our Confidential Information with you and granting you a license to operate the Restaurant and use our intellectual property, we require the following covenants in order to protect our legitimate business interests and the interests of other franchisees in the Dunkin' Restaurant network.

10.B Covenants During the Term. During the Term, neither you nor any of your Owners, officers, directors or guarantors may:

- (1) have a direct or indirect ownership interest in, perform any services or other activities for, provide any assistance to, sell any products to, or receive any financial or other benefit from any business or venture that derives, or is reasonably expected to derive, more than twenty percent (20%) of its overall revenue from a combination of coffee and/or baked goods (other than another Dunkin' Restaurant operating under a franchise agreement with us) (a "Competitive Business");
- (2) divert or attempt to divert any Dunkin' Restaurant business or customer or prospective customer away from the Restaurant or another Dunkin' Restaurant;
- (3) oppose the issuance of a building permit, zoning variance or other governmental approval required for the development of another Dunkin' Restaurant; or
- (4) perform any act injurious or prejudicial to the goodwill associated with the Proprietary Marks or any Dunkin' Restaurant.

10.C Covenants After the Term. For the first twenty-four (24) months following the expiration or termination of this Agreement or transfer pursuant to Section 13 (the "Post-Term Period"), neither

you nor any of your Owners, officers, directors or guarantors may have a direct or indirect ownership interest in, perform any services or other activities for, provide any assistance to, sell any products to, or receive any financial or other benefit from any Competitive Business that is located at the Premises or within five (5) miles from the Premises or any other Dunkin' Restaurant that is then open or under development. The Post-Term Period will be automatically extended, with respect to any persons covered by this Section 10.C who are not complying fully with this Section 10.C, for each day during which that person is not complying fully with this Section 10.C.

10.D Exclusions. The restrictions in Sections 10.B and 10.C shall not apply to the ownership of (1) less than two percent (2%) of a company whose shares are listed and traded on a national or regional securities exchange; or (2) a passive investment interest of less than fifteen percent (15%) in any real estate development company, provided that such interest does not include any management control, voting rights, or other direct or indirect control over the policies or operations of that development company, such as any rights or control with respect to the tenants, owners or other concepts in any real estate development.

10.E Acknowledgements. You acknowledge that a breach of the covenants contained in this Section 10 will be deemed to threaten immediate and substantial irreparable injury to us and give us the right to obtain immediate injunctive relief without limiting any other rights we might have. If a court or other tribunal having jurisdiction to determine the validity or enforceability of this Section 10 determines that, strictly applied, it would be invalid or unenforceable, then the time, geographical area and scope of activity restrained shall be deemed modified to the minimum extent necessary such that the restrictions in this Section 10 will be valid and enforceable.

SECTION 11. MAINTENANCE AND SUBMISSION OF BOOKS, RECORDS AND REPORTS

11.A Maintaining Records. You must keep business records in the manner and for the time required by law and our Standards, and in accordance with generally accepted accounting principles. All records must be in English, and whether on paper or in an electronic form, must be capable of being reviewed by us without special hardware or software. You must retain copies of each state and federal tax return for the franchised business for a period of five (5) years.

11.B Reporting. You must submit to us, in the form and manner we periodically specify, profit and loss statements for the Restaurant on a monthly basis, and, at our request, balance sheets for your fiscal half-year and year-end. If we specify additional records for periodic reporting, you agree to submit those records as required.

11.C Audit of Records. Within fifteen (15) days after our request and at our option, you agree to (1) photocopy and deliver to us those required records that we specify, or (2) at a location acceptable to us, provide us access to any required records that we specify for examination and photocopying by our representatives. You also hereby grant us the right (to the extent you have that right) to examine the records of your purchases kept by any of your suppliers or distributors, including the National DCP or any successor entities, and hereby authorize those suppliers and distributors to allow us to examine and copy those records at our own expense. If after we review your business records, which may include your business tax returns, we believe that intentional underreporting of Gross Sales may have occurred, then upon request, and in addition to our other remedies, you and any signatory and guarantor of this Agreement must provide us with personal federal and state tax returns and personal bank statements for the periods requested.

SECTION 12. INSURANCE AND INDEMNIFICATION

12.A Insurance.

(1) Before opening or operating the Restaurant for business, and before beginning construction of the Restaurant if you are developing the Restaurant, you agree to acquire insurance coverage of the type and in the amounts required by law, by any lease or sublease, and by us, as prescribed in our Standards. You must maintain such coverage in full force and effect throughout the Term. We have the right to change these insurance requirements from time to time. All insurance must be placed and maintained with insurance companies with ratings that meet or exceed our Standards. At our request, you must provide us with proof of required insurance coverages.

We and any affiliate we designate must be named as additional insureds as our respective interests appear, and all policies must contain provisions denying to the insurer acquisition of rights of recovery against any named insured by subrogation. All policies shall include a provision prohibiting cancellations or material changes without thirty (30) days' prior written notice to all named insureds. Policies may not be limited in any way by reason of any insurance that we (or any named party) may maintain. Upon our request, you must produce proof that you currently have the insurance coverage described in this Agreement. If such insurance coverage is not in effect, then in addition to our other remedies, we have the right to purchase the necessary coverage for the Restaurant at your expense and to bill you for any premiums and costs. This obligation to maintain insurance is separate and distinct from your obligation to indemnify us under the provisions below.

(2) Both you and we waive any and all rights of recovery against each other and our respective officers, employees, agents, and representatives, for damage to the waiving party or for loss of its property or the property of others under its control, to the extent that the loss or damage is covered by insurance. To obtain the benefit of our waiver, you must have the required insurance coverage in effect. When you are obtaining the policies of insurance required by this subsection, you must give notice to your insurance carriers that the above mutual waiver of subrogation is contained in this Agreement. This obligation to maintain insurance is separate and distinct from your obligation to indemnify us under the provisions of Section 12.B.

12.B Indemnification. You agree to defend, indemnify and hold us, our affiliates, and our and their respective owners, officers, directors, employees, agents, successors and assigns (collectively, the "Indemnified Parties"), harmless from all claims related in any way to your development, operation, possession or ownership of the Restaurant or the Premises, or any debt or obligation of yours. This indemnification covers all fees (including reasonable attorneys' fees), costs and other expenses incurred by us or on our behalf in the defense of any claims, except as provided below, and shall not be limited by the amount of insurance required under this Agreement. Our right to indemnity shall be valid notwithstanding that joint or concurrent liability may be imposed on us or any other Indemnified Party by law. No settlement of any claim against us shall be made without our prior written consent if we would be subjected to any liability not covered by you or your insurer. You will have the right to assume control of the defense of and otherwise respond to and address any claim or proceeding that is subject to this Section 12.B, provided however, that each Indemnified Party may at its election, by written notice to you, assume control of the defense of and otherwise respond to and address any such claim or proceeding, but only if (1) the claim or proceeding involves a class action or action that involves more than just the Restaurant and other Dunkin' Restaurants that you or your affiliates own, (2) a negative decision in the claim or proceeding would reasonably be expected to have a material

adverse impact on the Dunkin' brand or goodwill associated with the Proprietary Marks, or (3) you (or your insurance carrier) does not actively defend the Indemnified Party's interests in the claim or proceeding. If the Indemnified Party assumes control of the defense of any claim or proceeding pursuant to the preceding sentence, then (a) the Indemnified Party shall be responsible for its own fees (including reasonable attorneys' fees), costs and other expenses, and you may at your option retain separate co-counsel and otherwise participate in the defense at your sole cost and expense; and (b) your indemnification, defense and hold harmless obligations under this Section 12.B shall not apply with respect to that claim or proceeding. Your obligations under this Section 12.B will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination. To the extent that this Section 12.B directly conflicts with any specific defense, hold harmless or indemnification provisions in any other written contract between us or in any program or offering in which you participate, such as our Loyalty Program, such provisions will govern to the extent of such conflict.

SECTION 13. TRANSFERS

13.A Transfer by Us. We may change our ownership or form and/or assign this Agreement and any other agreement between us and you (or any of your Owners or affiliates) without restriction. This Agreement inures to the benefit of our successors and assigns. Upon transfer, we will have no further obligation under this Agreement, except for any accrued liabilities.

13.B Transfer by You – Defined. We entered into this Agreement based on and in reliance on our perceptions of your (or your Owners') individual or collective character, skill, aptitude, attitude, business ability and financial capacity. Therefore, neither this Agreement nor any direct or indirect interest in or rights or obligations under this Agreement, nor the Restaurant or all or substantially all of the Operating Assets, nor any direct or indirect ownership interest in you (if you are a business entity), may be transferred (as defined below), whether directly or indirectly, without our prior written approval. A transfer of the ownership, possession or control of the Restaurant or the Operating Assets may be made only with a transfer of this Agreement. Any transfer without our approval is a breach of this Agreement and has no effect.

In this Agreement, the term "transfer," whether or not capitalized, includes any voluntary, involuntary, direct or indirect assignment, sale, gift or other disposition and includes the following events, whether they impact you (or your Owners) directly or indirectly: (a) transfer of record or beneficial ownership of any direct or indirect ownership interest in you or the right to receive all or a portion of your profits or losses or any capital appreciation relating to you or the Restaurant (whether directly or indirectly); (b) a merger, consolidation or exchange of ownership interests, or issuance of additional ownership interests or securities representing or potentially representing ownership interests, or a redemption of ownership interests; (c) any sale or exchange of voting interests or securities convertible to voting interests, or any management agreement or other arrangement granting the right to exercise or control the exercise of the voting rights of any Owner or to control your or the Restaurant's operations or affairs; (d) transfer in a divorce, insolvency or entity dissolution proceeding, or otherwise by operation of law, or by will, declaration of or transfer in trust, or under the laws of intestate succession; or (e) foreclosure upon or attachment or seizure of the Restaurant, any of its Operating Assets, or any direct or indirect ownership interest in you; or (f) transfer, surrender or loss of the possession, control or management of all or any material portion of the Restaurant (or its operation) or you.

A "Controlling Ownership Interest" in you (if you are an entity) means any transfer, or any series of transfers (regardless of the time period during which they take place), that results in any individual or entity (together with its affiliates), directly or indirectly acquiring or coming into

possession or control of either (1) fifty percent (50%) or more of the direct or indirect ownership interests in you, or (2) any ownership interest or other direct or indirect right or interest in you that provides the right, power or authority to direct and control your management and policies, in either case, who did not own, possess or control such interest as of the Effective Date. A “Non-Controlling Ownership Interest” in you (if you are an entity) means the transfer or creation of any direct or indirect ownership interest in you that is not a Controlling Ownership Interest.

13.C Conditions for Our Approval of Non-Control Transfer. We will not unreasonably withhold our consent to a transfer of a Non-Controlling Ownership Interest in you or your Owners if the proposed transferee and its direct and indirect owners (if the transferee is an entity) are of good character, otherwise meet our then applicable standards for non-controlling owners of Dunkin’ Restaurants, and execute our then-current form of Guaranty.

13.D Conditions for Our Approval of Control Transfer. Subject to Sections 13.E and 13.G, we will not unreasonably withhold our consent to any transfer of this Agreement or any rights or obligations under this Agreement, any direct or indirect interest in the Restaurant or all or substantially all of the Operating Assets, or any Controlling Ownership Interest in you (if you are a business entity) (each a “Control Transfer”), that complies with the following:

(1) each proposed transferee (and its direct and indirect owners, if the transferee is an entity) meets our then-current criteria and each guarantor executes our then current form of Guaranty;

(2) you have satisfied all of your outstanding obligations to us, the Restaurant and Premises are in compliance with our Standards, and you are otherwise in full compliance with this Agreement and all related agreements with us and our affiliates;

(3) we believe, in our reasonable judgment, that the sale price of the interest to be conveyed is not so high, and the terms of sale are not so onerous, that it is likely the transferee would be unable to properly operate, maintain, upgrade and promote the Restaurant and meet all financial and other obligations to us and to third parties;

(4) at the time of transfer, you and all of your Owners execute our then-current form of general release that releases all claims that you (or your Owners) may have against us, our affiliates, and our and their respective officers, directors, owners and employees (it being acknowledged that if after an approved transfer, an Owner no longer has an interest in the franchised business, then such Owner is relieved of further obligations to us under the terms of this Agreement, except for money obligations through the date of transfer and post-termination obligations);

(5) the transferee (if the transfer is of this Agreement, the Restaurant or the Operating Assets) or you (if the transfer is of a direct or indirect ownership interest in you) agree to repair and/or replace any Operating Assets and otherwise correct any deficiencies that we identify in the Restaurant or the Premises, and, if we require, refurbish or remodel the Restaurant and Premises according to our requirements; and

(6) the transferee (if the transfer is of this Agreement, the Restaurant or the Operating Assets) or you (if the transfer is of a direct or indirect ownership interest in you) agrees, at our option, to (a) be bound by all terms and conditions of this Agreement for the remainder of the Term, or (b) execute our then-current form of franchise agreement and related documents, which may contain terms and conditions (including the fees) that

differ materially from any or all of those in this Agreement, except that the term of such franchise agreement shall be the remaining Term of this Agreement and the refurbishment and remodel dates shall be as set forth in this Agreement.

13.E Transfer Fee. At transfer, you must pay us a Transfer Fee as follows, whether or not we exercise our rights in Section 13.G.

(1) If you have not owned and operated the Restaurant for at least three (3) full years on the date the transfer occurs, you will pay the Transfer Fee set forth in the chart in Subsection (2) below plus an additional Twelve Thousand Five Hundred Dollars (\$12,500).

(2) If you have owned and operated the Restaurant for at least three (3) full years on the date the transfer occurs, you will pay the Transfer Fee stated below, based on the Restaurant's Gross Sales during the twelve (12)-month period ending as of the end of the reporting period immediately preceding the transfer's closing date, provided that we reserve the right to select another period or to make appropriate adjustments to such Gross Sales in the event extraordinary occurrences (e.g., road construction, fire or other casualty, etc.) materially affected the Restaurant's sales during that trailing twelve (12)-month period.

Gross Sales for the Trailing 12 Month Period	Transfer Fee
Less than \$400,000.00	\$ 5,000.00
\$400,000.00 or more, but less than \$600,000.00	\$ 6,000.00
\$600,000.00 or more, but less than \$1,000,000.00	\$ 8,000.00
\$1,000,000.00 or more, but less than \$1,400,000.00	\$12,000.00
\$1,400,000.00 or more	\$20,000.00

(3) In lieu of the Transfer Fee above, we will only charge the applicable, then-current Fixed Documentation Fee published by us from time to time for (a) a transfer of a Non-Controlling Ownership Interest; (b) any transaction in which the direct or indirect ownership interests in you are transferred to the spouse(s) or children of any of the individuals who are Owners as of the Effective Date; (c) if an Owner who dies or becomes mentally incapacitated transfers all of their direct or indirect ownership interests in you to beneficiaries or heirs.

13.F Transfer on Death. Within twelve (12) months after the death of you or any of your Owners and notwithstanding any agreement to the contrary, the deceased's legal representative must propose to us in writing to transfer the interest of the deceased in this Agreement or in you to one or more transferees. Any such transfer must occur within eighteen (18) months after such individual's death, and is subject to our prior written consent, which we will not unreasonably withhold, in accordance with this Section 13.

13.G Right of First Refusal. If you or any of its Owners at any time determines to engage in any Control Transfer, then we will have a right of first refusal to be the purchaser of that interest under the same terms and conditions contained in the purchase and sale document (but subject to our rights under this Agreement and the Standards). You must comply with our Standards and requirements pertaining to our right of first refusal, including by providing us with a fully-executed copy of any offer or purchase and sale document (including any referenced documents) for the

sale. We will have sixty (60) days following our receipt of the fully-executed purchase and sale documents (including any referenced documents) and other materials concerning the proposed transferee(s) and the transfer that we request, to notify you whether we are exercising our right of first refusal. Upon our exercise, we (or our assignee) will have the benefit of all of the rights and time periods that the original proposed transferee(s) had as of the date that they executed the purchase and sale documents, including any applicable diligence periods (although our diligence period need not be more than thirty (30) days after we deliver our exercise our right of first refusal) and periods before closing. We may at our option assign our right of first refusal under this Section 13.G, without recourse, to any assignee, who will then have all of our rights under this Section 13.G to purchase the interest directly from you (or your Owner), and we shall have no further liability or obligation in connection with this Section 13.G with respect to that transfer. If you do not complete the sale to the proposed buyer (with our approval) within ninety (90) days after we notify you that we do not intend to exercise our right of first refusal, or if there is a material change adverse to you in the terms of the offer (which you must tell us promptly), then we will have an additional right of first refusal during the sixty (60)-day period following either the expiration of the ninety (90)-day period or our receipt of notice of the material change in the offer's terms, on the modified terms.

SECTION 14. DEFAULT AND TERMINATION

14.A Termination by Us. We may, at our option, terminate this Agreement, effective upon delivery of written notice of termination to you, if:

- (1) you lose the use or enjoyment of or the right to occupy the Premises, or the lease for the Premises is terminated, before the Term expires;
- (2) there is any unauthorized transfer or assignment in violation of Section 13;
- (3) there is any unauthorized use or disclosure of any Confidential Information in breach of this Agreement, or you or your Owners breach any provision of Section 10;
- (4) you or any of your Owners is convicted of or pleads guilty or no contest to a felony or crime involving moral turpitude;
- (5) you or any of your Owners commits a fraud upon us, our affiliate or any third party relating to the Restaurant or any other Dunkin' Restaurant or your acquisition of your rights under this Agreement, including by intentionally understating or underreporting Gross Sales;
- (6) you or any of your affiliates uses or permits the use of the Restaurant or Premises, or any other Dunkin' Restaurant, for an unauthorized purpose;
- (7) you abandon the Restaurant or you cease to operate the Restaurant for a period of forty-eight (48) hours without our prior written consent, unless you close the Restaurant for a purpose we approve or in response to a fire or other casualty, and, with respect to any such cessation of operations, you have not resumed operations within twenty-four (24) hours after delivery of written notice to you;
- (8) any other franchise agreement or other agreement between us (or any of our affiliates) and you (or any of your Owners or affiliates) relating to a Dunkin' Restaurant,

other than a Store Development Agreement, is terminated before its term expires, regardless of the reason;

(9) we deliver to you written notice of your failure to comply with this Agreement on three (3) or more separate occasions for the same or a substantially similar default within the immediately preceding twelve (12)-month period, whether or not any of these failures are corrected after we deliver written notice to you;

(10) you or any guarantor file a petition in bankruptcy or are adjudicated bankrupt, or a petition in bankruptcy is filed against you or any guarantor and is either consented to by you or the guarantor or not dismissed within thirty (30) days; you or any guarantor becomes insolvent or admits in writing your or your guarantor's insolvency or inability to pay debts generally as they become due, or make an assignment for the benefit of creditors; or a bill in equity or other proceeding for the appointment of a receiver, trustee or other custodian for the Restaurant or your or any guarantor's business assets is filed and is either consented to by you or any guarantor or not dismissed within thirty (30) days, or such a receiver, trustee or other custodian is appointed; proceedings for composition with creditors is filed by or against you or any guarantor; or any of your or any guarantor's assets is sold at levy; provided, however, that any such actions by a guarantor as described in this Section 14.A(10) shall not give rise to our termination right if you are able promptly to procure a replacement guarantor which guarantor is reasonably satisfactory to us and executes our then current form of Guaranty;

(11) you violate any law, regulation, order or Standard relating to health, sanitation or safety, and do not (a) immediately destroy any product or correct any situation that, in our opinion, poses an imminent risk to public health and safety; and (b) otherwise correct the failure within twenty-four (24) hours after notice of that violation or situation is delivered to you;

(12) you fail to pay us (or our affiliate) any amounts due, whether arising under this Agreement or any other agreement, or you fail to maintain the insurance required under this Agreement, and in either case do not correct the failure within seven (7) days after we deliver written notice of that failure to you; or

(13) you fail to comply with any other provision of this Agreement or any mandatory Standard, or any other agreement that is necessary to the operation of the Restaurant, and do not correct the failure within thirty (30) days after we deliver written notice of the failure to you.

Notwithstanding the foregoing, if a default is curable under this Agreement, and any applicable law in the state in which the Restaurant is located requires a longer cure period than that specified in this Agreement, the longer period will apply.

14.B Additional Remedies. In addition to our other rights and remedies, we also have the following remedies:

(1) If we believe a condition at the Premises or the Restaurant or of any product sold poses a threat to the health or safety of your customers, employees or other persons, we have the right to take such action as we deem necessary to protect those persons, and the goodwill enjoyed by our Proprietary Marks and System, including any or all of the following: (i) requiring you to immediately close and suspend operation of the Restaurant

and correct such conditions; (ii) immediately removing or destroying (or requiring you to immediately remove and destroy) any products that we suspect are contaminated; and (iii) entering the Restaurant and Premises, without being guilty of or liable for trespass or tort, to attempt to correct any hazardous condition if you fail to correct that condition on demand. You are solely responsible for all losses or expenses incurred in complying with the provisions of this subsection.

(2) If we notify you that you have not complied with a Standard involving the condition of the Restaurant, including maintenance, repair, and cleanliness, and you fail to correct that non-compliance within thirty (30) days, then we and our representative es may enter the Restaurant and Premises, without being guilty of or liable for trespass or tort, and correct the condition at your expense.

(3) If you repeatedly fail to comply with this Agreement, we may disapprove your participation in the sale of new products or new programs until you cure your defaults and demonstrate to our reasonable satisfaction that you can maintain compliance with Standards.

14.C Enforcement Expenses. You agree to pay to us all costs and expenses, including reasonable payroll and travel expenses for our employees, and reasonable investigation and attorneys' fees, that we incur in successfully enforcing (which includes achieving a settlement) any provisions of this Agreement.

14.D Injunctive Relief. Because of the importance of your compliance with Standards to protect our System, the Dunkin' Restaurant network and the goodwill enjoyed by our Proprietary Marks, you agree that the remedies described elsewhere in this Agreement, as well as monetary damages or termination at a future date, may be an insufficient remedy for your breach of any Standard or other provision of this Agreement. Accordingly, you agree not to contest the appropriateness of injunctive relief for such breaches, and consent to the grant of an injunction in such cases without the showing of actual damages, irreparable harm or the lack of an adequate remedy at law. In order to obtain an injunction relating to any Standard, we must show only that the Standard in issue was adopted in good faith and applies generally to Dunkin' Restaurants in the same geographic region and that are similarly situated with the Restaurant.

14.E Obligations Upon Termination and Expiration. Upon termination or expiration of this Agreement, in addition to complying with Sections 10.B, 14.F, 14.G, and any other provision that expressly or by its nature survives the expiration or termination of this Agreement:

(1) you no longer have any rights granted by this Agreement, and we may, at our option, notify any of your suppliers, distributors and other third parties that you are no longer an authorized franchisee and the Restaurant is no longer an authorized Dunkin' Restaurant or eligible to receive products and services as a Dunkin' Restaurant;

(2) you must immediately cease operation of the Restaurant and no longer represent yourself to the public as our franchisee, and must immediately cease all use of our Proprietary Marks, any colorable imitation of a Proprietary Mark, any trademark, service mark or commercial symbol that is confusingly similar to any Proprietary Mark, or any other indicia of a Dunkin' Restaurant in any manner or for any purpose, and any Confidential Information, and Manuals, and cease to participate directly or indirectly in the use or benefits of our System;

(3) within ten (10) days after expiration or termination you must (a) pay all amounts owed under this Agreement, including any fees and interest; and (b) return all originals and copies of our Manuals, plans, and other documents containing our Standards or other intellectual property; and

(4) upon our request within thirty (30) days after expiration or termination, you must (a) remove from the Restaurant and Premises and return to us all signage and other indicia of our Proprietary Marks; (b) make such modifications or alterations to the Restaurant and Premises as we require in accordance with our Standards to distinguish the Restaurant and Premises from its former appearance and the premises of other Dunkin' Restaurants so as to prevent a likelihood of confusion by the public; (c) disconnect and cease using any telephone numbers that are connected to our Proprietary Marks name; and (d) withdraw any fictitious name or similar registration containing any part of our Proprietary Marks. You hereby appoint us as your attorney-in-fact, and in your name, to do any act necessary to accomplish the intent of this subsection (4). If you fail or refuse to comply with the requirements of this subsection (4), we have the right to enter upon the Premises, without being guilty of trespass or any other tort, for the purpose of making such changes as may be required, at your expense, and you agree to reimburse us for all costs and expenses we incur upon demand.

You acknowledge that if we conduct business as if the Agreement had not been terminated or otherwise suffer your continued operation of the Restaurant while we seek enforcement of our election to terminate or our other rights or remedies, we are doing so merely to preserve the reputation of the Dunkin' Restaurant network and/or the goodwill associated with the Proprietary Marks, and that doing so is neither a waiver of our election to terminate nor an extension of the termination date.

14.F Option to Purchase. We have the option, exercisable by delivery of written notice within thirty (30) days after the termination or expiration of this Agreement, to purchase from you those Operating Assets and other assets used in the operation of the Restaurant that we designate (excluding personal assets and assets that are not used primarily in the operation of the Restaurant and other Dunkin' restaurants then being acquired) (the "Purchased Assets"). The purchase price for the Purchased Assets (the "Purchase Price") will be their fair market value, but not as a Dunkin' Restaurant as a going concern, except that the Purchase Price will not include any value for any rights granted by this Agreement, goodwill attributable to the Proprietary Marks or System, or participation in the network of Dunkin' Restaurants. If we and you cannot agree on the Purchase Price for the Purchased Assets, it will be determined by an independent appraiser designated in accordance with the Standards, who will be bound by the provisions of this Section 14.F. We will pay the Purchase Price at the closing, which will take place on a date we designate, but we may set off against the Purchase Price, and reduce the Purchase Price by, any and all amounts you owe us or our affiliates relating to the Restaurant. We are entitled to all customary representations, warranties and indemnities in this asset purchase, and you (and your Owners) agree to execute our then current form of purchase agreement and related agreements and instruments (which shall be on reasonable and customary terms and conditions) in connection with the purchase. We also may at our option assign our rights under this Section 14.F, without recourse, to any assignee, who will then have all of our rights under this Section 14.F to purchase the Purchased Assets directly from you, and we shall have no further liability or obligation in connection with this Section 14.F with respect to that purchase.

14.G Option to Assume Lease. We also have the option, exercisable by delivery of written notice within thirty (30) days after the termination or expiration of this Agreement, to require you assign

to us any leasehold interest you have in the Restaurant and Premises or any other agreement related to the Premises. You (and your Owners) agree to execute our then current form of lease assignment agreement and related agreements and instruments (all of which shall be on reasonable and customary terms and conditions) in connection with the transfer, which will be effective on the date we specify, which may be the closing date of the purchase under Section 14.F. We may at our option assign our rights under this Section 14.G, without recourse, to any assignee, who will then have all of our rights under this Section 14.G to assume the leasehold interest or other agreement related to the Premises directly from you, and we shall have no further liability or obligation in connection with this Section 14.G with respect to that assignment.

SECTION 15. DISPUTE RESOLUTION

15.A Governing Law. This Agreement, the franchise, and all claims arising from the relationship between us and you shall be governed by the laws of the State of Georgia, without regard to its conflict of laws rules; provided, however that any Georgia law regulating the sale of franchises or governing the relationship of a franchisor and its franchisee will not apply unless its jurisdictional requirements are met independently without reference to this Section 15.A.

15.B Choice of Forum. The parties agree that to the extent any disputes arise that cannot be resolved directly between the parties, you shall file any suit against us or our affiliates, and we shall file any suit against you or your owners, only in the federal or state court of general jurisdiction in Atlanta, Georgia. Each party irrevocably submits to the jurisdiction of those courts and waives any objection such party may have to either the jurisdiction of or venue in those courts.

15.C Waiver of Punitive Damages and Jury Trial. EXCEPT FOR PUNITIVE, EXEMPLARY, TREBLE AND OTHER FORMS OF MULTIPLE DAMAGES AVAILABLE TO ANY PARTY UNDER FEDERAL LAW OR OWED TO THIRD PARTIES WHICH ARE SUBJECT TO INDEMNIFICATION UNDER SECTION 9.D OR SECTION 12.B, WE AND YOU (AND YOUR OWNERS) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE, EXEMPLARY, TREBLE OR OTHER FORMS OF MULTIPLE DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN US AND YOU (OR YOUR OWNERS), THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.

WE AND YOU (AND YOUR OWNERS) IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER US OR YOU (OR YOUR OWNERS).

15.D Claims Not a Defense. You agree that the existence of any claims against us, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by us of any provision of this Agreement.

SECTION 16. MISCELLANEOUS

16.A Relationship of the Parties. This Agreement does not create a fiduciary relationship between us and you. You have no authority, express or implied, to act as our or our affiliate's agent for any purpose. You are an independent contractor responsible for all obligations and liabilities of, and for all loss or damage to, the Restaurant and its business. We and you are not and do not intend to be partners, associates, or joint employers in any way, and we shall not be

construed to be jointly liable for any of your acts or omissions under any circumstances. Neither party is liable for any act, omission, debt or any other obligation of the other.

16.B Waivers. Either we or you may by written instrument unilaterally waive or reduce any obligation of or restriction upon the other under this Agreement, effective upon delivery of written notice to the other or another effective date stated in the notice of waiver. However, no interpretation, change, termination or waiver of any of this Agreement's provisions shall be binding upon us unless in writing and executed by one of our officers, and which is specifically identified as an amendment, termination or waiver under this Agreement. Any waiver we grant will be without prejudice to our other rights and may be revoked at any time and for any reason, effective upon ten (10) days' prior written notice. Our waiver of your breach of any provision of this Agreement or any Standard applies only to that one breach and that one provision or Standard, and not to any subsequent breach of that provision or Standard or any other provision or Standard. Our acceptance of any payments due under this Agreement shall not be deemed to be our waiver of any preceding breach. If we accept payments from any person or entity other than you, such payments will be deemed made by such person as your agent and not as your successor or assignee. We may waive or modify any obligation of other franchisees under agreements similar to this Agreement, without any obligation to grant a similar waiver or modification to you.

16.C Severability. Except as expressly provided to the contrary in this Agreement, each Section, subsection and provision of this Agreement is severable, and if, for any reason, any part is held to be invalid or contrary to or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court or agency with competent jurisdiction, that ruling will not impair the operation of, or otherwise affect, any other portions of this Agreement, which will continue to have full force and effect and bind the parties. If any covenant which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of area, business activity prohibited, and/or length of time, but would be enforceable if modified, we and you agree that the covenant will be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction whose law determines the covenant's validity. If any applicable and binding law or rule of any jurisdiction requires more notice than this Agreement requires of termination or of our refusal to enter into a renewal franchise agreement, or if, under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement or any Standard is invalid, unenforceable or unlawful, the notice and/or other action required by the law or rule will be substituted for the comparable provisions of this Agreement, and we may modify the invalid or unenforceable provision or Standard to the extent required to be valid and enforceable or delete the unlawful provision in its entirety.

16.D Interpretation. The preambles and exhibits are a part of this Agreement which, together with any riders or addenda executed at the same time as this Agreement, constitutes our and your entire agreement and supersedes all prior and contemporaneous oral or written agreements and understandings between them relating to the subject matter of this Agreement. There are no other oral or written representations, warranties, understandings or agreements between us and you relating to the subject matter of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require you to waive reliance on any representation that we made in the most recent disclosure document (including its exhibits and amendments) that we delivered to you or your representative. Any policies that we adopt and implement from time to time to guide us in our decision-making are subject to change, are not a part of this Agreement and are not binding on us. Except as provided in Section 9.D and Section 12.B, nothing in this Agreement is intended nor deemed to confer any rights or remedies upon any person or entity not a party to this Agreement. The parties' rights and remedies under this Agreement and applicable law are cumulative. You may not withhold payment of any amounts owed to us or our affiliates on the

grounds of our or their alleged nonperformance of any of our or their obligations under this Agreement or any other agreement. Captions, paragraph designations and section or subsection headings are included in this Agreement for convenience only, and in no way define or limit the scope or intent of the provisions. If two or more persons are at any time parties to this Agreement as the franchisee under this Agreement, whether as partners or joint venturers, their obligations and liabilities to us will be joint and several. The words “include,” “including,” and words of similar import shall be interpreted to mean “including, but not limited to” and the terms following such words shall be interpreted as examples of, and not an exhaustive list of, the appropriate subject matter. This Agreement may be executed by electronic signature and/or in multiple copies, each of which will be deemed an original.

16.E Binding Effect and Amendment. This Agreement is binding upon us and you and our and your respective executors, administrators, heirs, beneficiaries, permitted assigns and successors in interest. Subject to our rights to modify the Manuals, Standards and System, this Agreement may not be amended or modified except by a written agreement executed by both us and you.

16.F Exercise of Our Judgment. Whenever we reserve discretion in a particular area or where we agree to exercise our rights reasonably or in good faith, we will satisfy our obligations whenever we exercise reasonable business judgment in making our decision or exercising our rights. Our decisions or actions will be deemed to be the result of reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended, in whole or significant part, to promote or benefit the System or Dunkin’ Restaurants generally even if the decision or action also promotes our financial or other individual interest. Examples of items that will promote or benefit the System or Dunkin’ Restaurants include enhancing the value of the Proprietary Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization and improving the competitive position of the System or Dunkin’ Restaurants.

16.G Notices. All notices delivered pursuant to this Agreement shall be sent by nationally recognized overnight courier or certified mail to the addresses set forth in the Contract Data Schedule, or to such other addresses as you and we provide each other in writing. All notices to

16.H No Related Party Liability. You agree that none of our past, present or future directors, officers, employees, incorporators, members, partners, stockholders, subsidiaries, affiliates, controlling parties, entities under common control, ownership or management, vendors, service providers, agents, attorneys or representatives will have any liability for: (1) any of our obligations or liabilities relating to or arising from this Agreement; (2) any claim against us based on, in respect of, or by reason of, the relationship between you and us; or (3) any claim against us based on any of our alleged unlawful acts or omissions.

16.I No Waiver or Disclaimer of Reliance in Certain States. The following provision applies only to franchisees and franchises that are subject to the state franchise disclosure laws in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington or Wisconsin:

No statement, questionnaire or acknowledgment signed or agreed by you in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by us, any franchise seller, or any other person acting on behalf of us. This provision supersedes any other term of any document executed in connection with the franchise.

Intending to be legally bound hereby, the parties have duly executed and delivered this agreement as of the date and year first written above.

DUNKIN' DONUTS FRANCHISING LLC

By: _____
Assistant Secretary

This Agreement is not binding upon the above entity or entities until executed by an authorized representative.

WITNESS/ATTEST: _____ FRANCHISEE
Entity

_____ By: _____

Print Name: _____ Print Name: _____

GUARANTY AND ASSUMPTION OF OBLIGATIONS

THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS is given this ____ day of _____, 20____, by each of the undersigned parties.

A. In consideration of, and as an inducement to, the execution of that certain Franchise Agreement (together with all amendments or modifications, the "Agreement") on this date by **DUNKIN' DONUTS FRANCHISING LLC** ("Dunkin'"), each of the undersigned unconditionally (a) guarantees to Dunkin' and its successors and assigns, for the term of the Agreement (including extensions) and afterward as provided in the Agreement, that _____ ("Franchisee") will punctually pay and perform each and every undertaking, agreement, and covenant of Franchisee set forth in the Agreement; and (b) agrees to be bound by, and liable for the breach by Franchisee of, each and every provision in the Agreement, both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities, including, without limitation, the non-competition, confidentiality, and transfer requirements, except that (1) the undersigned shall not be required to personally be bound by the covenants in Section 1.B(1) of the Agreement, and (2) no guarantor shall have any liability with respect to another guarantor's failure to comply with any non-monetary obligations under the Agreement. In the event of a direct conflict between the foregoing clauses (1) or (2), on the one hand, and any other provision of this Guaranty or the Agreement, on the other hand, such clauses (1) or (2), as the case may be, shall govern to the extent of such direct conflict.

B. Each of the undersigned acknowledges that (a) they are either an owner (whether direct or indirect) of Franchisee or otherwise has a direct or indirect relationship with Franchisee or its affiliates; (b) they will benefit significantly from Dunkin's entering into the Agreement with Franchisee; and (c) Dunkin' would not enter into the Agreement unless each of the undersigned agrees to sign and comply with the terms of this Guaranty.

C. Each of the undersigned consents and agrees that: (a) their direct and immediate liability under this Guaranty will, except as set forth in Paragraph A, above, be joint and several, both with Franchisee and among other guarantors; (b) he, she or it will render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (c) this liability will not be contingent or conditioned upon Dunkin's pursuit of any remedies against Franchisee or any other person or entity; (d) this liability will not be diminished, relieved, or otherwise affected by any extension of time, credit, or other indulgence which Dunkin' may from time to time grant to Franchisee or to any other person or entity, including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims (including, without limitation, the release of other guarantors), none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable during the term of the Agreement (including extensions), for so long as any performance is or might be owed under the Agreement by Franchisee or any of its owners or guarantors, and for so long as Dunkin' has any cause of action against Franchisee or any of its owners or guarantors; and (e) this Guaranty will continue in full force and effect for (and as to) any extension or modification of the Agreement, and despite the transfer of any direct or indirect interest in the Agreement or Franchisee, and each of the undersigned waives notice of any and all renewals, extensions, modifications, amendments, or transfers.

D. Each of the undersigned waives: (a) all rights to payments and claims for reimbursement or subrogation that any of the undersigned may have against Franchisee arising

as a result of the undersigned's execution of and performance under this Guaranty, for the express purpose that none of the undersigned shall be deemed a "creditor" of Franchisee under any applicable bankruptcy law with respect to Franchisee's obligations to Dunkin'; (b) all rights to require Dunkin' to proceed against Franchisee for any payment required under the Agreement, proceed against or exhaust any security from Franchisee, take any action to assist any of the undersigned in seeking reimbursement or subrogation in connection with this Guaranty or pursue, enforce or exhaust any remedy, including any legal or equitable relief, against Franchisee; (c) any benefit of, or any right to participate in, any security now or hereafter held by Dunkin'; and (d) acceptance and notice of acceptance by Dunkin' of his, her or its undertakings under this Guaranty, all presentments, demands and notices of demand for payment of any indebtedness or non-performance of any obligations hereby guaranteed, protest, notices of dishonor, notices of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed, and any other notices and legal or equitable defenses to which he, she or it may be entitled. Dunkin' shall have no present or future duty or obligation to the undersigned under this Guaranty, and each of the undersigned waives any right to claim or assert any such duty or obligation, to discover or disclose to the undersigned any information, financial or otherwise, concerning Franchisee, any other guarantor, or any collateral securing any obligations of Franchisee to Dunkin'. Without affecting the obligations of the undersigned under this Guaranty, Dunkin' may, without notice to the undersigned, extend, modify, supplement, waive strict compliance with, or release all or any provisions of the Agreement or any indebtedness or obligation of Franchisee, or settle, adjust, release, or compromise any claims against Franchisee or any other guarantor, make advances for the purpose of performing any obligations of Franchisee under the Agreement, and/or assign the Agreement or the right to receive any sum payable under the Agreement, and the undersigned each hereby jointly and severally waive notice of same. The undersigned expressly acknowledge that the obligations hereunder survive the expiration or termination of the Agreement.

E. In addition, the undersigned each waive any defense arising by reason of any of the following: (a) any disability, counterclaim, right of set-off or other defense of Franchisee, (b) any lack of authority of Franchisee with respect to the Agreement, (c) the cessation from any cause whatsoever of the liability of Franchisee, (d) any circumstance whereby the Agreement shall be void or voidable as against Franchisee or any of its creditors, including a trustee in bankruptcy of Franchisee, by reason of any fact or circumstance, (e) any event or circumstance that might otherwise constitute a legal or equitable discharge of the undersigned's obligations hereunder, except that the undersigned do not waive any defense arising from the due performance by Franchisee of the terms and conditions of the Agreement, (f) any right or claim of right to cause a marshaling of the assets of Franchisee or any other guarantor, and (g) any act or omission of Franchisee.

F. If Dunkin' is required to enforce this Guaranty in a judicial proceeding, and prevails in such proceeding, Dunkin' shall be entitled to reimbursement of its reasonable costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants', and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any such proceeding.

G. Each of the undersigned agrees that all actions arising under this Guaranty or the Agreement, or otherwise as a result of the relationship between Dunkin' and the undersigned, must be brought exclusively in the federal or state court of general jurisdiction located in Atlanta, Georgia. Each of the undersigned irrevocably submits to the jurisdiction of those courts and waives any objection he, she or it might have to either the jurisdiction of or venue in those courts.

EACH OF THE UNDERSIGNED IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, ARISING UNDER OR RELATING TO THIS GUARANTY OR ITS ENFORCEMENT.

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

GUARANTOR(S)

[Signature]

[Print Name]

[Signature]

[Print Name]

[Signature]

[Print Name]

[Signature]

[Print Name]

Exhibit “E”

FRANCHISE AGREEMENT (Individual/Owner-Operator)

KEY CONTRACT DATA

RESTAURANT # _____

Effective Date of Franchise Agreement: _____, 20__

Franchisee: _____

Franchised Restaurant Number and Location of Franchised Restaurant (Section 1):

Other Key Terms:

<u>Term duration (Section 1):</u>	_____, 20__ (the "Commencement Date") to _____, 20__ (the "Expiration Date")
<u>Initial Franchise Fee (Section 2):</u>	\$50,000 <input type="checkbox"/> \$ _____
<u>Royalty (Section 9.A.):</u>	<input type="checkbox"/> 4.5% of monthly Gross Sales <input type="checkbox"/> See _____ Addendum
<u>Advertising Contribution (Section 9.B.(i)):</u>	<input type="checkbox"/> 4.5% of monthly Gross Sales <input type="checkbox"/> See _____ Addendum
<u>Operating Partner (Section 3):</u>	
<u>Intercreditor Agreement Transfer Fee (Section 15.B.):</u>	\$2,000
<u>Processing Fee and Transfer Fee (Section 15.D.(2)(g)):</u>	\$2,500 (Processing Fee), <i>plus</i> \$500 (Transfer Fee)
<u>Transferor Transfer Fee (Section 15.E.(9)):</u>	\$2,000 for the first restaurant being transferred, <i>plus</i> \$500 for each additional restaurant transferred in the same transaction, <i>plus</i> an additional \$175 per restaurant for transfers occurring on the weekend or on a United States Federal holiday
<u>New Franchisee Training Fee (Section 15.E.(9)):</u>	\$7,500
<u>Address for Legal Notice to Franchisee:</u>	_____ _____ _____ Attention: _____

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Franchise Agreement (Individual/Owner-Operator)

Exhibit D1 (03/2024, amended 06/2024)

BK# _____

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LIST OF ATTACHMENTS

The items checked below are hereby incorporated into and are made a part of this Franchise Agreement:

- ☐ "Fuel the Flame" Advertising Contribution Addendum
- ☐ Crown Your Career Franchise Agreement Addendum (Individual/Owner-Operator)
- ☐ Non-Traditional Facility Addendum
- ☐ Delivery Restaurant Addendum (Entity)
- ☐ Multi-Unit DIP 2017 Addendum
- ☐ Multi-Unit DIP 2017-2023 Addendum
- ☐ Franchise Agreement Addendum (DIP)
- ☐ Franchise Agreement Addendum (DTO)
- ☐ Replacement Franchise Addendum
- ☐ Successor Addendum
- ☐ BKoT Franchise Addendum
- ☐ BKoT Double Drive Thru & Digital Enhance Incentive Amendment
- ☐ Offset/Replacement Franchise Addendum
- ☐ Remodel Franchise Addendum
- ☐ Deferred Remodel Addendum
- ☐ RTF Upgrade Remodel Franchise Addendum
- ☐ 2024 Area Developer Incentive Addendum
- ☐ Amendment to Burger King Restaurant Franchise Agreement Required by the State of California
- ☐ Amendment to Burger King Restaurant Franchise Agreement Required by the State of Hawaii
- ☐ Amendment to Burger King Restaurant Franchise Agreement Required by the State of Illinois
- ☐ Amendment to Burger King Restaurant Franchise Agreement Required by the State of Minnesota
- ☐ Amendment to Burger King Restaurant Franchise Agreement Required by the State of North Dakota
- ☐ Amendment to Burger King Restaurant Franchise Agreement Required by the State of Washington

BURGER KING® RESTAURANT

FRANCHISE AGREEMENT

THIS BURGER KING® RESTAURANT FRANCHISE AGREEMENT (this "Agreement") is made as of the effective date set forth on the Key Contract Data page, by and between Burger King Company LLC, a Florida limited liability company ("BKC"), and the franchisee identified on the Key Contract Data page ("Franchisee").

INTRODUCTION

A. BKC is the owner of certain trademarks and service marks, including BURGER KING® and HOME OF THE WHOPPER®, which are registered or pending with the United States Patent and Trademark Office, and is the owner of other trademarks and service marks authorized for use in BURGER KING Restaurants (the "BURGER KING Marks").

B. BKC is engaged in the business of operating and granting franchises to operate restaurants ("BURGER KING Restaurants") using the BURGER KING Marks and a uniform and comprehensive restaurant format and operating system developed by BKC and its predecessor (the "BURGER KING System"), including a standardized design, decor, equipment system, color scheme, style of building and signage, as well as uniform operating and quality standards, specifications and procedures of operation, and uniformity of product and services offered, including all provisions of the Manual of Operating Data, as amended from time to time (the "MOD Manual").

C. Franchisee desires to acquire a franchise to operate a BURGER KING Restaurant at the Premises for the entire Term specified in this Agreement. Franchisee acknowledges receipt of a copy of the Franchise Disclosure Document of BKC and Franchisee has had a full and adequate opportunity to be thoroughly advised of the terms and conditions of this Agreement by financial and legal counsel of Franchisee's own choosing at least fourteen (14) calendar days prior to its execution, and is entering into this Agreement after having made an independent investigation of BKC's operations and not upon any representation as to the profits and/or sales volume which Franchisee might be expected to realize, nor upon any representations or promises by BKC which are not contained in this Agreement.

In consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

1. FRANCHISE GRANT: TERM AND LOCATION

BKC grants to Franchisee and Franchisee accepts a franchise for the duration of the Term (defined below) to use the BURGER KING System and the BURGER KING Marks only in the operation of a BURGER KING Restaurant at the location described on the Key Contract Data page attached to this Agreement and incorporated by reference herein (the "Franchised Restaurant"). For the avoidance of doubt, the term "Franchised Restaurant" includes the real estate described on Exhibit A (the "Premises"), the restaurant building and all buildings and improvements constructed thereon wherever the context permits or requires. The term of this Agreement shall be for the period of time set forth on the Key Contract Data page unless terminated earlier in accordance with the provisions of this Agreement (the "Term") and shall commence on the Commencement Date and shall expire on the Expiration Date. In the event of a dispute over the date that the Franchised Restaurant opens for business, the records maintained by BKC shall control and be dispositive. Franchisee agrees to operate the Franchised Restaurant at the specified location for the entire duration of the Term. Franchisee accepts this franchise with the full and complete understanding that the franchise grant contains no promise or assurance of renewal. The sole and entire conditions under which Franchisee will have the opportunity of obtaining a Successor Franchise Agreement at expiration are those set forth herein in Section 17. This franchise is for the specified location only and does not in any way grant or imply any area, market or territorial rights proprietary to Franchisee.

Notwithstanding anything set forth above, if Franchisee continues to operate the Franchised Restaurant after the end of the Term and does not obtain a Successor Franchise Agreement in accordance with Section 17, Franchisee shall be deemed to be operating such Franchised Restaurant on a month-to-month basis under the terms and conditions of this Agreement and BKC may terminate this Agreement at any time after the end of the Term upon thirty (30) days prior written notice.

2. INITIAL FRANCHISE FEE

Franchisee acknowledges that the grant of this franchise constitutes the consideration for the payment by Franchisee to BKC of the amount of the Initial Franchise Fee set forth on the Key Contract Data page (the "Initial Franchise Fee"), and that this sum shall be fully earned by BKC upon the execution and delivery of this Agreement.

3. FRANCHISEE REPRESENTATIONS

Franchisee acknowledges its understanding of BKC's franchising policy of requiring all individuals who have any interest in the Franchised Restaurant, whether directly, beneficially or contingently, to be named in and be a party to this Agreement. If Franchisee consists of more than one individual, the group must include an operating partner (the "Operating Partner"). If Franchisee consists of only one individual, such individual shall be the Operating Partner hereunder. The Operating Partner must, throughout the Term of the Agreement, (A) have a minimum fifty percent (50%) unencumbered equity ownership (including profits) and a minimum fifty percent (50%) controlling interest through any voting apparatus in the Franchised Restaurant, (B) devote full time and best efforts to the day-to-day operation of the Franchised Restaurant and any other BURGER KING Restaurants owned by Franchisee as to which such individual is the Operating Partner, (C) have no operational or management commitments in other businesses (except other BURGER KING Restaurants operated under franchises granted to such person by BKC), and (D) live in the "vicinity" of the Franchised Restaurant, as the term "vicinity" is defined for Operating Partners by BKC from time to time, in its reasonable discretion. Franchisee has not taken and agrees that it will not hereafter take, whether directly or indirectly, any action to avoid the financial interest requirements and the direct operation requirements set forth above through the entry of management agreements, consulting agreements or any other similar device or arrangement. Franchisee agrees to furnish BKC with such evidence as BKC may request from time to time for the purpose of assuring BKC that Franchisee's efforts and equity interest remain as represented in this Agreement.

4. FRANCHISEE ASSOCIATION AND ADVISORY COUNCIL

BKC shall, on a periodic basis, consult with representatives of an independent association whose membership is comprised of at least fifty-one percent (51%) of all BURGER KING franchise-owned and operated restaurants in the U.S.A. (the "Franchisee Association") relative to those matters expressly described in Sections 5.B, 6, 8, 9 and 20.C of this Agreement. The representatives of the Franchisee Association shall be referred to herein as the "Franchisee Advisory Council." Membership by a Franchisee in the Franchisee Association shall be voluntary.

Franchisee agrees that BKC may consult with and consider the advice of the Franchisee Advisory Council.

For purposes of this Agreement, to qualify as the "Franchisee Association," the association must have been formed for the primary purpose of representing the rights of franchisees, and membership in such association must be limited solely to BURGER KING franchisees, or officers, directors, partners or shareholders of BURGER KING franchisees, who in either case are not owned or controlled by BKC or its parent, or any subsidiary or Affiliate of BKC.

BKC shall not prohibit nor restrict Franchisee from associating with other franchisees, nor from forming, joining or participating in any franchisee trade association (the "Activities"). BKC shall not retaliate against Franchisee because Franchisee engages in the Activities. BKC's exercise and enforcement of its rights under any franchise agreement or the law shall not, by itself, constitute a breach of BKC's responsibilities under the preceding sentence.

5. STANDARDS AND UNIFORMITY OF OPERATION

BKC shall establish, and cause approved suppliers to the BURGER KING System to reasonably comply with, product, service and equipment specifications as established by BKC from time to time.

Suggestions from Franchisee for improving elements of the BURGER KING System, such as products, equipment, uniforms, restaurant facilities, service format and advertising, are encouraged and may or may not be considered by BKC when adopting or modifying standards, specifications and procedures for the BURGER KING System. Franchisee acknowledges that any such suggestions made by Franchisee hereunder shall become the exclusive property of BKC. BKC shall have no obligation to utilize suggestions and no obligation to provide compensation for any suggestion. Franchisee may not utilize any such suggestions in the Franchised Restaurant without the prior written consent of BKC.

A. M.O.D. Manual

Franchisee acknowledges and agrees that prompt adoption of and adherence to the BURGER KING System, including all of the provisions of the MOD Manual, as amended from time to time, are reasonable, necessary and essential to the image and success of all BURGER KING Restaurants. The MOD Manual, which is comprised of the BURGER KING Operations Manual, the Restaurant Equipment Manual, the RSI Equipment and Facilities E-Red Book, the Approved Brands and Distributors List, Approved Equipment List, the Brand Standards Guide, the Ops Emphasis Guide, alerts and amendments thereto, and applicable policies established by BKC, or the then-current equivalent printed or electronic versions of those documents, contains the official mandatory restaurant operating, equipment and product standards, specifications and procedures prescribed from time to time by BKC for the operation of a BURGER KING Restaurant. The MOD Manual and any revisions or updates thereto may be provided in electronic format including via internet, intranet, or other electronic means. Franchisee acknowledges that the MOD Manual is designed to protect BKC's standards, the BURGER KING System, and the BURGER KING Marks, and not to control the day-to-day operation of the Franchised Restaurant. Franchisee may not print a copy of the MOD Manual without BKC's prior written approval.

Franchisee agrees that changes in the standards, specifications and procedures may become necessary and desirable from time to time and agrees to accept and comply with such modifications, revisions and additions to the MOD Manual which BKC in the good faith exercise of its judgment believes to be desirable and reasonably necessary. The material and information set forth in the MOD Manual is confidential and proprietary to BKC and is to be used by Franchisee only in connection with the operation of the Franchised Restaurant and other franchised BURGER KING Restaurants. The MOD Manual and other specifications, standards and operating procedures communicated in writing or electronically to Franchisee shall be deemed a part of this Agreement.

B. Franchised Restaurant

The Franchised Restaurant will be constructed and improved in the manner authorized and approved by BKC, and the appearance of the Franchised Restaurant will not thereafter be altered except as may be approved in writing by BKC.

(1) Repair and Maintenance.

Franchisee shall, at its expense, continuously throughout the Term of this Agreement maintain the Franchised Restaurant in good condition and repair in accordance with BKC's then current repair and maintenance standards.

(2) Current Image.

Franchisee shall, improve, alter and remodel the Franchised Restaurant to bring it into conformance with the national and local plans, specifications and/or other standards for new or remodeled BURGER KING Restaurants as may hereafter be reasonably changed and defined from time to time by BKC ("Current Image") in accordance with the following timetable:

(i) During the tenth year of the Term, Franchisee shall remodel, improve and alter the exterior of the Franchised Restaurant to conform with the Current Image in effect on the ninth anniversary of the date of this Agreement.

(ii) BKC and the Franchisee Advisory Council shall meet annually to discuss and establish the components of Current Image for the Franchised Restaurant. The Current Image as established by BKC and the Franchisee Advisory Council, from time to time, shall be binding upon Franchisee. If BKC and the Franchisee Advisory Council do not agree on the Current Image, BKC and the Franchisee Association shall settle the matter by arbitration by a sole arbitrator in accordance with the then current non-administered arbitration rules of the Center for Public Resources. The arbitration shall be governed by the United States Arbitration Act (U.S.A.A.), and judgment upon the decision rendered by the arbitrator shall be binding on Franchisee and BKC and except as provided in Section 10(a) of the U.S.A.A., shall not be appealable in any forum. The decision may be entered by any court having jurisdiction thereof. The place of arbitration shall be Miami, Florida.

Failure of Franchisee to comply with the terms of this Section 5.B shall be deemed a default of this Agreement.

C. Signs

The BURGER KING Marks will only be erected and displayed in the manner and at such locations as are approved and authorized by BKC, in writing. Franchisee agrees to maintain and display signs reflecting the Current Image of BURGER KING Restaurants and shall not place additional signs or posters at the Franchised Restaurant without the prior written consent of BKC. Only signs from sources approved by BKC may be utilized at the Franchised Restaurant. Franchisee shall discontinue the use of and destroy such signs as are declared obsolete by BKC within the reasonable time specified by BKC. Such signs are fundamental to the BURGER KING System and Franchisee hereby grants to BKC the right to enter the Franchised Restaurant to remove and destroy unapproved or obsolete signs in the event that Franchisee has failed to do so within thirty (30) days after the written request of BKC.

D. Equipment

(1) Only equipment approved by BKC which meets the criteria and performance standards of the BURGER KING System may be used in the Franchised Restaurant. The equipment shall be maintained in a condition that meets operational standards specified in the MOD Manual and, as equipment becomes obsolete or inoperable, Franchisee will replace the equipment with the types and kinds of equipment as are then approved for use in BURGER KING Restaurants. If BKC determines that additional or replacement equipment is needed because of a change in menu items or method of preparation and service or because of health or safety considerations, Franchisee will install the additional equipment or replacement equipment within the reasonable time specified by BKC. Prior to mandating the

use of a new or additional piece of equipment, BKC shall use reasonable efforts to field test the proposed new equipment.

(2) Franchisee must, at its sole cost and expense: (a) at all times operate at the Franchised Restaurant POS Systems (as hereinafter defined) approved by BKC; (b) upgrade or replace in whole or in part any POS Systems as BKC may reasonably deem necessary or desirable in the interest of proper administration of Burger King Restaurants throughout the BURGER KING System, within such reasonable time as may be specified by BKC; (c) use the approved POS Systems at all times to record and process such information as BKC may from time to time require, including information regarding any other business carried on in or from any Burger King Restaurant with the consent of BKC, keep such information available for access by BKC on the POS System for such minimum period as BKC may require, and maintain and provide to BKC such information in the format, and using such data exchange standards and protocols as BKC may require; (d) effect the Polling (as hereinafter defined) operation at such time or times as may be required by BKC, but BKC may itself initiate Polling whenever it deems appropriate; (e) permit BKC or its agents to Poll any information contained in the POS System at any time; (f) permit BKC or its agent to obtain all of the information referenced in this Section 5.D. that may be in the possession of any third party vendor from whom Franchisee obtained an approved POS System; (g) if required by BKC, download the information referenced in this Section 5.D. into machine readable information compatible with the system operated by BKC or its agents and to deliver that information to BKC by such method and within such timescale as BKC reasonably requires; and (h) integrate or otherwise permit the integration of such POS Systems with such technological platforms designated by BKC from time to time (including websites and mobile applications designated by BKC). For purposes of this Agreement, the term "POS System" means a point of sale computerized system consisting of telecommunications systems (including required dedicated telephone and power, network and broadband lines, and modem(s)), electronic hardware and software technology (including printer(s)) and other computer-related accessories or peripheral equipment, which captures, records and transmits sales, Taxes on sales, number, date and time of transactions, products and combinations of products sold and employees using the system and such other related information as may be required by BKC from time to time. For purposes of this Agreement, the term "Polling" means any process acceptable to BKC by which information or data about the Franchised Restaurant may be transmitted to or from a POS System or other system operated by Franchisee or its agent into a computer or system operated by BKC or its agents in the manner and format prescribed by BKC from time to time. For the avoidance of doubt, BKC may Poll for information including daily sales data, daily transaction level data, sales per visit and products and combination of products sold, otherwise known as product mix data or "PMIX", and inventory data.

(3) Franchisee must also, at its sole cost and expense: (a) maintain, use and/or operate centralized or technology based methods of taking, processing, routing, and delivering orders or receiving payment for such orders that may be mandated by BKC at any time during the Term in addition to the methods and technology BKC currently uses or authorizes (individually an "Additional Ordering System" and collectively "Additional Ordering Systems"); and (b) add or replace equipment, wiring, hardware and software in connection with the Additional Ordering Systems. To the extent any products and services related to an Additional Ordering System are owned by BKC or provided to Franchisee by BKC, BKC may charge up front and/or ongoing fees. BKC shall be the sole owner of all direct and related rights and assets, including software and hardware, intellectual property and all data generated by the Additional Ordering Systems, but excluding hardware or equipment Franchisee purchases directly for the purpose of gaining access to the Additional Ordering System. If BKC requires Franchisee to use an Additional Ordering System, then Franchisee shall comply with BKC's requirements for connecting to and utilizing such technology in connection with Franchisee's operation of the Franchised Restaurant. Franchisee will install and implement any Additional Ordering System required by BKC within the reasonable time specified by BKC.

(4) Franchisee must also, at its sole cost and expense: (a) maintain, use and/or operate technology for the purpose of communicating with customers of BURGER KING Restaurants and the collection, processing, storage and use of BURGER KING Restaurant customer data

that may be mandated by BKC at any time during the Term in addition to the methods and technology BKC currently uses or authorizes (individually an "Additional Digital System" and collectively, the "Additional Digital Systems"); and (b) add or replace equipment, wiring, hardware and software in connection with the Additional Digital Systems. To the extent any products and services related to an Additional Digital System are owned by BKC or provided to Franchisee by BKC, BKC may charge up front and/or ongoing fees. BKC shall be the sole owner of all direct and related rights and assets, including software and hardware, intellectual property and all data generated by the Additional Digital Systems, but excluding hardware or equipment Franchisee purchases directly for the purpose of gaining access to an Additional Digital System. BKC may use the data generated by the Additional Digital Systems (1) to analyze customer trends, (2) to market BKC-developed goods and products to all customers or specific customer(s), (3) to reward loyal or repeat customers, (4) to provide the data to third parties, and (5) for such other purposes as BKC deems appropriate in its sole discretion. Franchisee acknowledges and agrees that all net profits received by BKC from providing the data generated by the Additional Digital Systems to third parties shall be the sole property of BKC. If BKC requires Franchisee to use an Additional Digital System, then Franchisee shall comply with BKC's requirements for connecting to and utilizing such technology in connection with Franchisee's operation of the Franchised Restaurant. Franchisee will install and implement any Additional Digital System required by BKC within the reasonable time specified by BKC.

E. Vending Machines, Etc.

Public telephones, newspaper racks, juke boxes, cigarette, gum and candy machines, rides, lottery ticket terminals, video games or any other games, or vending or amusement machines will not be installed at the Franchised Restaurant without the prior written approval of BKC. In the event such items are installed at the Franchised Restaurant, then all sums received by Franchisee in connection with these items shall be included within "Gross Sales" as defined herein.

F. Menu and Service

(1) All menu items, including promotional and premium products, which BKC may deem appropriate to take full advantage of the potential market and achieve standardization in the BURGER KING System will be served, and no items which are not set forth in the MOD Manual or otherwise authorized and approved by BKC in writing will be served. Franchisee shall only sell the approved menu items at retail to consumers from and through the Franchised Restaurant and shall not sell such items for redistribution or resale. Franchisee shall adhere to all specifications contained in the MOD Manual or as otherwise prescribed by BKC as to ingredients, methods of preparation and service, weight and dimensions of products served, and standards of cleanliness, health and sanitation.

(2) Franchisee shall notify BKC in writing within twenty-four hours of any investigation or violation, actual or alleged, concerning any health or sanitary laws or regulations that results in a failing score from the governmental authority, a closure of the Franchised Restaurant or a threatened closure of the Franchised Restaurant, or that constitutes a critical food safety violation as set forth in the MOD Manual (each, a "Food Safety Incident"). Upon the occurrence of any Food Safety Incident, Franchisee shall take any actions directed by BKC or any governmental authority concerning such investigation or violation. All food, drink and other items will be served and sold in packaging that meets BKC's specifications. Only food, supplies, paper products and packaging from sources approved by BKC shall be used in the Franchised Restaurant.

G. Hours of Operation

The Franchised Restaurant shall be open for business at a minimum from 6:00 A.M. to 12:00 A.M., Monday through Saturday and 7:00 A.M. to 12:00 A.M. on Sunday, fifty-two (52) weeks a year, unless otherwise authorized or directed by BKC or unless prohibited by applicable law. The Franchised Restaurant may be closed on Thanksgiving Day and/or Christmas Day if a majority of the

BURGER KING Restaurants in the market area (DMA) in which the Franchised Restaurant is located elect to close on the holiday.

H. Uniforms

All employees shall only wear uniforms of such design and color as are from time to time specified by BKC.

I. Advertising and Promotional Materials

Only those advertising and promotional materials or items which are authorized by BKC in writing prior to use shall be used, sold or distributed, and no display or use of the BURGER KING Marks shall be made without the prior written approval of BKC. All materials on which the BURGER KING Marks are used must include the designation® or such other designation as BKC may specify. Franchisee must, immediately upon receipt of notice from BKC, remove or discontinue the use, publication, display, sale and distribution of any advertising or promotional material, slogans, and any material on which the BURGER KING Marks appear, which BKC has not approved or has ceased to use.

J. Right of Entry and Inspection

BKC shall have the unrestricted right to enter the Franchised Restaurant to conduct such activities as it deems necessary to ascertain Franchisee's compliance with this Agreement. The inspections may be conducted without prior notice at any time when Franchisee or one of Franchisee's employees is at the Franchised Restaurant. The inspections will be performed in a manner which minimizes interference with the operation of the Franchised Restaurant.

K. Management of Franchised Restaurant

Franchisee acknowledges and agrees that the Operating Partner must have successfully completed the Initial Training and must successfully complete the Continuing Operations Training as required by BKC from time to time pursuant to Section 8.A of this Agreement. If the Operating Partner is also the Operating Partner of other BURGER KING Restaurants, then Franchisee must, at all times during the Term, designate at least one (1) individual who is responsible for the direct, on-premises supervision of the Franchised Restaurant (the "Restaurant Manager"); otherwise, the Operating Partner shall be the Restaurant Manager. For the avoidance of doubt, if Franchisee designates as the Restaurant Manager an individual other than the Operating Partner as permitted under this Section 5.K., such designation does not in any manner limit, waive, or modify any of the requirements for the Operating Partner set forth in Sections 3(A), 3(B), 3(C) or 3(D) above.

L. BURGER KING Foundation

Franchisee shall participate in the fundraising and charitable efforts of the BURGER KING Foundation (the "Foundation"). Franchisee agrees to purchase at least one (1) One Thousand Dollar (\$1,000) scholarship for the Franchised Restaurant during each year for the duration of the Term at the time specified by the Foundation.

If the Franchised Restaurant participates in the fundraising and charitable efforts of the Foundation, Franchisee agrees to hold any money raised on behalf of the Foundation (the "Charitable Funds") in trust for the benefit of the Foundation until such Charitable Funds are distributed to the Foundation. Franchisee further agrees that (a) the Charitable Funds are not property of the Franchisee and (b) it shall not use the Charitable Funds for any purpose whatsoever, other than for turning over such Charitable Funds to the Foundation.

6. SERVICES AVAILABLE TO FRANCHISEE

BKC agrees to provide the following services to Franchisee and to use reasonable efforts to provide them in a manner reasonably designed for the BURGER KING System, including the use of technology deemed by BKC to be competitive in the quick service restaurant industry. Prior to making material changes to the content of, and manner by which, the following items or services are delivered to Franchisee, BKC shall consult with the Franchisee Advisory Council to receive input as to the proposed change. The content of and manner by which the following services are to be delivered by BKC shall be within BKC's sole reasonable discretion:

A. A reproducible copy of either (i) the standard architectural building plans and specifications for current approved freestanding buildings or double drive-thru buildings, or (ii) such other standard approved restaurant facility, whichever is applicable. Any modifications of the standard plans and specifications, whether requested or required by planning and zoning boards, building codes or otherwise, must be approved in writing by BKC and are to be paid for by Franchisee.

B. A pre-opening training program conducted at BKC training facilities and certified BURGER KING Restaurants.

C. Pre-opening and opening assistance by personnel of BKC at the Franchised Restaurant for a period of time as BKC deems appropriate under the circumstances. BKC may, in its reasonable discretion, consider the following factors: the experience of the Franchisee, the type of facility being operated, whether the assistance is for a new opening or the reopening after a transfer of ownership of an already operating restaurant, the prior BURGER KING System experience of Franchisee's management, the projected volume of the restaurant, as estimated by Franchisee, and any other factors that BKC deems appropriate for consideration.

D. Opening promotion program. Franchisee may be eligible for a credit to its account in exchange for implementing grand opening promotions conducted after the Franchised Restaurant opens, in accordance with BKC's policy (if any) at the time of opening. Costs in excess of the amount of the credit (if any) incurred in implementing the program shall be Franchisee's responsibility.

E. BKC's MOD Manual, in an approved format a copy of which will be loaned to Franchisee for the Term of this Agreement.

F. Such merchandising, marketing and advertising research data and advice as may be developed from time to time by BKC and deemed by it to be helpful in the operation of a BURGER KING Restaurant.

G. Communication of new developments, techniques and improvements of BKC in food preparation, equipment, food products, packaging, service and restaurant management which are relevant to the operation of a BURGER KING Restaurant.

H. Such ongoing support as BKC deems reasonably necessary to continue to communicate and advise Franchisee as to the BURGER KING System including the operation of the Franchised Restaurant.

7. THE FRANCHISED RESTAURANT

The site at which Franchisee shall operate the Franchised Restaurant is more fully described in Exhibit A. The Franchised Restaurant shall at all times be under the direct, on premises supervision of Franchisee, the Operating Partner or its Restaurant Manager. During the Term of this

Agreement the site shall be used exclusively for the purpose of operating a franchised BURGER KING Restaurant.

In the event the Franchised Restaurant shall be damaged or destroyed by fire or other casualty, or be required to be repaired or reconstructed by any governmental authority, Franchisee shall, at its own expense, repair or reconstruct the Franchised Restaurant within a reasonable time under the circumstances. The minimum acceptable appearance for the restored Franchised Restaurant will be that which existed just prior to the casualty; however, every effort should be made to have the restored Franchised Restaurant reflect the then Current Image, design and specifications of BURGER KING restaurants. If the Franchised Restaurant is substantially destroyed by fire or other casualty, Franchisee may, with BKC's agreement, terminate this Agreement in lieu of Franchisee reconstructing the Franchised Restaurant.

8. TRAINING

A. Training Programs

The Franchised Restaurant shall not open unless the Operating Partner and the Restaurant Manager have successfully completed BKC's training program in Miami, Florida or at such other locations as may be specified by BKC (the "Initial Training"). Any Restaurant Manager replacing or succeeding a prior Restaurant Manager must successfully complete the Initial Training prior to assuming the responsibilities of Restaurant Manager for the Franchised Restaurant. BKC may, in its sole discretion, waive the Initial Training requirement for the Restaurant Manager. BKC shall provide, and the Operating Partner and Restaurant Manager shall attend, continuing operations training programs from time to time as may be directed by BKC to re-enforce operational standards ("Continuing Operations Training"). The required frequency, duration and subject matter of the Continuing Operations Training shall be specified by BKC (the Initial Training and Continuing Operations Training programs are hereinafter collectively referred to as "Training Programs"). BKC and the Franchisee Advisory Council shall periodically review the Training Programs and BKC will consult with the Franchisee Advisory Council prior to making any material changes to the Training Programs. Such programs may be in Miami, Florida, or at such other locations as may be specified by BKC.

B. Charges and Costs

Franchisee shall be responsible for reasonable charges and costs of any sort associated with such training but not limited to all travel and living expenses, compensation of and worker's compensation insurance for the Operating Partner and/or the Restaurant Manager enrolled in the training program, any other personal expenses, course materials, training facility charges, and training staff charges (if any).

C. Franchisee Training and Restaurant Staffing

Franchisee shall implement a training program for Franchised Restaurant employees in accordance with training standards and procedures prescribed by BKC and shall staff the Franchised Restaurant at all times during the Term of this Agreement with a sufficient number of trained employees to ensure that the BURGER KING operational standards are met. Requests for exemption from the manager training requirement will be considered on an individual basis and will be granted only in those situations where the employees have prior operational management experience in a BURGER KING Restaurant and demonstrate to BKC a thorough knowledge and understanding of the BURGER KING System.

9. ROYALTY AND ADVERTISING CONTRIBUTION

A. Royalty

During the Term of this Agreement, Franchisee agrees to pay to BKC a royalty equal to the percentage of monthly Gross Sales set forth as the Royalty on the Key Contract Data page ("Royalty") for the use of the BURGER KING System and the BURGER KING Marks. Royalties shall be paid monthly by the tenth (10th) day of each month based upon Gross Sales for the preceding month.

B. Advertising, Sales Promotion and Public Relations

(i) Franchisee shall pay to BKC an amount equal to a percentage of monthly Gross Sales to be determined by BKC, in its sole discretion, but not to exceed the amount set forth as the "Advertising Contribution" on the Key Contract Data page, payable by the tenth (10th) day of each month based upon Franchisee's Gross Sales for the preceding month (the "Advertising Contribution"). This sum, less direct administrative expenses, will be used for (a) market research expenditures directly related to the development and evaluation of the effectiveness of advertising and sales promotions, (b) creative, production and other costs incurred in connection with the development of advertising, sales promotions and public relations (as limited by Section (vi) below), both in the market area of the Franchised Restaurant, as reasonably defined from time to time by BKC, and on a national basis and (c) various methods of delivering the advertising or promotional message, including television, radio, outdoor and print ("Media"). The allocation of the Advertising Contribution between national, regional and local expenditures shall be made by BKC in its sole business judgment.

(ii) Periodically, but no less frequently than once per year, BKC shall meet with the Franchisee Advisory Council to discuss and attempt to establish (a) the types of Media to be used by BKC (the "Media Mix") and (b) the percentage of the total annual Advertising Contribution to be expended on Media (the "Media Spending Goal").

(iii) If BKC and the Franchisee Advisory Council are unable to mutually establish the Media Spending Goal, BKC shall, subject to the limitation set forth in Section (v) below, have the right, in its sole business judgment, to establish the Media Spending Goal.

(iv) If BKC and the Franchisee Advisory Council are unable to agree on the Media Mix, BKC shall have the right, in its sole business judgment, to establish the Media Mix. If BKC unilaterally establishes the Media Mix as provided above, BKC shall in no event spend more than ten percent (10%) of the prior fiscal year's national Media expenditures for new Media channels and any such new Media channel(s) must be accessible to no less than two-thirds (2/3) of the then established areas of dominant influence in the United States.

(v) BKC shall use reasonable efforts to meet the Media Spending Goal, subject to circumstances beyond its control; provided, however, that BKC shall spend no less than sixty-five percent (65%) of the total annual Advertising Contribution on Media.

(vi) The annual expenditure on public relations shall not exceed one-half of one percent of the total annual Advertising Contribution.

(vii) Certain Advertising Contributions shall be allocated for approved grand opening promotions in accordance with current company policy.

(viii) From time to time, BKC may seek support from Franchisee, and all other franchisees in the Designated Marketing Area ("DMA") where the Franchised Restaurant is located, for an Investment Spending Program ("ISP"). In the event that 66.7% or more of the other franchised and BKC-

operated company restaurants in the DMA where the Franchised Restaurant exists execute binding ISP contracts which commit such other franchisees to place a fixed monthly dollar amount or a percentage of their Gross Sales into an ISP account with such money to be spent on local DMA marketing initiatives in a given year, then in such case, Franchisee shall execute an ISP contract on exactly the same terms. Franchisee acknowledges that the terms of the ISP contracts may change from year to year but that under no circumstances will any ISP contract (1) bind the Franchisee to pay more than 2% of their Gross Sales into an ISP fund; or (2) bind the Franchisee for a term longer than one year.

C. Gross Sales

The term "Gross Sales" as used in this Agreement includes all sums charged by Franchisee for goods, merchandise or services sold at or from the Franchised Restaurant, including all premiums unless exempted by BKC. The sale of BURGER KING products away from the Franchised Restaurant is not authorized; however, should any such sales be approved in the future, they will be included within the definition of Gross Sales. Gross Sales excludes any federal, state, county or city Tax, excise Tax, or other similar Taxes collected by Franchisee from customers based upon sales, and cash received as payment in credit transactions where the extension of credit itself has already been included in the figure upon which the Royalty and Advertising Contribution is computed.

D. Late Charge

Any Royalty and Advertising Contribution not paid when due shall bear a late charge at the maximum rate allowed by Florida law or, if no maximum rate relating to this transaction is in effect in the State of Florida, 18% per annum. Nothing in this Agreement shall be construed to mean that Franchisee is to pay, or has contracted to pay, any sum in excess of that which may lawfully be charged or contracted for under any applicable law. The intention of the parties is to conform strictly to applicable usury laws and it is agreed that if an excess is inadvertently collected it shall be applied to reduce the amount owed under Sections 9.A and 9.B above.

E. Payment; Credits

All payments required to be made to BKC under this Agreement shall be made in Miami, Florida, or at such addresses and to such parties as BKC may designate in writing from time to time. BKC may, in its sole discretion, elect to pay any amount owed by BKC or any of its Affiliates to Franchisee by crediting any account of Franchisee or reducing any financial obligation of Franchisee to BKC or its Affiliates.

F. Audit of Advertising Contributions

Not more than once annually, the Franchisee Association shall have the right, following reasonable notice to BKC, to audit BKC's fiscal year-end results with regard to the income and expenditures of the Advertising Contribution received by BKC for BURGER KING restaurants located in the U.S.A. The audit shall be conducted in accordance with the criteria established by BKC following consultation with the Franchisee Advisory Council. The audit shall be at the sole cost of the Franchisee Association unless (i) the audit discloses a misappropriation of funds or (ii) a discrepancy resulting from an accounting error, which is in excess of three percent (3%) of the total annual Advertising Contribution received by BKC, in either of which events BKC shall reimburse the Franchisee Association for the reasonable costs of the audit. Only records of the past two fiscal years will be produced for the audit. The results of the audit will be made available, on request, to Franchisee. Franchisee shall have no independent right to audit, provided however, if no Franchisee Association exists, franchisees owning collectively at least thirty percent (30%) or more of all BURGER KING franchisee-owned and operated restaurants in the U.S.A. shall have the right to audit under the same terms and conditions set forth in this Section 9.F.

G. Alternative Method Of Payment

BKC may, at its option, require payment of the Royalty or Advertising Contribution or both by making direct monthly withdrawals in the form of an electronic or similar funds transfer in the appropriate amount(s) from Franchisee's bank account. In the event that this option is exercised, Franchisee agrees to execute and deliver to its bank and to BKC those documents necessary to authorize such withdrawals and to make payment or deposit as directed by BKC. Franchisee further agrees that it will not thereafter terminate such authorization so long as this Agreement is in effect. Franchisee agrees that it will not close such bank account without prior notice to BKC and the establishment of a substitute bank account permitting such withdrawals. Franchisee also agrees that in the event that a direct electronic funds transfer or other withdrawal program is not available at the bank at which it currently does its business, it will take all reasonable and necessary steps to establish an account at a bank which does have such a program. In addition, BKC may require payment of Royalty, Advertising Contribution and any other fees required to be paid pursuant to this Agreement using BKC's internet web portal called "BK® ePay", or any other electronic or digital payment method that BKC may require in the future.

H. No Set Off

The Royalty and Advertising Contribution must be paid in full free of any deductions or set-off whatsoever (except withholding Tax if required to be withheld from the relevant payment by applicable laws).

10. ACCOUNTING PROCEDURES: RIGHT OF AUDIT

A. Accounting

Franchisee agrees to keep true, accurate and complete records of Franchisee's business in such form as BKC now or hereafter may require and to furnish BKC with a monthly and fiscal year to date profit and loss statement in the format prescribed by BKC. Franchisee shall also submit to BKC quarterly balance sheets, the first of which shall be for the period ending three (3) months after the Franchised Restaurant opens. All profit and loss statements and balance sheets should be prepared in accordance with generally accepted accounting principles and shall be submitted to BKC within twenty-five (25) days after the end of the period covered by the report. In addition, Franchisee shall retain for a period of at least twenty-four (24) months and upon request submit to BKC copies of all state sales tax returns and all supporting data and records relating to sales made at or from the Franchised Restaurant and such other records as BKC may reasonably request from time to time. Franchisee shall also, upon request by BKC, provide BKC with detailed, itemized documentation showing the actual cost of building or remodeling the Franchised Restaurant.

B. Annual Financial Statements

Within one hundred twenty (120) days after the close of each fiscal year, Franchisee shall submit a full disclosure of all persons with any interest in the Franchised Restaurant and a complete annual financial statement for the Franchised Restaurant, which statement, if requested by BKC, shall be certified by a Certified Public Accountant.

C. Audits

Franchisee agrees that BKC or its representatives, at BKC's expense, shall, at all reasonable times, have the right to examine or audit the books, records, state sales tax return or accounts of Franchisee. BKC shall similarly have the right to examine or audit the books, records, state sales tax returns or accounts of any and all persons or entities who are guarantors of the Franchisee's performance, who have personal liability, or who have joint and severable liability under this Agreement in those instances

in which Franchisee has failed to make payments of the Royalty or Advertising Contribution in a timely fashion or has otherwise defaulted under this Agreement. In the event the audit discloses an understatement of Gross Sales for any period or periods, Franchisee shall, within 15 days after receipt of the audit report, pay BKC the Royalty and Advertising Contribution (including any ISP fee) in the amount of the understatement plus the late charge identified in Section 9.D. of this Agreement from the date such payments were originally due. Additionally, in the event the audit discloses an understatement of Gross Sales which exceeds two percent (2%) for any period or periods, Franchisee shall, within fifteen (15) days after the receipt of the audit report, reimburse BKC for all costs of the audit including travel, lodging and wages, reasonably incurred.

D. Release of Financial Information

Except as otherwise provided in any lease between BKC, or any of its Affiliates, and Franchisee, BKC shall not release to third parties financial or operational information specifically relating to Franchisee and/or the Franchised Restaurant without the consent of Franchisee unless otherwise required to do so by judicial or administrative order. If BKC is required to disclose such information, BKC shall use reasonable efforts to give Franchisee notice thereof. Notwithstanding the foregoing however, BKC may 1) release general financial or operational information relating to the BURGER KING System compiled in whole or in part from Franchisee and/or the Franchised Restaurant so long as Franchisee and/or the Franchised Restaurant are not specifically identified, and 2) publish operational metrics and scores of the Franchised Restaurant and its rank in comparison to other restaurants in the BURGER KING System as long as the publication of the metrics, scores and rankings are distributed only to other franchisees of BKC.

11. LIMITATIONS OF FRANCHISE

A. Trademarks, Trade Names, Service Marks and Trade Secrets

(1) Franchisee acknowledges that ownership of all right, title and interest to the BURGER KING System and the BURGER KING Marks, are and shall remain vested solely in BKC and Franchisee disclaims any right or interest therein or the good will derived therefrom. All good will associated with the BURGER KING Marks is the sole property of BKC. Franchisee agrees that all materials loaned or otherwise made available to Franchisee and all disclosures made to Franchisee and not to the general public by or at the direction of BKC or its predecessor at any time before or during the Term of this Agreement relating to the BURGER KING System, including the MOD Manual in its entirety, financial information, marketing strategy and marketing programs are to be considered trade secrets of BKC for purposes of this Agreement and shall be kept confidential and used by Franchisee only in connection with the operation of the Franchised Restaurant and other franchised BURGER KING Restaurants. Franchisee agrees not to divulge any of the trade secrets to any person other than Franchisee's employees and then only to the extent necessary for the operation of the Franchised Restaurant and, specifically, that Franchisee will not, nor permit anyone to, reproduce, copy or exhibit any portion of the MOD Manual or any other trade secrets of BKC.

(2) Franchisee will not, directly or indirectly, at any time during the Term of this Agreement or thereafter, do or cause to be done any act or thing disputing, attacking or in any way impairing or tending to impair BKC's right, title or interest in the BURGER KING Marks or the BURGER KING System. Franchisee shall immediately notify BKC of all infringements or limitations of the BURGER KING Marks which come to Franchisee's attention or challenges to Franchisee's use of any of the BURGER KING Marks, and BKC shall exercise absolute discretion in deciding what action, if any, should be taken. Franchisee agrees to cooperate in the prosecution of any action to prevent the infringement, limitation, illegal use or misuse of the BURGER KING Marks and agrees to be named as a party in any such action if so requested by BKC. BKC agrees to bear the legal expenses incident to Franchisee's participation in such action, except for fees, expenses and other costs of Franchisee's personal legal counsel if Franchisee elects to be represented by counsel of Franchisee's own choosing.

(3) Franchisee shall not use any of the BURGER KING Marks, any variations or abbreviations, or any words confusingly similar to the BURGER KING Marks as part of Franchisee's corporate, limited liability company, or partnership name.

(4) Unless otherwise required by this Agreement, Franchisee shall not use any of the BURGER KING Marks, any variations or abbreviations, or any words confusingly similar to the BURGER KING Marks on any website, or other electronic or social media or in or as part of any domain name or electronic mail address.

B. Independent Contractor

Franchisee is an independent contractor and is not an agent, partner, joint venturer, joint employer, or employee of BKC, and no fiduciary relationship between the parties exists. Franchisee shall be the sole and exclusive employer of its employees and is solely responsible for all aspects of the employment relationship with its employees, with the sole right to hire, discipline, promote, demote, transfer, discharge, and establish wages, hours, benefits, employment policies, and other terms and conditions of employment for its employees without consultation with or approval by BKC. Franchisee shall have no right to bind or obligate BKC in any way nor shall Franchisee represent that Franchisee has any right to do so. BKC shall have no control over the terms and conditions of employment of Franchisee's employees.

In all public records and in Franchisee's relationship with other persons, on stationery, business forms and checks Franchisee shall indicate independent ownership of the Franchised Restaurant and that it is operated under a Franchise granted by BKC.

Franchisee shall exhibit at the Franchised Restaurant, in such places as may be designated by BKC, a notification that the Franchised Restaurant is operated by an independent operator and not by BKC.

12. UNFAIR COMPETITION

Franchisee acknowledges the uniqueness of the BURGER KING System and that BKC is making its knowledge, know-how and expertise available to Franchisee for the purpose of operating the Franchised Restaurant. Franchisee agrees that it would be an unfair method of competition for Franchisee to use or duplicate or to allow others to use or duplicate any of the knowledge, know-how and expertise received from BKC for any use other than for the operation of franchised BURGER KING Restaurants. Franchisee, therefore, warrants that during the Term of this Agreement, Franchisee will utilize Franchisee's best and continuing efforts to promote and develop the business at the Franchised Restaurant and during the Term hereof and at all times thereafter will not directly or indirectly engage in the operation of any restaurant, other than the Franchised Restaurant and other BURGER KING Restaurants franchised from BKC, which utilizes or duplicates the BURGER KING System, any trade secrets of BKC, the BURGER KING Marks or the present or any former BURGER KING Current Image.

13. INSURANCE; INDEMNIFICATION

A. Insurance

Franchisee shall procure, or cause to be procured, prior to the opening of the Franchised Restaurant, and maintain, or cause to be maintained, in full force and effect from and following the Commencement Date and during the Term of this Agreement, at the Franchisee's expense, an insurance policy or policies protecting Franchisee and BKC (and any other entity that BKC reasonably requests) and their respective officers, directors, partners, agents and employees, against any loss, liability or expense.

B. Specific Coverage

(1) Such policy or policies shall be written by an insurance company approved in writing by BKC in accordance with the standards and specifications set forth by BKC in the MOD Manual or otherwise in writing, and shall include, at a minimum (except as additional coverages and higher policy limits that may reasonably be specified for BKC franchisees from time to time by BKC in the MOD Manual or otherwise in writing), the following:

(i) commercial general liability insurance with a primary and excess limit of not less than Five Million Dollars (\$5,000,000) per occurrence inclusive of bodily injury, death, personal injury, property damage, non-owned automobile, blanket contractual and products and completed operations liability, with the annual aggregate liability limit to be maintained on the commercial general liability insurance (which can be achieved through a combination of primary and excess annual aggregate liability limits) based on the number of BURGER KING Restaurants owned by Franchisee and its Affiliates as follows: (1) for 1-10 Restaurants, an annual aggregate liability limit of not less than Five Million Dollars (\$5,000,000) per year, (2) for 11-50 Restaurants, an annual aggregate liability limit of not less than Ten Million Dollars (\$10,000,000) per year, and (3) for more than 50 Restaurants, an annual aggregate liability limit of not less than Twenty Million Dollars (\$20,000,000) per year. Such insurance shall name BKC and any other entity that BKC acting reasonably requests as additional insureds. The addition of BKC and any other entity as additional insureds must be effectuated through an endorsement to Franchisee's insurance policy which shall be effectuated through the following language: "BKC, its parent company, its officers, employees, directors, and Affiliates", without any language limiting coverage. For purposes of this Section 13(B)(1)(i) only, if the Operating Partner of Franchisee is the Operating Partner of another BURGER KING franchisee, such franchisee shall be considered an Affiliate of Franchisee;

(ii) automobile liability insurance on all owned and/or leased vehicles, with a combination of primary and excess limits of not less than One Million Dollars (\$1,000,000.00);

(iii) "all risks" property insurance, (including business interruption coverage with an indemnity period of at least 12 months), on the Premises and property of every description and kind owned by Franchisee or for which Franchisee is legally liable, or which is installed by or on behalf of Franchisee within the Premises including stock in trade, furniture, equipment, partitions, trade fixtures and leasehold improvements, all in an amount not less than the full replacement cost thereof. Such insurance shall name BKC and any other entity that BKC acting reasonably requests as a loss payee as its interest may appear and shall include a waiver of subrogation in favor of BKC and any other loss payee;

(iv) broad form Boiler and Machinery insurance covering all boilers, pressure vessels and HVAC equipment within the Premises in an amount not less than the full replacement cost thereof. Such insurance shall name BKC and any other entity that BKC acting reasonably requests as a loss payee as its interest may appear and shall include a waiver of subrogation in favor of BKC and any other loss payee; and

(v) such other insurance and in such amounts as reasonably may be required by BKC for its own and Franchisee's protection.

(2) Franchisee's obligation to obtain and maintain the foregoing policy or policies in the amounts specified shall not be limited in any way by reason of any insurance which may be maintained by BKC, nor shall Franchisee's performance of that obligation relieve it of liability under the indemnity provisions set forth in this Agreement. All insurance maintained by Franchisee shall be primary and shall not call into contribution any insurance maintained by BKC.

C. Evidence of Insurance

From and following the Commencement Date, at BKC's reasonable request, evidence of insurance in the form of a certificate or certificates of insurance showing compliance with the foregoing requirements shall be furnished by Franchisee to BKC or its designee. The evidence of insurance shall include a statement that the policy or policies will not be cancelled or materially altered without at least thirty (30) days prior written notice to BKC. Original or authenticated copies of all insurance policies shall be submitted promptly to BKC upon BKC's request, together with proof of payment therefor. All insurance maintained by the Franchisee shall be with insurers with a minimum A. M. Best A(X) rating or Standard & Poor's Rating of A.

D. Worker's Compensation

Franchisee agrees to secure and pay premiums on a Worker's Compensation policy covering Franchisee and all Franchisee's employees, as required by law.

E. Indemnity

(1) Franchisee is responsible for all losses or damages and contractual liabilities to third persons arising out of or in connection with possession, ownership or operation of the Franchised Restaurant, and for all claims or demands for damages to property or for injury, illness or death of persons directly or indirectly resulting therefrom. Franchisee agrees to defend, indemnify and save BKC and its subsidiaries, its Affiliates and parent companies harmless of, from and with respect to any such claims, demands, losses, obligations, costs, expenses, liabilities, debts or damages, (including reasonable attorney's fees) unless resulting from the negligence of BKC. BKC's right to indemnity under this Agreement shall arise and be valid notwithstanding that joint or concurrent liability may be imposed on BKC by statute, ordinance, regulation or other law. The indemnification of BKC by Franchisee shall not be limited by the amount of insurance required under Section 13.B. This indemnity obligation shall include, but not be limited to, claims related to the employment of Franchisee's employees. This obligation of Franchisee to indemnify and defend BKC is separate and distinct from its obligation to maintain insurance under the provisions of Section 13.A.

(2) Franchisee agrees to defend, indemnify and save BKC and BKC's officers, directors, agents, employees, attorneys, and accountants, subsidiaries, Affiliates and parent companies, harmless of, from and with respect to any claims, demands, losses, obligations, costs, expenses, liabilities, debts or damages any of them may incur (including reasonable attorney's fees) arising from or relating to the sale of securities of Franchisee, including claims, demands, losses, obligations, costs, expenses, liabilities, debts or damages arising from or related to any alleged violation of any federal or state securities law in connection with a sale of securities of Franchisee. BKC shall notify Franchisee of any claims, and Franchisee shall be given the opportunity to assume the defense of the matter. If Franchisee fails to assume the defense, BKC may defend the action in the manner it deems appropriate, and Franchisee shall pay to BKC all costs, including attorneys' fees, incurred by BKC in effecting such defense, in addition to any sum BKC may pay by reason of any settlement or judgment against BKC. BKC's right to indemnity under this Agreement shall arise and be valid notwithstanding that joint or concurrent liability may be imposed on BKC by statute, ordinance, regulation or other law. BKC and the other indemnitees shall, in all instances, have the right to be represented by counsel of its/their own choosing, at Franchisee's expense, and to participate in the defense of any such claim.

F. Defense of Claims

BKC shall notify Franchisee of any claims, and Franchisee shall be given the opportunity to assume the defense of the matter; however, BKC shall have the right to participate in the defense of any claim or action against it which is assumed by Franchisee, at BKC's own cost and expense. If Franchisee fails to assume the defense of any claim covered by the indemnification provisions of Section 13.E., BKC may defend the action in the manner it deems appropriate, and Franchisee shall pay

to BKC all costs, including attorneys' fees, incurred by BKC in effecting such defense, in addition to any sum which BKC may pay by reason of any settlement or judgment against BKC. No settlement of any claim against BKC shall be made by Franchisee which is in excess of the amount of insurance referred to in Section 13.B or which would subject BKC to liability in any amount not covered by such insurance without the prior written consent of BKC. If the indemnifiable claim involves multiple franchisees and BKC reasonably determines that consolidation of all such claims would be in the best interests of BKC and the affected franchisees, including Franchisee (in which case any liability of Franchisee hereunder would be on a pro rata basis), BKC shall have the right to defend the claim, action or demand by appropriate proceedings with sole power to direct and control such defense with respect to BKC, and Franchisee shall pay to BKC a pro rata share of all costs, including reasonable attorneys' fees, incurred by BKC in effecting such defense and any subsequent legal appeal, in addition to any sums which BKC may pay by reason of any settlement or judgment against BKC.

14. TAXES

Franchisee shall pay when due all Taxes levied or assessed in connection with the possession, ownership or operation of the Franchised Restaurant or in connection with amounts paid or received under this Agreement, including any Indirect Tax (other than any Tax that is measured by or related to the net income of BKC or to its corporate status in a state). If any such Tax shall be paid by BKC, Franchisee shall promptly reimburse BKC the amount paid. In the event of any bona fide dispute as to the liability for a Tax assessed against Franchisee, Franchisee may contest the validity or the amount of the Tax in accordance with procedures of the Tax Authority. Franchisee shall not permit a tax sale or seizure against the Franchised Restaurant or equipment.

Notwithstanding the foregoing or anything else herein, the amount of all fees payable pursuant to this Agreement by the Franchisee do not include Indirect Tax and, in the event Indirect Tax applies on the fees payable pursuant to this Agreement, Franchisee will be responsible for such Indirect Tax either (i) through payment of the Indirect Tax to BKC or (ii) if Franchisee is required by law to deduct and pay the applicable Indirect Tax to the relevant Tax Authority, Franchisee will gross up the fees by the applicable Indirect Tax and remit payment of the applicable Indirect Tax amount to the relevant Tax Authority, without any deduction from fees payable under this Agreement. If there is an exemption in the territory of the Franchised Restaurant for the application of Indirect Taxes to any payments made by Franchisee to BKC or its designee, Franchisee will cooperate in good faith with BKC and take all reasonable steps necessary to ensure that BKC or its designee will be eligible for such exemption, including by applying for the exemption with the applicable Tax Authority.

15. ASSIGNMENT AND TRANSFER: CONDITIONS AND LIMITATIONS

A. This Agreement and the franchise grant are personal to Franchisee, and Franchisee shall not sell, assign or transfer this Agreement or any right or ownership interest in the franchise granted, nor permit any such assignment or transfer to occur directly, indirectly or contingently by agreement or operation of law without the prior written consent of an authorized officer of BKC.

B. Franchisee shall not (1) assign or pledge this Agreement or assign any of Franchisee's rights or delegate its duties hereunder; or (2) sell, assign, transfer, convey or give away substantially all of the assets of the Franchised Restaurant. Notwithstanding any consent granted by BKC pursuant to Section 15.A., Franchisee shall not pledge, mortgage, hypothecate, give as security for an obligation or in any manner encumber this Agreement or the franchise granted herein except with the express written consent of BKC given in connection with the execution of BKC's then-current third party intercreditor agreement. Franchisee shall pay BKC a transfer fee in the amount set forth as the Intercreditor Agreement Transfer Fee on the Key Contract Data page for the costs and expenses incurred by BKC in connection with facilitating the execution of the intercreditor agreement (the "Intercreditor Agreement Transfer Fee"). The Intercreditor Agreement Transfer Fee is in addition to any other transfer fees referenced in this Agreement.

C. In the event of the death or incapacity of Franchisee or, if this Agreement has been assigned to a corporation or a limited liability company, the death or incapacity of an owner of Voting Common Stock or Voting Units, BKC shall consent to a transfer of decedent's or incapacitated party's interest to Franchisee's heirs, surviving spouse, partner, or shareholder owning at least twenty-five percent (25%) of the Voting Common Stock of a corporation or twenty-five percent (25%) of the Voting Units of a limited liability company (collectively and individually an "Heir"), subject to the following conditions:

(1) The Heir must complete and be approved through BKC's standard franchisee selection process, including satisfactorily demonstrating to BKC that the Heir meets the financial, character, and managerial criteria, as well as equity ownership and such other criteria and conditions as BKC shall then be applying in considering applications for new franchises.

(2) The Heir shall have successfully completed BKC's training for new franchisees.

(3) The Heir shall agree, in writing, to assume liability for and to perform all the terms and conditions of this Agreement to the same extent as the original franchisee.

(4) If the Heir is not approved or there is no Heir, the estate of the deceased shall sell the Franchised Restaurant to an acceptable party within eighteen (18) months from the date of Franchisee's death or incapacity, and BKC shall have an option, but not the obligation, to operate and/or manage the Franchised Restaurant for the account of Franchisee's estate until the deceased or incapacitated Franchisee's interest is transferred to another party acceptable to BKC. Should BKC elect to operate and/or manage the Franchised Restaurant, BKC shall make a complete accounting and shall forward the net income from the operation to Franchisee's estate, less expenses and a reasonable management fee. If the conveyance of the Franchised Restaurant to a party acceptable to BKC has not taken place within the eighteen (18)-month period, BKC shall have the option to purchase the Franchised Restaurant at fair market value.

D. With the prior written consent of BKC, Franchisee may assign this Agreement to a corporation ("Corporation") or a limited liability company ("LLC"). BKC may impose reasonable conditions on any assignment, including the conditions set forth below.

(1) If Franchisee requests that BKC approve an assignment of this Agreement to a Corporation:

(a) The assignment to the Corporation will not relieve Franchisee of personal liability to BKC for the performance of all obligations under this Agreement.

(b) For the purpose of determining compliance with this Agreement, BKC shall have the right at any time to examine and approve the form and content of the articles or certificate of incorporation and by-laws of the Corporation (the "Governing Instruments").

(c) The Corporation shall issue Voting Common Stock and may issue either Non-Voting Common Stock or Non-Voting Preferred Stock. The Corporation may not issue both Non-Voting Common Stock and Non-Voting Preferred Stock. As used herein, the term "Non-Voting Stock" refers to the Non-Voting Common Stock or the Non-Voting Preferred Stock and the term "Stock" refers collectively to Voting Common Stock and Non-Voting Stock.

(d) Franchisee shall own one hundred percent (100%) of the outstanding shares of Voting Common Stock. The Operating Partner must remain the owner of not less than fifty percent (50%) of the outstanding shares of Voting Common Stock after any transfer or issuance of shares of the Corporation.

(e) Shares of Non-Voting Stock may be issued to, owned and held only by the spouse and/or children of the Franchisee ("Immediate Family Member") and key employees of Franchisee's franchised BURGER KING Restaurant(s). Prior to the issuance of any and all Stock, Franchisee shall take all steps reasonably necessary to comply with applicable state and federal laws and regulations including any applicable disclosure requirements.

(f) A Corporation issuing Non-Voting Stock shall adopt and use the provisions set forth in BKC's "Guidelines For The Preparation Of Corporate Governing Instruments" (the "Corporation Guidelines"), receipt of a copy of which is hereby acknowledged by Franchisee.

(g) Neither the governing instruments nor any other agreement shall grant to owners of shares of Non-Voting Stock the ability to prevent the approval of an action otherwise approved by the owners of all the shares of Voting Common Stock.

(h) Franchisee shall cause the Corporation to comply with the provisions of this Agreement, including the Corporation Guidelines and the Governing Instruments. If the Corporation fails or is unable to comply with these provisions, including the provisions limiting the voting rights of owners of shares of Stock, the provisions limiting the number of owners of Voting Common Stock, the provisions limiting the payment of dividends and the provisions requiring redemption or repurchase of shares of Stock, then the Franchisee shall take action to cause substantial compliance, which action may include the purchase by Franchisee of shares of Non-Voting Stock and, if Franchisee fails or is unable to cause substantial compliance, then BKC may declare Franchisee and the Corporation in default under this Agreement and any other Agreement similarly affected by Franchisee's failure or inability.

(i) Immediate Family Members and key employees shall not be required to become personally liable for the performance of the terms and conditions of the Agreement as a result of their ownership of shares of Non-Voting Stock.

(j) Under the provisions set forth in the Corporation Guidelines, the Governing Instruments shall require that the Corporation shall redeem Non-Voting Stock at such time as the holder ceases to be a key employee or an Immediate Family Member.

(k) No shares of Stock may be pledged, mortgaged, hypothecated, given as security for an obligation or in any manner encumbered.

(l) Any sale, transfer, assignment or issuance of shares of Voting Common Stock shall be subject to BKC's approval. In the case of an acquisition of additional shares by the Operating Partner, this requirement shall be satisfied by BKC being given written notice describing the transaction within seven (7) days following the transfer or issuance. At no time shall the Corporation have more than five (5) holders of shares of Voting Common Stock unless otherwise authorized in writing by the Chief Executive Officer of BKC. Notwithstanding the foregoing, BKC may, in the exercise of its reasonable discretion, permit more than five holders of shares of Voting Common Stock upon compliance with each of the following conditions:

(i) The additional holder ("Additional Holder") is an Immediate Family Member of an individual, original franchisee ("Original Franchisee"). No more than one Additional Holder shall be permitted per Original Franchisee.

(ii) The Additional Holder is approved as a BURGER KING Franchisee in accordance with then current BKC standards for approving new franchisees.

(iii) The Additional Holder agrees, in writing, to assume liability and to perform all the terms and conditions of the Agreement to the same extent as the Original Franchisee.

In no event shall there be more than five (5) Additional Holders nor at any time shall the combined total of Original Franchisees and Additional Holders exceed ten (10).

(m) The Corporation shall not engage in any business activity other than that which is directly related to the ownership and operation of Franchisee's franchised BURGER KING Restaurant(s).

(n) The Governing Instruments of the Corporation shall reflect the limitation in the number of shareholders of Voting Common Stock and that the issuance and transfers of shares of Voting Common Stock are restricted and may be issued or transferred only with the written consent of BKC.

(o) All Stock certificates shall include the following legend:

THE OWNERSHIP AND TRANSFER OF THIS STOCK IS SUBJECT TO THE TERMS AND CONDITIONS OF THE ARTICLES OF INCORPORATION, THE BY-LAWS OF THIS CORPORATION AND OF A FRANCHISE AGREEMENT WITH BURGER KING COMPANY LLC. REFERENCE IS MADE TO SUCH FRANCHISE AGREEMENT AND THE PROVISIONS OF THE ARTICLES OF INCORPORATION AND BY-LAWS OF THIS CORPORATION, COPIES OF WHICH ARE ON FILE WITH THE RECORDS OF THE CORPORATION.

(p) Franchisee shall comply with the requirements of Section 11.A(3) of this Agreement in the adoption of any corporate name.

(2) If Franchisee requests that BKC approve an assignment of this Agreement to an LLC:

(a) The assignment to the LLC will not relieve Franchisee of personal liability to BKC for the performance of all obligations under this Agreement.

(b) For the purpose of determining compliance with this Agreement, BKC shall have the right at any time to examine and approve the form and content of the articles of organization and operating agreement or "regulations" of the LLC (the "Governing Instruments").

(c) The LLC shall issue voting membership interests and may issue non-voting membership interests, provided, however, that such issuance is in compliance with the limited liability company enabling statute of the state in which the LLC is created. As used herein, the term "Voting Units" refers to any "voting membership interests," "Non-Voting Units" refers to any non-voting membership interests, and the term "Units" refers collectively to Voting Units and Non-Voting Units. The LLC may also grant certain members preferential rights with respect to distributions of the LLC, provided, however, that such grant is in compliance with the applicable enabling statute and that such preferential rights be granted to members who hold only Non-Voting Units.

(d) Franchisee shall own one hundred percent (100%) of the outstanding Voting Units. The Operating Partner must remain the owner of not less than fifty percent (50%) of the outstanding Voting Units after any transfer or issuance of Units of the LLC.

(e) Non-Voting Units may be issued to, owned and held only by the spouse and/or children of the Franchisee ("Immediate Family Members") and key employees of

Franchisee's franchised Burger King Restaurant(s) ("Key Employees"). Prior to the issuance of any and all Units, Franchisee shall take all steps reasonably necessary to comply with applicable state and federal laws and regulations including any applicable disclosure requirements.

(f) An LLC issuing Non-Voting Units shall adopt and use the applicable provisions set forth in BKC's "Guidelines For The Preparation of Limited Liability Company Governing Instruments" (the "Guidelines"), receipt of a copy of which is hereby acknowledged by Franchisee.

(g) Neither the Governing Instruments nor any other agreement shall grant to owners of Non-Voting Units the ability to prevent the approval of an action otherwise approved by the owners of all the Voting Units.

(h) Franchisee shall cause the LLC to comply with the provisions of this Agreement, including the Guidelines and the Governing Instruments. If the LLC fails or is unable to comply with these provisions, including the provisions limiting the voting rights of owners of Units, the provisions limiting the number of owners of Voting Units and the provisions requiring redemption or repurchase of Units, then the Franchisee shall take action to cause substantial compliance, which action may include the purchase by Franchisee of Non-Voting Units and, if Franchisee fails or is unable to cause substantial compliance, then BKC may declare Franchisee and the LLC in default under this Agreement and any other Franchise Agreement similarly affected by Franchisee's failure or inability.

(i) Immediate Family Members and Key Employees shall not be required to become personally liable for the performance of the terms and conditions of the Agreement as a result of their ownership of Non-Voting Units.

(j) Under the provisions set forth in the Guidelines, the Governing Instruments shall require that the LLC redeem Non-Voting Units at such time as the holder ceases to be a Key Employee or an Immediate Family Member.

(k) No Units may be pledged, mortgaged, hypothecated, given as security for an obligation or in any manner encumbered.

(l) Any sale, transfer, assignment or issuance of Voting Units shall be subject to BKC's approval. In the case of an acquisition of additional Units by the Operating Partner, this requirement shall be satisfied by BKC being given written notice describing the transaction within seven (7) days following the transfer or issuance. At no time shall the LLC have more than five (5) holders of Voting Units unless otherwise authorized in writing by the Chief Executive Officer of BKC. Notwithstanding the foregoing, BKC may, in the exercise of its reasonable discretion, permit more than five holders of Voting Units upon compliance with each of the following conditions:

(i) The additional holder ("Additional Holder") is an Immediate Family Member of an individual, original franchisee ("Original Franchisee"). No more than one Additional Holder shall be permitted per Original Franchisee.

(ii) The Additional Holder is approved as a Burger King Franchisee in accordance with then current BKC standards for approving new franchisees.

(iii) The Additional Holder agrees, in writing, to assume liability and to perform all the terms and conditions of the Agreement to the same extent as the Original Franchisee.

In no event shall there be more than five (5) Additional Holders nor at any time shall the combined total of Original Franchisees and Additional Holders exceed ten (10).

(m) LLC shall not engage in any business activity other than that which is directly related to the ownership and operation of Franchisee's franchised Burger King Restaurant(s).

(n) The Governing Instruments of the LLC shall reflect the limitation in the number of holders of Voting Units and that the issuance and transfers of Voting Units are restricted and may be issued or transferred only with the written consent of BKC.

(o) Franchisee shall comply with the requirements of Paragraph 11.A(3) of this Agreement in the adoption of any name for the LLC.

(p) Franchisee shall deliver an opinion letter to BKC from the LLC's legal counsel, which legal counsel shall be reasonably acceptable to BKC, as to the LLC's due organization, good standing and authority to enter into the Agreement.

(q) Franchisee shall pay to BKC an initial one-time Processing Fee in the amount set forth as the Processing Fee on the Key Contract Data page (the "Processing Fee") and a Transfer Fee in the amount set forth as the Transfer Fee on the Key Contract Data page (the "Transfer Fee") at the time of the request for assignment.

(r) Franchisee shall have completed all deferred repair and maintenance requirements at the Franchised Restaurant at the time of the request for assignment.

(s) There are no defaults under this Agreement or any other agreements between Franchisee and BKC at the time of the request for assignment.

(t) All monetary obligations to BKC of any kind, whether arising under this Agreement or otherwise, shall be paid in full at the time of the request for assignment.

(u) Franchisee shall otherwise satisfy all of BKC's standard requirements for Franchise Approval (other than financial approval) at the time of the request for assignment.

E. If more than one (1) individual comprises the Franchisee, the assignment, in whole or in part, by any such individual (the "Individual Seller") of Franchisee's ownership interest in the Franchised Restaurant (or if this Agreement has been assigned to a Corporation or LLC pursuant to Section 15.D herein, the assignment of Franchisee's stock of the Corporation or Voting Units of the LLC) shall be subject to the prior written consent of BKC, which consent will not be unreasonably withheld upon compliance with the conditions required by BKC on the assignment. BKC shall use reasonable efforts to provide to Franchisee consent to the assignment, or communicate notice of disapproval, within ninety (90) days (for transactions involving less than ten (10) restaurants, the time frame shall be sixty (60) days) of receipt by BKC of Franchisee's notice of assignment and the furnishing by Franchisee of all information reasonably requested by BKC. Conditions on the assignment may include but are not limited to the following:

(1) For the purpose of determining compliance with this Agreement, BKC shall have the right at any time to examine and approve the form and content of the Governing Instruments;

(2) That all of Franchisee's accrued monetary obligations and all other outstanding obligations to BKC and its Affiliates, whether arising under this Agreement or otherwise, have been satisfied;

(3) That Franchisee is not in default of any provision of this Agreement, any amendment hereof or successor hereto, or any other agreement between Franchisee and BKC or its Affiliates;

(4) That the transferee (or, if applicable, such owners of the transferee as BKC may request), in BKC's sole judgment, satisfies all of BKC's business standards and requirements; has the aptitude and ability to operate the Franchised Restaurant; and has adequate financial resources and capital to do so; and that transferee complete and be approved through BKC's standard franchisee application and selection process including satisfactorily demonstrating to BKC that such transferee meets the financial, character, managerial, ownership and such other requirements, criteria and conditions as BKC shall then be applying in considering applications for new franchises, including such transferee (or, if applicable, the owners of the transferee and its Restaurant Managers), at the transferee's expense, satisfactorily completing all BKC's orientation and training requirements.

(5) That the transferee, at BKC's election, consistent with then-current BKC policy, (a) enters into a written assignment, in a form satisfactory to BKC, assuming and agreeing to discharge all of Franchisee's obligations under this Agreement, or (b) executes, for a term ending on the Expiration Date of this Agreement, BKC's then-current form of BURGER KING Restaurant franchise agreement applicable to such transferee and such other ancillary agreements as BKC may require for the Franchised Restaurant; provided, however, that the royalty and advertising contribution rates shall be the same as stated herein until such Expiration Date. If the transferee is required to execute a new franchise agreement, such agreement shall supersede this Agreement in all respects;

(6) That the transferee (or, if applicable, such owners of the transferee as BKC may request) meets all of the BKC requirements then applicable to ownership of franchises and executes a guarantee of the performance of Franchisee's obligations to BKC and BKC's Affiliates. For the purposes of determining compliance, BKC shall have the right to examine and approve the form and content of all governing documents;

(7) That the Franchisee and each transferor execute a general release, in a form satisfactory to BKC, of any and all claims against BKC, its Affiliates, and their respective officers, directors, agents, and employees, in their corporate and individual capacities;

(8) Approval by BKC of the terms of the contract of sale which impact the sufficiency of cash flow from the business after payment of debt service to provide for, among other things, any needed repairs to or remodeling of the Franchised Restaurant; and

(9) That the transferor pay the Transferor Transfer Fee set forth on the Key Contract Data page in consideration of BKC's expenses in reviewing the proposed transfer (the "Transferor Transfer Fee"). In the event the transferee is not an existing approved BURGER KING franchisee, Franchisee seller shall pay BKC a New Franchisee Training Fee in the amount set forth as the New Franchisee Training Fee on the Key Contract Data page in connection with the transfer of the first restaurant involved in the transaction (the "New Franchisee Training Fee").

F. If BKC does not accept the offer under Section 16.A below, Franchisee, or an Individual Seller may conclude the sale to the purchaser who made the offer provided BKC's consent to the assignment be first obtained, which consent will not be unreasonably withheld upon compliance with the conditions imposed by BKC on the assignment. Conditions may include, but are not limited to, the conditions set forth in Section E above. BKC shall use reasonable efforts to provide to Franchisee consent of the assignment, or communicate notice of disapproval, within ninety (90) days (for transactions involving less than ten (10) restaurants the time frame shall be sixty (60) days) of receipt by BKC of Franchisee's notice of assignment and the furnishing by Franchisee of all information reasonably requested by BKC.

G. In the event of a sale, transfer, or assignment, of any interest in this Agreement, or the Franchised Restaurant, or a transfer of all or any part of an Individual Seller's interest in the Franchised Restaurant (or all or part of the stock of a corporation or membership interests in an LLC), Franchisee or Individual Seller (hereinafter collectively, "Transferor") shall remain personally liable for all Royalty, Advertising Contribution and other payments which come due during the periods of time hereinafter described, in accordance with the following criteria:

(1) If Transferor has transferred Transferor's interest pursuant to a contract of sale which provides that installment payments of the purchase price are to be made to the Transferor or the Transferor's designee, the liability of the Transferor will continue for the longer of (i) twelve (12) months from the date of assignment, or (ii) such time as the payments are to be made, including any extensions, provided, however, that after the first anniversary of such transfer, the liability of the Transferor shall be limited to the total amount of the original installment payments to be made under the contract for sale or other instrument evidencing the debt. If the holder of the note or other evidence of debt deems the obligation satisfied, Transferor will simultaneously be released from liability to BKC under this Agreement for Royalty and Advertising Contributions. Any contract for sale which provides for installment payments shall provide that such payments are subordinate to the payment of Royalty and Advertising Contributions called for in this Agreement and that the note or other evidence of the obligation shall not be assignable by the holder or payee.

(2) If Transferor has transferred Transferor's interest pursuant to a contract of sale which provides for cash payment in full, upon transfer, of the entire purchase price, the Transferor's liability shall continue for a period of twelve (12) months from the date of the transfer, and shall be limited to the amount of Royalty and Advertising Contributions which accrued during such period and are not paid by Transferee. Upon payment of such amount, Transferor shall be automatically released from any continuing liability under this Agreement for Royalty and Advertising Contributions.

H. Following a transfer of Transferor's interest, in the event BKC seeks to enforce continuing liability pursuant to Section 15.G above, the immediately preceding transferor of an interest in the franchise against whom liability is sought will be afforded an opportunity to cure the default and the right to reassume the position of franchisee under the terms of this Agreement provided all of the following conditions have been met:

(1) At the time of transfer, the Transferor must have been in good standing with BKC in accordance with the operational expansion criteria then in effect for Franchise Approval;

(2) At the time of proposed re-entry, the Transferor must be in good standing and be able to satisfy BKC's then current Franchise Approval Criteria and Expansion Approval Criteria and deliver to BKC appropriate application forms and such other documents and agreements as BKC may reasonably require evidencing the assumption by Transferor of the rights and obligations under the remaining term of the Franchise Agreement.

(3) At the time of re-entry, BKC shall be paid, in full, all sums past due and owing under this Agreement and any agreement related to the Franchised Restaurant, as well as any past due sums related to products or supplies sold by BKC for use in the Franchised Restaurant, including any pre- and post-petition amounts due from any franchisee with regard to the Franchised Restaurant which is the subject of a proceeding under the United States Bankruptcy Code or any similar law affecting the rights of creditors generally.

(4) Transferor must take possession of and acquire control and dominion over substantially all of the tangible real and personal property associated with the operation of the Franchised Restaurant.

I. During the period of time in which Transferor remains liable pursuant to Section 15.G above, BKC shall use reasonable efforts to send simultaneous copies of notices of default under this Agreement to Transferor. Transferor shall use reasonable efforts to send simultaneous copies of notices of default under any installment payment due to Transferor from Transferee. Failure of either party to provide copies of the notices of default shall not be an event of default under the terms of this Agreement. Transferor shall be afforded the same opportunity to cure as is set forth in the Notice of Default.

J. In addition, Franchisee agrees that, prior to acquiring any other BURGER KING Restaurant franchise which may be offered to Franchisee for sale or which Franchisee may offer to purchase, such franchise will first be offered to BKC on the same terms, conditions and price in accordance with Section 16.

K. The proposed transferor shall notify BKC in writing of any proposed transfer of an interest referred to in this Section 15 before the proposed transfer is to take place, and shall provide such information and documentation relating to the proposed transfer as BKC may reasonably require.

L. BKC's consent to a transfer shall not constitute a waiver of any claims it may have against the transferring party, nor shall it be deemed a waiver of BKC's right to demand exact compliance with any of the terms of this Agreement by the transferor or transferee.

16. RIGHT OF FIRST REFUSAL

A. In the event Franchisee, any one (1) or more individual or partner comprising Franchisee, any one (1) or more Affiliates of Franchisee, or any one (1) or more Affiliates of any individual or partner comprising Franchisee wishes to accept a bona fide offer from a third party to purchase the Franchised Restaurant or any portion thereof or interest therein, Franchisee shall give BKC written notice setting forth the name and address of the prospective purchaser, the price and terms of the offer together with a franchise application completed by the prospective purchaser, a copy of the Purchase and Sale Agreement, executed by both Franchisee and purchaser, and all exhibits, copies of any real estate purchase agreement or agreements, proposed security agreements and related promissory notes, assignment documents, title insurance commitment and any other information that BKC may request in order to evaluate the offer. BKC or its Affiliates shall then have the prior option to purchase the interests covered by the offer at the price and upon the same terms of the offer. If the consideration is not money, the purchase price shall be cash equal to the fair market value of the consideration. BKC shall have twenty (20) business days, excluding weekends and Federal holidays, after receipt of the notice of offer and the furnishing of all reasonably requested information within which to notify Franchisee, such individuals or partners comprising Franchisee, or such Affiliates, as applicable, of BKC's or its Affiliate's intent to exercise its right hereunder. Silence on the part of BKC shall constitute rejection. If the proposed sale includes assets of Franchisee not related to the Franchised Restaurant or the operation of other franchised BURGER KING Restaurants, BKC or its Affiliate may, at its option, elect to purchase only the assets related to the operation of franchised BURGER KING Restaurants and an equitable purchase price shall be allocated to each asset included in the proposed sale. A bona fide offer from a third party includes any transfer, sale, conveyance, assignment, consolidation, merger or any other transaction in which legal or beneficial ownership of the Franchised Restaurant or the franchise granted by this Agreement is vested in a party other than Franchisee. If this Agreement has been assigned to a Corporation or LLC in accordance with Section 15 of this Agreement, then this right of first refusal shall also apply if Voting Common Stock in the Corporation, or Voting Units in the LLC, is sold, assigned or transferred to individuals or entities other than those approved by BKC as owners of the Voting Common Stock or Voting Units.

B. The election by BKC not to exercise its right of first refusal as to any offer shall not affect its right of first refusal as to any subsequent offer.

C. Any sale, attempted sale, assignment or other transfer of the franchise grant other than a transfer pursuant to Section 15.C or 15.D effected without first giving BKC the right of first refusal described above shall be void and of no force and effect. If this Agreement has been assigned to a Corporation or LLC in accordance with Section 15 of this Agreement, any sale, attempted sale, assignment or other transfer of Voting Common Stock in the Corporation or Voting Units in the LLC to individuals or entities other than those approved by BKC as owners of Voting Common Stock or Voting Units without first giving BKC the right of first refusal described above shall be void and of no force and effect.

17. OPTION TO OBTAIN SUCCESSOR FRANCHISE AGREEMENT

Franchisee shall have, exercisable on the Expiration Date of the Term of this Agreement, an option to obtain a Successor BURGER KING Franchise Agreement ("Successor Franchise Agreement") for a term of twenty (20) years, provided that:

A. Franchisee has given BKC written notice ("Notice") of its intention to exercise its Option to Obtain a Successor Franchise Agreement during the fourth year prior to the expiration of the Term of this Agreement.

B. Franchisee, at the time of the Notice and at the time of the expiration of the Term of this Agreement, is not in default of and has substantially complied with the terms and conditions of this Agreement and all other franchise agreements or other agreements with BKC that Franchisee, Operating Partner may be a party to consistently and throughout its Term, including the following:

(1) Franchisee has operated the Franchised Restaurant in accordance with the terms and conditions of this Agreement, including operating the Franchised Restaurant in compliance with the operating standards and specifications established from time to time by BKC as to quality of service, cleanliness, health and sanitation;

(2) Franchisee has satisfied, in a timely fashion, all financial obligations in accordance with the terms and conditions of this Agreement;

(3) Franchisee has maintained, improved, altered, replaced and remodeled the Franchised Restaurant, including the building, Premises, signs and equipment, throughout the Term of this Agreement in accordance with the terms and conditions of this Agreement.

(4) Franchisee shall have completed, not more than three (3) years and not less than three (3) months prior to the expiration of the Term of this Agreement, the improvements, alterations, remodeling or rebuilding of the interior and exterior of the Franchised Restaurant so as to reflect the then Current Image of BURGER KING Restaurants, pursuant to such plans and specifications as BKC reasonably approves.

(5) Execution by Franchisee of a general release of BKC in a form satisfactory to BKC.

(6) Franchisee meets all then current financial ratios BKC uses to evaluate new franchisees for financial approval.

C. Within one hundred and twenty (120) days after receipt of the Notice, BKC shall advise Franchisee in writing if Franchisee is not eligible to obtain a Successor Franchise Agreement, specifying the reasons for such ineligibility and identifying whether such deficiencies are capable of cure. Between the date of the Notice and the Expiration Date of the Term of this Agreement, if any act, circumstance or omission causes Franchisee to become ineligible to obtain a Successor Franchise

Agreement, then BKC shall advise Franchisee in writing thereof, specifying the deficiency and identifying a cure period if applicable.

D. Franchisee has the right to remain in possession of the Premises for the term of the Successor Franchise Agreement.

E. Franchisee shall execute the applicable form of the then-current Successor Franchise Agreement, which may differ from this Agreement as to royalty, advertising contributions and ownership requirements, as well as other terms and conditions. Franchisee shall, upon execution of the Successor Franchise Agreement, pay to BKC the then current initial franchise fee.

18. DEFAULT AND EFFECT OF TERMINATION

A. Default

If an act of default hereunder is committed by Franchisee, and Franchisee fails to cure the default after any required notice and within the cure period applicable, BKC may, at its option and without prejudice to any other rights or remedies provided for hereunder or by law, terminate this Agreement by written notice or otherwise. The applicable cure period shall be as described below but, if a cure period is not specifically mentioned, it shall be thirty (30) days. In some cases, as identified below, no cure period is allowed and no notice may be required. If any applicable law or rule requires a longer notice period or a longer cure period than that provided herein, then the period required under the law or rule shall be substituted for the requirements herein. The following are material acts of default and shall be good cause for termination:

(1) Franchisee fails to operate the Franchised Restaurant in accordance with the operating standards and specifications established from time to time by BKC as to service, cleanliness, health and sanitation. Franchisee shall have five (5) days after notice to cure the default. In the event that such default is deemed by BKC, in its reasonable discretion, to be of a nature so serious as to threaten the immediate safety or health of customers or employees of Franchisee, then, in such case, Franchisee will, after verbal notice from BKC to Franchisee, immediately cease operation of the Franchised Restaurant until such time as the serious health or safety default is rectified to BKC's satisfaction. Failure to close the Franchised Restaurant under these circumstances shall be an act of default. If this act of default shall occur, BKC shall have the right to immediately terminate this Agreement, such termination to be effective immediately and with no opportunity to cure.

(2) Franchisee sells any product which does not conform to BKC's specifications. Franchisee shall have five (5) days after notice to cure the default.

(3) Franchisee fails to sell products designated by BKC as required to be sold in the Franchised Restaurant. Franchisee shall have five (5) days after notice to cure the default, provided, however, if for reasons beyond the control of Franchisee, Franchisee is unable to obtain such products within the cure period, the default cure period shall be extended for a reasonable period of time provided Franchisee initiates and actively pursues substantial and continuing action within the cure period to cure such default.

(4) Franchisee sells products not approved by BKC. Franchisee shall have five (5) days after notice to cure the default.

(5) Franchisee uses equipment, uniforms or decor not approved by BKC.

(6) Franchisee fails to maintain the Franchised Restaurant in good condition and repair, or fails to make all improvements, alterations or remodelings as may be determined by BKC to

be reasonably necessary to reflect the Current Image as provided in Section 5.B of this Agreement, as and when required.

(7) Franchisee fails to pay when due any Royalty or Advertising Contribution required to be paid under this Agreement. Franchisee shall have ten (10) days after notice to cure the delinquency.

(8) Franchisee (i) fails to submit any information required by Section 10 of this Agreement or (ii) submits a financial statement or other sales report which understates Gross Sales. If Franchisee submits a financial statement or other sales report which understates Gross Sales in an amount which exceeds two percent (2%) for any period or periods, BKC shall have the right to terminate this Agreement, such termination to be effective upon notice to Franchisee and with no opportunity to cure.

(9) Franchisee abandons the franchise relationship without the prior consent of BKC at any time during the Term of this Agreement. Franchisee shall have five (5) days after notice to cure the default. The cessation of operation of the Franchised Restaurant on the Premises other than with the consent of BKC, whether the Premises remain vacant or are converted to another use, shall be considered abandonment of the franchise relationship; provided, however, that the Franchised Restaurant shall not be deemed abandoned if the cessation is due to circumstances beyond Franchisee's reasonable control (such as lack of electrical power, weather conditions, earthquakes, strikes and the like) and Franchisee diligently undertakes to resume operations after the reason for such cessation has been abated.

(10) Franchisee ceases to occupy the Premises. Franchisee shall have five (5) days after notice to cure the default. If the loss of possession is the result of governmental exercise of eminent domain, Franchisee may, with BKC's consent and subject to availability, relocate to other premises in the same market area for the balance of the Term of this Agreement.

(11) Franchisee or, if Franchisee consists of more than one person, the Operating Partner, (or, if the franchise has been assigned to a Corporation or LLC, the Corporation or LLC) files a petition or application seeking any type of relief under the Bankruptcy Code or any state insolvency or similar law, or someone files a petition or application seeking to have Franchisee adjudicated a bankrupt, or seeking other relief against Franchisee under the Bankruptcy Code or any state insolvency or similar law and the petitioner application is not dismissed within ninety (90) days after it is filed. Subject to the applicable law, this Agreement shall terminate without notice or cure period upon the occurrence of this act of default as if that date were the Expiration Date and Franchisee expressly and knowingly waives any rights that Franchisee may have under the provisions of the Bankruptcy Code and consents to the termination of this Agreement or any other relief which may be sought in a Complaint filed by BKC to lift the provisions of the automatic stay of the Bankruptcy Code. Additionally, Franchisee agrees not to seek an Injunctive Order from any court in any jurisdiction relating to insolvency, reorganization or arrangement proceedings which would have the effect of staying or enjoining this provision.

(12) Franchisee admits in writing Franchisee's inability to pay Franchisee's debts as they mature or makes an assignment for the benefit of creditors, or a receiver (permanent or temporary) for any part of Franchisee's property is appointed by a court of competent authority. If this act of default shall occur, BKC shall have the right to immediately terminate this Agreement without notice or cure period.

(13) A final judgment against Franchisee (including a final judgment in favor of BKC or any Affiliate of BKC) remains unsatisfied of record for thirty (30) days (unless a supersedeas or other appeal bond has been filed), or if a levy of execution is made upon the franchise granted by this Agreement or upon any property used in the Franchised Restaurant, and said levy is not discharged within five (5) days of said levying.

(14) Conviction of Franchisee, the Operating Partner, or, if this Agreement has been assigned to a Corporation or LLC, conviction of the Corporation or LLC, or an officer, director, shareholder, or member of the Corporation or LLC, in a court of competent jurisdiction of (i) an indictable offense punishable by a term of imprisonment in excess of one (1) year, (ii) any offense, regardless of how punishable, for which a material element is fraud, dishonesty or moral turpitude, or (iii) any other crime or offense arising from or related to the operation of the Franchised Restaurant, other franchised BURGER KING Restaurants, the BURGER KING Restaurant business of the Franchisee or any other business of the Franchisee or the Operating Partner that BKC believes is reasonably likely to have an adverse effect on the BURGER KING System, the BURGER KING Marks, or the good will associated therewith in the geographical area where the Franchised Restaurant is located. If this act of default shall occur, BKC shall have the right to terminate this Agreement, such termination to be effective upon notice to Franchisee and with no opportunity to cure.

(15) Franchisee uses or duplicates the BURGER KING System or engages in unfair competition in violation of Section 12 of this Agreement or discloses any trade secrets of BKC in violation of Section 11.A(1) of this Agreement. If this act of default shall occur, BKC shall have the right to terminate this Agreement, such termination to be effective upon notice to Franchisee but with no opportunity to cure.

(16) Franchisee denies BKC the right to inspect the Franchised Restaurant or to audit the sales and accounting records of the Franchised Restaurant.

(17) Conduct by Franchisee or the Operating Partner which is deleterious to or reflects unfavorably on Franchisee or the BURGER KING System by exhibiting a reckless disregard for the physical and mental wellbeing of employees, customers, BKC representatives or the public at large including battery, assault, sexual harassment or other forms of threatening, outrageous, willfully discriminatory or unacceptable behavior. An act of default under this Section 18.A.(17) does not require any criminal action to be brought against Franchisee or the Operating Partner. If this act of default shall occur, BKC shall have the right to terminate this Agreement, such termination to be effective upon notice to Franchisee and with no opportunity to cure.

(18) Failure by Franchisee to make prompt payment of undisputed bills, invoices or statements from suppliers of goods or services to the Franchised Restaurant and lenders, landlords or other vendors of the Franchisee. Franchisee shall have sixty (60) days after notice to cure the default.

(19) Any sale, assignment, merger or transfer of any interest of Franchisee in this Agreement in violation of Sections 3, 15 or 16 of this Agreement, and, if this Agreement has been assigned to a Corporation or a LLC, the creation, sale, assignment, or transfer of the stock of the Corporation, or membership interests in the LLC in violation of Sections 3, 15 or 16 of this Agreement. The failure of an Heir to be approved by BKC under Section 15.C. of this Agreement, or to transfer the Franchised Restaurant to an approved Franchisee, within eighteen (18) months of the Franchisee's death or incapacity shall be in violation of Section 15 of this Agreement for purposes of this Section 18.A.(19). If this act of default shall occur, BKC shall have the right to terminate this Agreement effective upon notice to Franchisee without opportunity to cure.

(20) Franchisee, without the written consent of BKC, enters into a management agreement or consulting arrangement relating to the Franchised Restaurant.

(21) Failure to restore the Franchised Restaurant after damage or destruction as provided in Section 7 of this Agreement.

(22) The submission by Franchisee of any application and/or management commitment form and/or other form or report which contains any false or misleading material statement or omits any material fact. If this act of default occurs, BKC shall have the right to terminate this Agreement, such termination to be effective upon notice to Franchisee but with no opportunity to cure.

(23) Repeated breaches of provisions of this Agreement. If BKC intends to terminate this Agreement under this Section 18.A.(23), BKC shall provide notice to Franchisee that BKC considers that Franchisee has repeatedly breached this Agreement, and that BKC intends to terminate this Agreement if Franchisee breaches the Agreement at any time after said notice. If Franchisee after receiving such notice, subsequently breaches this Agreement in any manner, BKC shall have the right to terminate this Agreement upon notice with no further opportunity to cure.

(24) The acquisition of an interest in a restaurant business in violation of Section 19 of this Agreement.

(25) Failure by Franchisee to conduct the business of the Franchised Restaurant in compliance with all laws and regulations as required under Section 21.C.(3) of this Agreement.

(26) Failure by Franchisee to comply with any other provisions of this Agreement or, the lease for the Premises or any other agreement relating to the Franchised Restaurant. Franchisee shall have sixty (60) days after notice to cure the default.

(27) The insurance required herein is cancelled or is threatened to be cancelled. Franchisee shall have five (5) days after notice to cure the default.

(28) At the time measured by BKC, which measurement shall occur on a quarterly basis as set forth in BKC's then current BURGER KING® North America Financial Policy (the "Financial Policy"), Franchisee fails to meet the minimum financial criteria set forth in the Financial Policy. Franchisee shall have one hundred eighty (180) days after notice to cure the default.

(29) Failure by Franchisee to comply with any of the requirements related to the Operating Partner, including any of the requirements of Section 3, or failure by the Operating Partner to comply with any of the requirements related to the Operating Partner including any of the requirements set forth in Sections 3 and 5.K.

The failure of BKC to terminate this Agreement upon the occurrence of one or more acts of default will not constitute a waiver or otherwise affect the right of BKC to terminate this Agreement because of a continuing or subsequent failure to cure one or more of the aforesaid acts of default or any other default.

B. Effect of Termination

(1) Upon termination or expiration of this Agreement, Franchisee's right to use the BURGER KING Marks and the BURGER KING System shall terminate. Franchisee shall not thereafter identify Franchisee as a BURGER KING franchisee or publicly identify Franchisee as a former BURGER KING franchisee or use any of BKC's trade secrets, promotional materials, the BURGER KING Marks or any mark confusingly similar, nor shall Franchisee disclose any of BKC's trade secrets. Upon termination or expiration of this Agreement, Franchisee will immediately return to BKC the MOD Manual loaned to Franchisee, together with all other material containing trade secrets.

(2) Franchisee grants to BKC, upon termination or expiration of this Agreement, the option to purchase all usable paper goods, containers and printed menus bearing the

BURGER KING Marks at Franchisee's cost, and to purchase the restaurant equipment, furniture, fixtures and signs at fair market value.

(3) If the parties do not enter into a Successor Franchise Agreement, Franchisee agrees to immediately upon termination or expiration of this Agreement, make such removals or changes in signs and the building as BKC shall request, so as to effectively distinguish the building and Premises from its former appearance and from any other BURGER KING Restaurant. In the event Franchisee fails to make the changes, Franchisee consents to BKC entering the building and Premises to make non-structural changes at Franchisee's expense.

(4) In the event of termination for any default of Franchisee, any damage suffered by BKC shall be a lien in favor of BKC against the personal property, machinery, fixtures and equipment owned by Franchisee on the Premises at the time of default.

(5) The foregoing shall be in addition to any other rights or remedies of BKC that exist under statute, regulation or common law.

19. RESTRICTIVE COVENANT

Franchisee covenants and agrees that during the Term of this Agreement Franchisee will not own, operate or have any interest in any hamburger business except other franchised BURGER KING Restaurants. Franchisee further covenants and agrees that for a period of one (1) year after any sale, assignment, transfer, termination or expiration of this Agreement, Franchisee will not own, operate or have any interest in any hamburger business, except other franchised BURGER KING Restaurants, either at or within two (2) miles of the Premises. The restrictive covenant shall remain an individual obligation of each individual Franchisee under this Agreement, and shall not be effected in any way by the transfer or assignment of this Agreement to a Corporation or LLC in accordance with Sections 15.D of this Agreement.

20. RESOLUTION OF DEVELOPMENT DISPUTES

A. Non-Binding Mediation

BKC and Franchisee agree that they shall attempt to resolve any dispute ("Development Dispute") that arises out of a decision by BKC to develop or authorize development of a new restaurant ("Development Decision"), by negotiation between Franchisee and representatives of BKC who have authority to settle the Development Dispute. The BKC representative shall be at a higher level of management than the person with direct responsibility for the initial Development Decision. If the matter has not been resolved within Thirty (30) days of referral of the Development Dispute to the BKC representative for negotiation, BKC and Franchisee shall attempt to settle the Development Dispute by non-binding mediation. The mediation procedure to be followed by the parties shall be set forth in BKC's then current Procedures for Resolving Development Disputes (the "Procedures").

B. Binding Dispute Resolution

The Procedures shall also set forth a binding dispute resolution process which may be initiated pursuant to the Procedures at the sole election of Franchisee in the event the dispute is not resolved through the mediation process. Subject to modifications made pursuant to Section 20.C. below, the Procedures shall remain valid and enforceable by Franchisee and BKC for the Term of this Agreement.

C. Modification of Procedures

The terms and conditions of the Procedures shall not be materially modified by BKC without the express written approval of the Franchisee Advisory Council.

D. Institution of Legal Proceedings

Franchisee shall not institute any legal or administrative proceeding for claims arising out of a Development Decision without first attempting to resolve the Development Dispute through negotiation and non-binding mediation. If the Development Dispute has not been resolved through negotiation or mediation pursuant to Sections 20.A and Franchisee has not timely elected the optional binding dispute resolution pursuant to 20.B above, either party may initiate litigation.

21. MISCELLANEOUS: GENERAL CONDITIONS

A. Interpretation

The Introduction and the addenda and amendments checked on the page entitled "List of Attachments" at the beginning of this document shall be considered a part of this Agreement. Section captions are used only for convenience and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular Sections to which they refer. Words of any gender used in this Agreement shall include any other gender, singular words include the plural and plural words include the singular, in each case where the context requires, and the term "including" as used in this Agreement means "including but not limited to".

B. Non-Waiver

The failure of BKC to exercise any right or option given to it under this Agreement, or to insist upon strict compliance by Franchisee with the terms and conditions of this Agreement shall not constitute a waiver of any terms or conditions of this Agreement with respect to any other or subsequent breach, nor a waiver by BKC of its right at any time thereafter to require exact and strict compliance with the terms and conditions of this Agreement. The rights or remedies set forth in this Agreement are in addition to any other rights or remedies which may be granted by law.

C. Governing Law, Forum and Compliance

(1) This Agreement shall become valid when executed and accepted by BKC. The parties agree that it shall be deemed made and entered into in the State of Florida and shall be governed and construed under and in accordance with the laws of the State of Florida.

(2) Franchisee and BKC acknowledge and agree that the U.S. District Court for the Southern District of Florida, or if such court lacks jurisdiction, the 11th Judicial Circuit (or its successor) in and for Miami-Dade County, Florida, shall be the venue and exclusive proper forum in which to adjudicate any case or controversy arising, either directly or indirectly, under or in connection with this Agreement except to the extent otherwise provided in this Agreement and the parties further agree that, in the event of litigation arising out of or in connection with this Agreement in these courts, they will not contest or challenge the jurisdiction or venue of these courts.

(3) Anything in this Agreement to the contrary notwithstanding, Franchisee shall conduct Franchisee's business in a lawful manner and faithfully comply with applicable laws or regulations of the United States and the state, city or other political subdivision in which the Franchised Restaurant is located.

D. Severability

BKC and Franchisee agree that if any provision of this Agreement may be construed in two ways, one of which would render the provision illegal or otherwise voidable or unenforceable and the other of which would render the provision valid and enforceable, such provision shall

have the meaning which renders it valid and enforceable. The language of all provisions of this Agreement shall be construed according to its fair meaning and not strictly against BKC or Franchisee. It is the desire and intent of BKC and Franchisee that the provisions of this Agreement be enforced to the fullest extent, and should any provision be invalid or unenforceable under Florida law, but valid under the laws of the state where the Franchised Restaurant is located, the provision shall be governed by the law of that state. In the event any court shall determine that any provision in this Agreement is not enforceable as written, BKC and Franchisee agree that the provision shall be amended so that it is enforceable to the fullest extent permissible under the laws of the jurisdiction in which enforcement is sought. The provisions of this Agreement are severable and this Agreement shall be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained in the Agreement, and partially valid and enforceable provisions shall be enforced to the extent that they are valid and enforceable.

E. Notices

(1) All notices to BKC shall be in writing and shall be delivered or sent by registered or certified mail, postage fully prepaid, addressed to it at its offices at P.O. Box 020783, General Mail Facility, Miami, Florida 33102-0783, Attention: General Counsel, or at such other address as BKC shall from time to time designate in writing.

(2) All notices to Franchisee shall be in writing and shall be hand delivered or sent by registered or certified mail or telegraph, addressed to Franchisee at the Franchised Restaurant or Franchisee's last designated in writing mailing address.

(3) Notices shall be deemed delivered on the earlier of actual receipt or the third (3rd) day after being deposited in the U.S. Mail.

F. Liability of Multiple Franchisees

If Franchisee consists of more than one person, each partner's liability and obligation under this Agreement shall be joint and several.

G. Modification

This Agreement may only be modified or amended by a written document executed by BKC and Franchisee.

H. Binding Effect

This Agreement shall be binding upon the parties, their heirs, executors, personal representatives, successors or assigns.

I. Survival

Any provisions of this Agreement, including the insurance and indemnification provisions of Section 13, which impose an obligation after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and be binding on the parties.

J. Attorney's Fees

In any litigation to enforce the terms of this Agreement, all costs and all attorney's fees (including those incurred on appeal) incurred as a result of the legal action shall be paid to the prevailing party by the other party.

K. Entire Agreement

This Agreement, including the Key Contract Data page to this Agreement, together with the Target Reservation Agreement, Franchise Application, Capitalization Plan and Contribution Agreement, if applicable, submitted by Franchisee to BKC upon which BKC is relying in granting this franchise, constitute the entire agreement of the parties and supersedes all prior agreements, negotiations, commitments, representations and undertakings of the parties with respect to the subject matter of this Agreement. Nothing in this Section, however, is intended to disclaim any representations BKC made in the Franchise Disclosure Document that it furnished to Franchisee.

L. Assignment

BKC shall have the right to transfer or assign all or any part of its rights or obligations under this Agreement to any person or legal entity. With respect to any assignment which results in the subsequent performance by the assignee of all of BKC's obligations under this Agreement, the assignee shall expressly assume and agree to perform such obligations, and shall become solely responsible for all obligations of BKC under this Agreement from the date of assignment.

M. No Third Party Beneficiaries

Except as has been expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Franchisee, BKC, BKC's officer, directors, and employees, and Franchisee's permitted and BKC's respective successors and assigns, any rights or remedies under or by reason of this Agreement.

N. JURY TRIAL WAIVER

BKC AND FRANCHISEE EACH KNOWINGLY AND VOLUNTARILY IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR OTHERWISE, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, ARISING OUT OF THIS AGREEMENT, OR OTHERWISE, AND WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.

22. DEFINITIONS

In this Agreement, the following terms, phrases and expressions shall have the following meanings. Any of such terms, unless the context otherwise requires, may be used in the singular or plural, depending on the context.

"Activities" has the meaning set forth in Section 4.

"Additional Digital System(s)" has the meaning set forth in Section 5.D.(4).

"Additional Holder" has the meaning set forth in Section 15.D.(1)(l)(i).

"Additional Ordering System(s)" has the meaning set forth in Section 5.D.(3).

"Advertising Contribution" has the meaning set forth in Section 9.B.(i).

"Affiliate" means any Person which directly or indirectly Controls, is Controlled by, or is under common Control with another Person.

“Agreement” has the meaning set forth in the Preamble.

“BKC” has the meaning set forth in the Preamble.

“BURGER KING Marks” has the meaning set forth in the Introduction.

“BURGER KING Restaurants” has the meaning set forth in the Introduction.

“BURGER KING System” has the meaning set forth in the Introduction.

“Commencement Date” means the date that the Franchised Restaurant opens for business as set forth on the Key Contract Data page.

“Continuing Operations Training” has the meaning set forth in Section 8.

“Control” or “Controlled” means the direct or indirect ownership, whether by ownership of securities, contract, proxy or otherwise, of shareholding or contractual rights of a Person that assures (i) the majority of the votes in the resolutions of such Person, or (ii) the power to appoint the majority of the managers or directors of such Person, or (iii) the power to direct or cause the direction of the management or policies of such Person, and the related terms “Controlled by” “Controlling” or “under common Control with” shall be read accordingly.

“Corporation” has the meaning set forth in Section 15.D.

“Corporation Guidelines” has the meaning set forth in Section 15.D(1)(f).

“Current Image” has the meaning set forth in Section 5.B.(2).

“Development Decision” has the meaning set forth in Section 20.A.

“Development Dispute” has the meaning set forth in Section 20.A.

“DMA’s” has the meaning set forth in Section 9.B.(viii).

“Expiration Date” has the meaning set forth on the Key Contract Data page.

“Financial Policy” has the meaning set forth in Section 18.A.(28).

“Food Safety Incident” has the meaning set forth in Section 5.F.

“Franchised Restaurant” has the meaning set forth in Section 1.

“Franchisee” has the meaning set forth in the Preamble.

“Franchisee Advisory Council” has the meaning set forth in Section 4.

“Franchisee Association” has the meaning set forth in Section 4.

“Governing Instruments” has the meaning set forth in Section 15.D.(1)(b).

“Gross Sales” has the meaning set forth in Section 9.C.

“Guidelines” has the meaning set forth in Section 15.D.(2)(f).

"Heir" has the meaning set forth in Section 15.C.

"Immediate Family Member" has the meaning set forth in Section 15.D.(1)(e).

"Indirect Tax" or "Indirect Taxes" means sales and use tax, goods and services tax, value added tax, ad valorem tax, excise tax, duty, levy or other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing (together with any penalties, interest, or other similar amounts thereon) levied by a Tax Authority.

"Individual Seller" has the meaning set forth in Section 15.E.

"Initial Franchise Fee" has the meaning set forth in Section 2.

"Initial Training" has the meaning set forth in Section 8.

"Intercreditor Agreement Transfer Fee" has the meaning set forth in Section 15.B.

"ISP" has the meaning set forth in Section 9.B.(viii).

"Key Employees" has the meaning set forth in Section 15.D.(2)(e).

"LLC" has the meaning set forth in Section 15.D.

"Media" has the meaning set forth in Section 9.B.(i).

"Media Mix" has the meaning set forth in Section 9.B.(ii).

"Media Spending Goal" has the meaning set forth in Section 9.B.(ii).

"MOD Manual" has the meaning set forth in the Introduction.

"New Franchisee Training Fee" has the meaning set forth in Section 15.E.(6).

"Non-Voting Stock" has the meaning set forth in Section 15.D.(1)(c).

"Non-Voting Units" has the meaning set forth in Section 15.D.(2)(c).

"Notice" has the meaning set forth in Section 17.A.

"Operating Partner" has the meaning set forth in Section 3.

"Original Franchisee" has the meaning set forth in Section 15.D(1)(l)(i).

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Authority, statutory organization or other entity.

"PMIX" has the meaning set forth in Section 5.D.(2).

"Polling" has the meaning set forth in Section 5.D.(2).

"POS System" has the meaning set forth in Section 5.D.(2).

"Premises" has the meaning set forth in Section 1.

"Procedures" has the meaning set forth in Section 20.A.

"Processing Fee" has the meaning set forth in Section 15.D.(2)(q).

"Restaurant Manager" has the meaning set forth in Section 5.K.

"Royalty" has the meaning set forth in Section 9.A.

"Stock" has the meaning set forth in Section 15.D.(1)(c).

"Successor Franchise Agreement" has the meaning set forth in Section 17.

"Tax" or "Taxes" means all taxes, however denominated, including any interest, penalties, or other additions that may become payable in respect thereof, imposed by any Tax Authority.

"Tax Authority" means any governmental authority having or purporting to have power to impose, administer or collect any Tax.

"Term" has the meaning set forth in Section 1.

"Training Programs" has the meaning set forth in Section 8.

"Transfer Fee" has the meaning set forth in Section 15.D.(2)(q).

"Transferor" has the meaning set forth in Section 15.G.

"Transferor Transfer Fee" has the meaning set forth in Section 15.E.(9).

"Units" has the meaning set forth in Section 15.D.(2)(c).

"Voting Units" has the meaning set forth in Section 15.D.(2)(c).

By entering into this Agreement, Franchisee expressly consents to transact business with BKC electronically and that, consistent with the Uniform Electronic Transactions Act, and all other applicable state and federal laws, this Agreement may be executed by electronic signatures. The parties to this Agreement agree that the parties' electronic signatures are intended to authenticate this writing and to have the same force and effect as the use of manual signatures and an electronically signed version of this Agreement shall constitute an original for all purposes.

This Agreement is hereby executed by the parties effective on the date indicated above.

BURGER KING COMPANY LLC

By: _____
Print Name: _____
Its: _____

FRANCHISEE:

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT B

BURGER KING COMPANY LLC GUIDELINES FOR PREPARATION OF CORPORATE GOVERNING INSTRUMENTS

The BURGER KING Restaurant Franchise Agreement (the “Agreement”) provides, at Section 15.D that the Franchisee may, with the prior written consent of Burger King Company LLC (“BKC”) assign the Agreement to a corporation (the “Corporation”) so long as certain reasonable BKC conditions, including those set forth in the Agreement are met. The Agreement also provides, at Section 15.D(6) that if the Corporation wishes to issue either Non-Voting Common Stock or Non-Voting Preferred Stock (it may not issue both), articles or certificate of incorporation and the by-laws of the Corporation (herein the “governing instruments”) must contain *at least* the provisions set forth in these Guidelines For Preparation Of Corporate Governing Instruments.

Before setting forth the required provisions, a note of CAUTION is in order. The issuance of stock to family members and key employees may involve and invoke security registration and sales laws, “blue sky” disclosure laws, wage and hour laws and numerous other federal, state and local laws and regulations. A Franchisee should not, under any circumstances, issue, sell or give away Voting or Non-Voting Stock of any sort without first discussing the matter in depth with an attorney and following his or her instructions carefully.

The required provisions have been divided into those which relate to Non-Voting Common Stock and those which relate to Non-Voting Preferred Stock. Under Section 15.D(3) of the Agreement, the Corporation may not issue both Non-Voting Common Stock and Non-Voting Preferred Stock.

It should also be noted that Section 11.A.(3) of the Agreement requires that in the adoption of a corporate or partnership name, the Franchisee may not use any of the BURGER KING Marks, or any variation, abbreviation, or words confusingly similar to the BURGER KING Marks.

Provisions Regarding Non-Voting Common Stock

A. The aggregate number of authorized shares of stock of the Corporation shall be (corporate will insert number) of which (a) (insert number) shall be designated shares of Voting Common Stock of the par value of (insert number) per share (the “Voting Common Stock”), and (b) (insert number) shall be designated shares of Non-Voting Common Stock of the par value of (insert number) per share.

B. So long as the Corporation is the assignee of any BURGER KING Franchise, the relative rights, preferences and limitations of the Voting Common Stock and the Non-Voting Common Stock are as follows:

1. Voting Common Stock

(a) Voting Common Stock shall only be issued to and held by those natural persons who are approved as franchisees by Burger King Company LLC. No more than five natural persons may hold shares of Voting Common Stock. Notwithstanding the foregoing, BKC may, in the exercise of its reasonable discretion, permit more than five holders of shares of Voting Common Stock upon compliance with each of the following conditions:

(i) The additional holder (“Additional Holder”) is an Immediate Family Member of an individual, original franchisee (“Original Franchisee”). No more than one Additional Holder shall be permitted per Original Franchisee.

(ii) The Additional Holder is approved as a BURGER KING Franchisee in accordance with then current BKC standards for approving new franchisees.

(iii) The Additional Holder agrees, in writing, to assume liability and to perform all the terms and conditions of the Agreement to the same extent as the Original Franchisee.

In no event shall there be more than five (5) Additional Holders nor at any time shall the combined total of Original Franchisees and Additional Holders exceed ten (10). If a holder of shares of Voting Common Stock is not a natural person approved as a franchisee by Burger King Company LLC, the shares of Voting Common Stock shall be deemed to be shares of Non-Voting Stock until they are repurchased pursuant to Section 3.

(b) The holders of shares of Voting Common Stock shall be entitled to receive, out of the funds of the Corporation legally available for such purpose, dividends as and when declared by the Board of Directors.

(c) In the event of any liquidation, dissolution or distribution of the assets of the Corporation the holders of shares of the Voting Common Stock together with holders of the Non-Voting Common Stock (whose rights are limited as set forth in Section 2(d)) shall be entitled to share ratably in the distribution of all remaining assets of the Corporation available for distribution.

2. Non-Voting Common Stock

(a) Non-Voting Common Stock shall only be issued to and held by either (1) a member of the immediate family (which consists of the spouse and children) of the holder of shares of Voting Common Stock, or (2) a "key employee" of the Corporation.

(b) The aggregate number of outstanding shares of Non-Voting Common Stock shall not exceed 25% of the sum of (a) the aggregate number of outstanding shares of Voting Common Stock and (b) the aggregate number of outstanding shares of Non-Voting Common Stock.

(c) Except as specifically required by applicable law, holders of Non-Voting Common Stock shall not have the right to vote. If the holders of shares of Non-Voting Common Stock have the right to vote on an action under applicable law, they shall vote as a single class with the holders of shares of Voting Common Stock.

(d) In the event of any liquidation, dissolution or distribution of the assets of the Corporation the holders of shares of Non-Voting Common Stock together with the holders of the shares of Voting Common Stock shall be entitled to share ratably in the distribution of all remaining assets of the Corporation available for distribution, except that no holder of shares of Non-Voting Common Stock may receive, in its capacity as a holder of shares of Non-Voting Common Stock, any interest in the BURGER KING Franchise other than an interest in the proceeds of any disposition thereof.

(e) Except as set forth in Section 2(c) and 2(d), the holders of shares of Non-Voting Common Stock shall have all the rights and privileges of holders of shares of Voting Common Stock.

3. Repurchase

To the extent permitted by law, the Corporation shall repurchase shares of Non-Voting Common Stock at such time as the holder thereof ceases to be a key employee of the Corporation or a member of the immediate family of a holder of Voting Common Stock and shall repurchase shares of Voting Common Stock at such time as the holder thereof ceases to be a person meeting the requirements hereunder of a holder of shares of Voting Common Stock, for an amount per share (corporation will insert an applicable

pricing mechanism) provided, however, that such amount per share shall not exceed: (i) the aggregate of net income and net losses reported to the Internal Revenue Service less taxes paid or payable, dividends previously paid, declared or accrued and prior redemptions and repurchases of shares of capital stock of the Corporation, divided by (ii) the total number of shares of Voting Common Stock and Non-Voting Common Stock outstanding immediately prior to such proposed repurchase.

Provisions Regarding Non-Voting Preferred Stock

A. The aggregate number of shares of all classes of stock which the Corporation shall have authority to issue is (corporation will insert number), to be divided into two classes consisting of (insert number) shares of a class designated "Preferred Stock", of the par value of (insert number) per share, and (insert number) shares of a class designated "Common Stock", of the par value of (insert number) per share.

B. So long as the Corporation is the assignee of any BURGER KING Franchise, the relative rights, preferences and limitations of the shares of each class are as follows:

1. Preferred Stock

The Preferred Stock may be issued from time to time in one or more series, with such designation or title, in such number of shares and with the relative rights and preferences (a) as may be fixed by resolution of the Board of Directors without further action by shareholders, (b) as may be fixed by the shareholders, or (c) as set forth below; provided, however, that in no event will holders of outstanding shares of Preferred Stock have rights more extensive than the following:

(a) Holders of shares of Preferred Stock shall be either (1) a member of the immediate family (which consists of the spouse and children) of the holders of the shares of Common Stock or (2) a "key employee" of the Corporation.

(b) Shares of Preferred Stock shall not be convertible into shares of Common Stock.

(c) Except with respect to amendments to this instrument which adversely affect the relative rights and preferences of holders of shares of Preferred Stock, for any action on which the holders of shares of Preferred Stock are entitled to vote under applicable law, the holders of outstanding shares of Preferred Stock so entitled to vote shall vote, for these purposes only, with the holders of outstanding shares of Common Stock, and the maximum vote which all such holders of shares of Preferred Stock shall have is 25% of the aggregate number of outstanding shares of Preferred Stock and Common Stock, taken as a whole, entitled to vote on such action.

(d) Upon liquidation, dissolution or distribution of the assets of the Corporation, the holders of all outstanding shares of Preferred Stock shall not be entitled to receive more than 25% of the proceeds upon such liquidation, dissolution or distribution; provided, however, that in no event will the holders of shares of Preferred Stock be entitled to receive upon liquidation, dissolution or distribution of assets any interest in the BURGER KING Franchise other than an interest in the proceeds from any disposition thereof.

2. Common Stock

(a) Common Stock shall only be issued to and held by those natural persons who are approved as franchisees by Burger King Company LLC. No more than five natural persons may hold shares of Common Stock. If a holder of shares of Common Stock is not a natural person approved by Burger King Company LLC, the shares of Common Stock so held shall be subject to repurchase pursuant to Section 3.

(b) Subject to the prior payment or provision therefor of dividends on the Preferred Stock, the holders of shares of Common Stock shall be entitled to receive out of the funds of the Corporation legally available for such purpose dividends as and when declared by the Board of Directors.

(c) In the event of any liquidation, dissolution or distribution of the assets of the Corporation and after satisfaction of the preferential requirements of the Preferred Stock, the holders of shares of Common Stock shall be entitled to share ratably in the distribution of all remaining assets of the Corporation available for distribution.

3. Redemption and Repurchase

(a) To the extent permitted by law, the Corporation shall redeem shares of Preferred Stock for (corporation will insert an applicable redemption price or pricing mechanism) at such time as the holder thereof ceases to be a key employee of the Corporation or a member of the immediate family of a holder of Voting Common Stock; provided, however, that the amount per share to be paid upon such redemption shall not exceed 25% times (i) the aggregate of net income and net losses previously reported by the Corporation to the Internal Revenue Service, less taxes paid or payable with respect to such reported net income less the sum of dividends paid, declared or accrued and prior redemption and repurchases of shares of Preferred Stock and Common Stock, divided by (ii) the total number of shares of Preferred Stock outstanding at such time, including the shares to be redeemed.

(b) To the extent permitted by law, the Corporation shall repurchase shares of Common Stock at such time as the holder thereof ceases to be a person approved by Burger King Company LLC as a franchisee, for an amount per share (corporation will insert applicable pricing mechanism); provided, however, that such amount per share shall not exceed: (i) the aggregate of net income and net losses previously reported by the Corporation to the Internal Revenue Service less taxes paid or payable with respect to such reported net income, less the sum of amounts paid or payable for dividends previously paid, declared or accrued and prior redemptions and repurchases of shares of capital stock of the Corporation, and amounts which may be payable preferentially to holders of all outstanding shares of Preferred Stock under Sections 1 and 3(a), divided by (ii) the total number of shares of Common Stock outstanding immediately prior to such proposed repurchase.

Exhibit “F”

**TACO BELL FRANCHISOR, LLC
FRANCHISE AGREEMENT**

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TACO BELL FRANCHISOR, LLC FRANCHISE AGREEMENT

THIS AGREEMENT is made date, by and between TACO BELL FRANCHISOR, LLC, a Delaware limited liability company (the "Company"), and names (the "Franchisee").

RECITALS

A. The Company is the originator of a distinctive concept for the marketing, preparation and sale of certain Mexican and other style food products (the "TACO BELL RESTAURANTS" or the "Restaurants").

B. The Company owns or controls various trademarks, service marks, trade names, trade dress, designs (including product package designs), symbols, emblems, logos, insignias, external and internal building designs and architectural features and combinations of the foregoing (collectively, the "Trademarks"), which are used by it, its franchisees and its licensees in offering, selling and distributing its products and services. Some of the Trademarks are set forth and described on Appendix 1 to this Agreement.

C. The Company has developed, owns and has adopted for its own use and the use of its franchisees and licensees a unique system of quick service restaurant operation (the "Taco Bell System" or the "System"), consisting of a variety of distinctive sign and facility designs, equipment specifications and layouts, recipes, methods of food presentation and service, business techniques, copyrighted manuals and other materials, trade secrets, know-how and technology.

D. The Company has established, and is continuing to develop and operate, a chain of quick service "Taco Bell" and "Taco Bell Express" restaurants or units which are fundamentally uniform in image and in food style and which share many fundamental menu items and methods of operation (the "Taco Bell Chain").

E. The Taco Bell Chain enjoys widespread public acceptance due in part to (1) uniform high standards for the preparation, presentation and service of Taco Bell food; (2) an essentially uniform menu, image, appearance and methods of operation in all Restaurants and units; (3) uniform use of the System and the valuable and distinctive Trademarks; and (4) the Taco Bell franchisees' and licensees' commitments to maintain and enhance the goodwill and public acceptance of Taco Bell products, services and Restaurants by strict adherence to these uniform standards as they now exist and may be revised from time to time pursuant to this Agreement.

F. The Franchisee, aware of the above, has applied for a franchise and desires to establish and operate a Taco Bell Restaurant upon the terms and conditions set forth in this Agreement.

WITNESSETH

The parties hereby act and agree as follows:

SECTION 1: GRANT OF LICENSE

1.0 The Company hereby grants to the Franchisee a limited license to use the Trademarks solely in direct connection with the sale of the food, beverage and other products referred to in Subsection 3.5 from the TACO BELL RESTAURANT to be established pursuant to this Agreement at the following location:

Unit No. unit
address
city state zip
(the "Restaurant")

The grant of this limited license to use the Trademarks is further subject to the terms, conditions and limitations hereinafter set forth; including, among others, those contained in Section 14 entitled "TRADEMARKS."

1.1 Throughout the Term of this Agreement (as defined below), Franchisee shall operate the Restaurant in strict accordance with the terms of this Agreement and shall perform all other obligations of the Franchisee provided for by this Agreement.

SECTION 2: TERM

2.0 This Agreement shall continue for a term of ____ years, unless earlier terminated in accordance with Subsection 5.1 or any of the other conditions and provisions hereof (the "Term"), commencing with the date on which the Restaurant is opened for business to the public (if a writing stating the opening date and signed by the Parties is attached hereto) or forty-five days from date, whichever is earlier (the "Date of Grant"). Upon and after expiration of the Term (a) the Franchisee shall have no expectation or right to continue, extend, renew, or otherwise replace the license granted in Section 1 of this Agreement or to continue to operate the Restaurant, and (b) the Company shall have no expectation or right to require the Franchisee to continue to operate the Restaurant.

SECTION 3: RESTAURANT SYSTEM AND PROCEDURES

3.0 To the extent deemed appropriate by the Company in its sole discretion, based on the Franchisee's experience and performance at any particular time during the Term, the Company will use commercially reasonable efforts to furnish the Franchisee with advice and assistance in managing and operating a TACO BELL RESTAURANT, including periodic visits by the Company's representatives. A Company representative will assist the Franchisee in coordinating the Restaurant pre-opening activities, and will be available to assist with Restaurant operations throughout the opening week, as reasonably needed. In addition, the Company will develop and present to the Franchisee, and the Franchisee and the Company shall carry out, an advertising program designed for the initial opening of the Restaurant.

3.1 The Franchisee shall devote his or her full time, best efforts and constant personal attention to the day to day operation of the Restaurant. In order to facilitate the devotion of such personal attention, either the Franchisee or a qualified manager of the Restaurant shall maintain his or her personal principal residence within a usual driving time of approximately one hour from the Restaurant. Unless the Company shall have given its prior advance written approval, the Franchisee shall have the Restaurant open for business during such hours as are specified by the Company in the Manual described in Subsection 3.2 below (the "Manual"). In addition, and without limiting the generality of the foregoing responsibilities, the Franchisee shall:

- (a) Operate the Restaurant in a clean, safe and orderly manner, providing courteous, first-class service to the public;
- (b) Diligently promote and make every reasonable effort to increase the business of the Restaurant;
- (c) Advertise the business of the Restaurant by the use of the Trademarks and such other insignia, slogans, emblems, symbols, designs and other identifying characteristics as may be developed or established from time to time by the Company and included in the Manual; and
- (d) Prevent the use of the Restaurant for any immoral or illegal purpose, or for any other purpose, business activity, use or function which is not expressly authorized hereunder or in the Manual.

3.2 The Franchisee hereby acknowledges receipt and loan of a copy of the Company's Franchise Operations Manual, and shall faithfully, completely and continuously perform, fulfill, observe and follow all instructions, requirements, standards, specifications, systems and procedures contained therein; including, those dealing with the selection, purchase, storage, preparation, packaging, service and sale (including menu content and presentation) of all food and beverage products, and the maintenance and repair of Restaurant buildings, grounds, furnishings, fixtures, and equipment, as well as those relating to employee uniforms and dress, accounting, bookkeeping, record retention and other business systems, procedures and operations. By this reference, the Company's Franchise Operations Manual, as presently constituted and as it may hereafter be amended and supplemented by the Company from time to time (the "Manual") is incorporated in and made part of this Agreement. The Franchisee acknowledges that the materials contained in the Manual are integral, necessary and material elements of the System.

3.3 The Company shall have the right at any time and from time to time, in the good faith exercise of its reasonable business judgment, consistent with the overall best interests of TACO BELL RESTAURANTS generally, to revise, amend, delete from and add to the System and the material contained in the Manual. The Franchisee shall promptly comply with all such revisions, amendments, deletions and additions.

3.4 The Franchisee understands, acknowledges and agrees that strict conformity with the System, including the standards, specifications, systems, procedures, requirements and instructions contained in this Agreement and in the Manual, is vitally important to the success not only of the Company, but to the collective success of all Taco Bell franchisees, including the Franchisee, by reason of the benefits all franchisees and the Company will derive from chain uniformity in food products, identity, quality, appearance, facilities and service among all TACO BELL RESTAURANTS. Any failure to adhere to the standards, specifications, requirements or instructions contained in this Agreement or in the Manual shall constitute a material breach of this Agreement.

3.5 The Franchisee shall offer for sale only from the Restaurant premises and at all times when the Restaurant is open for business all and only the food, beverages and other products expressly described in the Manual, unless the Franchisee shall have received the Company's prior written consent to any exception. No food, beverage or other products shall be offered or sold at or from the Restaurant under or in connection with any trademark or service mark other than the Trademarks without the prior written authorization of the Company in each case.

3.6 The Franchisee further understands, acknowledges and agrees that the Company is the owner of all rights in and to the System, including the information and materials described or contained in the Manual, and that the System, including such information and materials, constitutes trade secrets of the Company which are revealed to the Franchisee in confidence, and that no right is given to or acquired by the Franchisee to disclose, duplicate, license, sell or reveal any portion thereof to any person, other than an employee of the Franchisee required by his or her work to be familiar with relevant portions thereof. The Franchisee hereby represents, warrants and promises to keep and respect such confidences extended by the Company to the Franchisee, to obtain from employees with access to such information an agreement to keep and respect such confidences, and to be responsible for compliance by said employees with such agreements.

3.7 The Manual and all such other materials furnished to the Franchisee hereunder are and shall remain the property of the Company and shall be returned by the Franchisee to the Company immediately upon the expiration or earlier termination of this Agreement for any reason.

3.8 During the term of this Agreement, the Franchisee shall not, without the prior express written consent of the Company, directly or indirectly, perform any services for, engage in or acquire any financial, beneficial or equity interest in, any business similar to that of the Restaurant. In the event this Agreement is terminated by the Company for breach by the Franchisee, the same restrictions shall apply for a period of one year following such termination, but only with respect to similar businesses operated within a ten mile radius of the Restaurant. For purposes of this subsection, a "similar business" is a restaurant business which prepares or sells Mexican style food products. Notwithstanding the foregoing, the Franchisee and his or her family, collectively, may own up to ten percent (10%) of the stock of a publicly traded company engaged in a similar business. If any court or other tribunal having jurisdiction to determine the validity or enforceability of this subsection determines that it would be invalid or unenforceable as written, then in such event the provisions hereof shall be deemed modified to the extent necessary to be valid and enforceable.

SECTION 4: TRAINING

4.0 The Company shall make available to the Franchisee and one Restaurant manager, the Company's TACO BELL RESTAURANT operations training course.

4.1 Before the Restaurant shall open for business, one person from the Franchisee's organization who is designated to be the initial manager of the Restaurant shall either: (a) attend, for such period of time as the Company shall deem reasonably necessary, and complete the Company's training course to the reasonable satisfaction of the Company, or (b) otherwise be approved by the Company to manage the Restaurant. In the event this Agreement is the first franchise agreement between the Company and the Franchisee, then before the Restaurant shall open for business, the Franchisee shall also attend, for such period of time as the Company shall deem reasonably necessary, and complete the Company's training course to the reasonable satisfaction of the Company. If the Franchisee fails to successfully complete the Company's training course, then at the option of the Company this Agreement may be terminated.

4.2 The Franchisee and at least one Restaurant manager shall, from time to time as reasonably required by the Company, personally attend and complete a Company-provided refresher course in TACO BELL RESTAURANT operations.

4.3 The Franchisee shall be responsible for the compliance of Restaurant operations with the standards, methods, techniques and material taught at the Company's operations training course, and shall cause the Restaurant employees to be trained in such standards, methods and techniques as are relevant to the performance of their respective duties.

4.4 Attendance of the Franchisee and one manager of the Restaurant shall be tuition-free at all training courses, but at the Franchisee's sole cost and expense, including, without limitation, the cost of travel, lodging, meals and other related and incidental expenses.

SECTION 5: RESTAURANT MAINTENANCE

5.0 The Franchisee shall, at the Franchisee's sole cost and expense, maintain and repair the Restaurant, related equipment, signage, improvements, landscaping and the Restaurant premises in conformity with the standards, specifications and requirements of the System, as the same may be designated by the Company from time to time, and as appropriate replace any or all of such items (other than the Restaurant building or premises). The Franchisee shall replace equipment as necessary or desirable at the Franchisee's cost and expense and obtain at his or her cost and expense any new or additional equipment as may be reasonably required by the Company for new products, procedures, administration, marketing or communication. Except as may be expressly provided in the Manual, no alterations or improvements, or changes of any kind in design, equipment or decor shall be made in, on or about the Restaurant or Restaurant premises without the prior written approval of the Company in each instance. The Franchisee shall at the Franchisee's sole cost and expense, replace as necessary such equipment, signage, improvements and landscaping in conformity with such standards, specifications and requirements of the System.

5.1 As a condition of continuing this Agreement after the [eleventh anniversary of the Date of Grant, the Franchisee shall, between the tenth and eleventh anniversaries of the Date of Grant] [thirteenth anniversary of the Date of Grant, the Franchisee shall, between the twelfth and the thirteenth anniversaries of the Date of Grant], upgrade the Restaurant in accordance with the Manual ("Mid-Term Upgrade"). The scope of the Mid-Term Upgrade shall be defined in the Manual and generally shall include an interior refresh (including paint, counters, seats, settees, chairs, tables, soffits, and lighting), an exterior refresh (including paint and the addition of, modification to, or incorporation of any new critical design elements), and a signage upgrade. The Franchisee must obtain the Company's

prior written approval of the exact scope of the Mid-Term Upgrade pursuant to the procedures stated in the Manual. In the event the Franchisee fails to obtain the Company's prior written approval or complete timely the Mid-Term upgrade pursuant to this section, Franchisor may terminate this Agreement pursuant to Section 15.

5.2 In order to assure the continued success of the Restaurant, the Franchisee shall, from time to time as reasonably required by the Company (taking into consideration the cost and then remaining term of this Agreement), modernize or modify the image of the Restaurant building, premises and equipment to the Company's then current, reasonable standards and specifications. The Franchisee's obligations under this subsection are in addition to, and shall not relieve the Franchisee from, any of its other obligations under this Agreement, including those contained in the Manual. However, no such modernization or re-imaging shall be required by the Company unless and until the Company has at that time committed to implement such standards and specifications within the then current or following calendar year in at least twenty-five percent (25%) of those TACO BELL RESTAURANTS then operated by the Company within the United States.

5.3 If the Franchisee is or becomes a lessee of the Restaurant premises, the Franchisee shall provide the Company with a true and correct, complete copy of any such lease, and shall have included therein provisions, in form satisfactory to the Company, expressly permitting both the Franchisee and the Company reasonable opportunity to take all actions and make all alterations referred to under Subsection 15.2(b). Any such lease shall also require the lessor thereunder to give the Company reasonable notice of any contemplated termination and a reasonable time in which to take and make the above actions and alterations and provide that the Franchisee has the unrestricted right to assign such lease to the Company.

SECTION 6: ADVERTISING AND PUBLICITY

6.0 The Company shall develop and administer advertising and sales promotion programs designed to promote and enhance the collective success of all TACO BELL RESTAURANTS. It is expressly understood, acknowledged and agreed that in all phases of such advertising and promotion, including, without limitation, type, quantity, timing, placement and choice of media, market areas and advertising agencies, the decisions of the Company made in good faith shall be final and binding. The Franchisee shall have the right to participate actively in all such advertising and sales promotion programs, but only in full and complete accordance with such terms and conditions as may be established by the Company for each such program.

6.1 (a) The Company will establish and maintain a fund (the "Marketing Fund") separate from any Company accounts. The Company will deposit into the Marketing Fund all marketing fees received from the Franchisee pursuant to Subsection 7.0(c) below and an amount equal to four and one-quarter percent (4.25%) of the Gross Sales (as defined below) from Company operations of TACO BELL RESTAURANTS in the United States (except Hawaii). The Company will provide an accounting of the Marketing Fund to the Taco Bell franchise advisory council ("FRANMAC") pursuant to the Marketing Fund Policy.

(b) The Company has and will in consultation with FRANMAC develop, publish and modify from time to time as necessary a Marketing Fund Policy, which shall be part of the Manual and will set forth procedures and guidelines for disbursements and expenditures from the Marketing Fund. All monies in the Marketing Fund, including any interest or other income earned from the investment of such monies must be spent and disbursed only in accordance with this Agreement and the Marketing Fund Policy. The Franchisee hereby agrees that the Company can shift into the Marketing Fund any excess funds remaining in funds, sub-funds, or other accounts established or maintained in connection with prior forms of franchise agreement or marketing fund policies, including fees or monies that Franchisee paid, or that were collected from Franchisee, in connection with prior franchise agreements between the Franchisee and the Company.

(c) The Company shall use the Marketing Fund in its good faith determination to disseminate, improve and support the public awareness and image of the Taco Bell brand, the Taco Bell System and its goods and services available to the public, to increase System-wide sales, to purchase advertising, to pay for the development, support, and dissemination of other marketing and media programs on a regional or national basis (including but not limited to promotions, public relations, event marketing, research and clearance of programs, talent and residuals), to pay for the creation and production of advertising, and as otherwise permitted by the Marketing Fund Policy; provided, however, in any given calendar year not more than one-quarter of the aggregate of all marketing fees contributed to the Marketing Fund from franchise and Company Restaurants in the United States (except Hawaii) shall be spent on the production and creation of advertising.

6.2 The Company may temporarily invest any or all of the monies held in the Marketing Fund from time to time at the sole discretion of the Company in accordance with the Marketing Fund Policy. All interest or other income received from such investments may be used by the Company to pay for the expenses of administering the Marketing Fund. Any such amounts not used for this purpose shall be designated Marketing Funds and disbursed according to the Marketing Fund Policy.

6.3 All advertising copy and other materials shall be in strict accordance and conformity with the standards, formats and specimens contained in the Manual. In the event the Franchisee wishes to depart from the materials contained in the Manual, the Franchisee shall submit, in each instance, the proposed advertising copy and materials to the Company for approval in advance of publication, and shall use only such advertising copy and materials as have been approved in writing by the Company. In no event shall the Franchisee's advertising contain any statement or material which may be considered (a) in bad taste or offensive to the public or to any group of persons, or (b) defamatory of any person or an attack on any competitor.

6.4 In order to maintain the high reputation of the Taco Bell System and for the benefit of all of its operators, the

Franchisee shall report immediately by telephone to the Company the occurrence of any incident at or concerning the Restaurant or the business conducted there which is or is likely to become the subject of publicity through the news media or otherwise. The Franchisee hereby acknowledges that the Company alone is authorized to speak or make statements, public or private, on behalf of the Taco Bell brand or the Taco Bell System, and the Franchisee shall in every instance consult and coordinate with the Company in advance of communicating with the media or of creating publicity for the brand or System outside the normal course of business.

SECTION 7: FEES

7.0 As partial consideration for the rights granted hereunder, the Franchisee shall pay the Company throughout the Term:

(a) An initial franchise fee of _____ Dollars (\$_____) due upon execution hereof. The Franchisee acknowledges that the granting of this franchise is the only consideration for the payment of this initial franchise fee. The Franchisee shall spend five thousand dollars (\$5,000.00) within six (6) months of opening the Restaurant in advertising and promoting the opening of the Restaurant in accordance with the Company's opening procedures for franchised restaurants. Upon receipt of paid invoices or other proofs of expenditure, the Company will reimburse the Franchisee for the grand opening expenses in an amount not to exceed \$5,000.00. Any and all such paid invoices or other proofs of expenditure must be submitted to the Company within nine (9) months from the opening date of the Restaurant. In the event that the Franchisee and the Restaurant qualify for or otherwise receive a waiver of or reduction in the initial franchise fee, the Franchisee shall still spend and provide the Company with proof of the grand opening expenses as noted above; however, the Company will not reimburse the Franchisee for any grand opening expenses;

(b) A franchise fee for each of the Company's four-week accounting periods (or five-week accounting periods, as determined from time to time by the Company, each whether four or five weeks an "accounting period") equal to five and one-half percent (5.5%) of Gross Sales (as defined below); and

(c) A marketing fee for each of the accounting periods equal to four and one-quarter percent (4.25%) of Gross Sales (as defined below).

(d) Notwithstanding the foregoing, if a federal, state or local law in which the Restaurant is located prohibits or restricts in any way the Franchisee's ability to pay and/or the Company's ability to collect that portion of the period franchise fee (identified in "(b)" above) or period marketing fee (identified in "(c)" above) related to Gross Sales deriving from the sale of alcoholic beverages at the Restaurant (an "Alcohol Restriction Law"), then the Franchisee instead will be required to pay as the period franchise fee and period marketing fee whatever increased percentages of the Restaurant's non-alcoholic beverage Gross Sales (that is, total period Gross Sales minus the amount of Gross Sales derived from the Franchisee's sale of alcoholic beverages) as will result in the Franchisee's paying the period franchise fee and period marketing fee which would otherwise pertain if Franchisee were not subject to an Alcohol Restriction Law.

7.1 Due Dates. Until notified otherwise by the Company, the periodic fees required pursuant to Subsection 7.0 shall be paid by check mailed and postmarked on or before the fifth (5th) business day immediately following the four (or five) week accounting period (as designated by the Company) in which such sales were made. When so notified by the Company, the periodic fees required pursuant to Subsection 7.0 shall be paid by electronic funds transfer received on or before the fifth (5th) business day immediately following the last day of the pertinent accounting period (as designated by the Company) in which such sales were made. Any payment which is not paid when due shall incur the then-customary administrative charge and shall bear interest from and after the due date at the rate of (i) eighteen percent (18%) per annum or (ii) the highest rate permitted by law, whichever is less.

7.2 Definition. The term "Gross Sales" as used in this Agreement shall mean the total of all cash or other payments received for the sale of food, beverages and other tangible property of every kind sold at, in, upon, or from the Restaurant, and all amounts which shall be received as compensation for any services rendered therefrom, excluding only sales taxes, employee meals, overrings and refunds to customers.

7.3 Taxes. All fees paid by the Franchisee to the Company pursuant to this Agreement shall be paid to the Company net of any and all withholding, excise, gross receipts, sales, use and other similar taxes (other than state or federal corporate income tax of the Company), so that, for example, in the event any governmental entity would impose a tax of 5% on royalties paid by the Franchisee hereunder, then the Franchisee would pay to the Company 5.79% of the Restaurant's Gross Sales as the franchise fee instead of the 5.5% of Gross Sales payable without any such tax.

SECTION 8: RECORD KEEPING

8.0 From time to time, the Company may provide the Franchisee with a TACO BELL RESTAURANT record keeping system and forms, and the Franchisee shall employ such system, without modification, in connection with the business of the Restaurant.

8.1 The Franchisee shall complete and submit to the Company on a regular, continuous basis:

- (a) Weekly Restaurant Reports, on or before the fifth business day after each week in each accounting period;
- (b) Period Restaurant Reports, on or before the fifth business day after expiration of each accounting

period; and

(c) Annual Restaurant Reports, on or before 90 days following the end of each calendar year or the end of the Franchisee's fiscal year, whichever is pertinent.

8.2 The Annual Restaurant Reports referred to above shall include a balance sheet dated as of the end of the pertinent year and a profit and loss statement for such year, together with such additional financial information as the Company may reasonably request, all prepared in accordance with generally accepted accounting principles. Such balance sheet and profit and loss statement must be reviewed by an independent certified public accountant and be in accordance with Statements on Standards for Accounting and Review Services and must contain a signed opinion by such accountant to that effect. If the Franchisee fails to provide the Company with any such financial statement, the Company shall have the right to have an independent audit made of the Franchisee's books and records, and the Franchisee shall promptly reimburse the Company for the cost thereof.

8.3 Each of the Reports referred to in this section shall be completed by the Franchisee or the Franchisee's accountant in the respective specimen forms, and in accordance with the instructions, contained in the Manual. Time is of the essence with respect to completion and submission of each such Report. Franchisee hereby consents to the Company's release of information regarding the Restaurant's sales to associations of franchisees, to consultants of the Company, to advertising agencies and to other parties considered appropriate by the Company.

8.4 If the Franchisee is a corporation, it shall maintain an accurate stock register. In the event that the beneficial ownership of the Franchisee's stock differs in any respect from record ownership, the Franchisee shall also maintain a list of the names, addresses and interests of all beneficial owners of its stock. The Franchisee shall produce its stock register and any list of beneficial owners, certified by the corporation's secretary to be correct, at the Restaurant at any reasonable time and from time to time after ten days' prior written request by the Company. Company representatives shall have the right to examine the stock register and any list of beneficial owners and to reproduce all or any part thereof. In addition, all record and beneficial stock holders of the Franchisee shall jointly and severally guaranty the full and faithful performance of all agreements, duties and obligations required to be performed, fulfilled or observed by the Franchisee under this Agreement.

8.5 Without limiting the generality of Subsection 9.0, below, Company representatives shall have the right at all times during normal business hours to confer with Restaurant employees and customers, and to inspect the Franchisee's books, records and tax returns, or such portions thereof as pertain to the operation of the Restaurant business. All such books, records and tax returns shall be kept and maintained at the Restaurant premises or such other place as may be agreed to from time to time in writing by the parties. If any such inspection reveals that the Gross Sales reported in any report or statement are less than the actual Gross Sales ascertained by such inspection, then the Franchisee shall immediately pay the Company the additional amount of fees owing by reason of the understatement of Gross Sales previously reported, together with interest and administrative charges as provided in Subsection 7.1. In the event that any report or statement understates Gross Sales by more than two percent (2%) of the actual Gross Sales ascertained by the Company's inspection, the Franchisee shall, in addition to making the payment provided for in the immediately preceding sentence, pay and reimburse the Company for any and all expenses incurred in connection with its inspection, including, but not limited to, reasonable accounting and legal fees. Such payments shall be without prejudice to any other rights or remedies the Company may have under this Agreement or otherwise.

SECTION 9: RESTAURANT INSPECTION

9.0 The Company shall have the right at any time and from time to time without notice to have its representatives enter the Restaurant premises for the purpose of inspecting the condition thereof and the operation of the Restaurant for compliance with the standards, specifications, requirements and instructions contained in this Agreement and in the Manual, and for any other reasonable purpose connected with the operation of the Restaurant.

SECTION 10: RELATIONSHIP OF PARTIES AND INDEMNIFICATION

10.0 The Franchisee is not, and shall not represent or hold itself out as, an agent, legal representative, joint venturer, joint employer, partner, employee or servant of the Company for any purpose whatsoever and, where permitted by law to do so, shall file a business certificate to such effect with the proper recording authorities. The Franchisee is an independent contractor and is not authorized to make any contract, agreement, commitment, warranty or representation on behalf of the Company, or to create any obligation express or implied on behalf of the Company. The Franchisee agrees that the Company is not, and the Franchisee hereby covenants not to claim that the Company is, in any way a "fiduciary" as regards the Franchisee. The Franchisee shall not use the name TACO BELL or any similar words as part of or in association with any trade name or name of any business entity directly or indirectly associated with the Franchisee.

10.1 Franchisee agrees that it will, at its sole cost, at all times indemnify, defend and hold harmless the Company; any of the Company's parents, affiliates, subsidiaries, successors, assigns and designees; and, the officers, directors, managers, employees, agents, attorneys, shareholders, owners, members, designees and representatives of each of the foregoing (the Company and all others referenced above being the "Company Parties"), to the fullest extent permitted by law, from all claims, losses, liabilities and costs incurred in connection with any action, suit, proceeding, claim, demand, investigation, or formal or informal inquiry (regardless of whether any of the foregoing is reduced to judgment) or any settlement of the foregoing, which actually or allegedly, directly or indirectly, is related in any way to any element of the Franchisee's establishment, design, construction, conversion, opening, remodeling, renovation and/or operation of the Restaurant and/or Franchisee's franchised business, including (without limitation) (i) any personal injury, death, or property damage

suffered by any customer, visitor, operator, vendor, contractor, subcontractor, employee or guest of the Restaurant and/or Franchisee's franchised business, (ii) all acts, errors, neglects or omissions of Franchisee or Franchisee's franchised business and/or any of its or their owners, officers, directors, management, employees, agent, servants, contractors, partners, proprietors, affiliates or representatives (or any third party acting on Franchisee's behalf or direction) related to the operation of the restaurant; the preparation, offer and sale of food and beverage items thereat; and, all liabilities directly or indirectly arising from or related to any sale at or from the restaurant of beer, wine and/or other alcoholic beverages (including "dram shop" liabilities), and (iii) any actual or alleged claim that Franchisor and Franchisee are joint employers of any Franchisee employee or personnel. As used above, the phrase "claims, losses, liabilities and costs" includes all claims; causes of action; fines; penalties; liabilities; losses; compensatory, exemplary, statutory, or punitive damages or liabilities; costs of investigation; court costs and expenses; actual attorneys' and experts' fees and disbursements; settlement amounts; judgments; compensation for damage to the Company's reputation and goodwill; travel, food, lodging and other living expenses necessitated by the need or desire to appear before (or witness the proceedings of) courts or tribunals (including arbitration tribunals), or government or quasi-governmental entities (including those incurred by the Company Parties' attorneys and/or experts); all expenses of recall, refunds, compensation and public notices; and, other such amounts incurred in connection with the matters described. Franchisee agrees to give the Company written notice of any such action, suit, proceeding, claim, demand, inquiry or investigation that could be the basis for a claim for indemnification by any Company Party within three days of Franchisee's actual or constructive knowledge of it. At Franchisee's sole expense and risk, The Company may elect to assume the defense and/or settlement of the action, suit, proceeding, claim, demand, inquiry or investigation. The Company's undertaking of defense and/or settlement will in no way diminish Franchisee's indemnification obligations hereunder.

Franchisee agrees that any failure by the Company Parties to pursue recovery from third parties or mitigate loss will in no way reduce the amounts recoverable by the Company Parties from Franchisee. The indemnification obligations of this Section will survive the expiration or sooner termination of this Agreement.

10.2 Franchisee hereby irrevocably affirms, attests and covenants its understanding that Franchisee's employees are employed exclusively by Franchisee and in no fashion is any such employee either employed, jointly employed or co-employed by the Company. Franchisee further affirms and attests that each of its employees is under the exclusive dominion and control of the Franchisee and never under the direct or indirect control of the Company in any fashion whatsoever. The Company and Franchisee hereby agree that, with respect to the employees working at or in the Restaurant, Franchisee alone has the right and obligation, and the Company has absolutely no right or obligation, to:

- (a) hire the employees;
- (b) determine the employees' compensation and other benefits;
- (c) establish the employees' schedules;
- (d) pay all salaries, benefits, and employee-related liabilities, e.g., workers' compensation; payroll taxes;
- (e) discipline or terminate the employees;
- (f) determine the number of employees working at the Restaurant (subject to any minimum staffing guidelines the Company may publish for the purpose of ensuring Franchisee has the capability at all times to satisfy the Company's food safety and product quality standards);
- (g) train the employees as it sees fit (subject to the use of the Company's training materials, developed to ensure customers receive a consistent brand experience, and full compliance with the Company's food safety and product quality standards).

Finally, should it ever be asserted that the Company is the employer, joint employer or co-employer of any of Franchisee's employees in any private or government investigation, action, proceeding, arbitration or other setting, Franchisee irrevocably agrees to assist the Company in defending said allegation, including (if necessary) appearing at any venue requested by the Company to testify on the Company's behalf (and, as may be necessary, submitting itself to depositions, other appearances and/or preparing affidavits dismissive of any allegation that the Company is the employer, joint employer or co-employer of any of Franchisee's employees). To the extent the Company is the only named party in any such investigation, action, proceeding, arbitration or other setting to the exclusion of Franchisee, then should any such appearance by Franchisee be required or requested by the Company, it will reimburse Franchisee the reasonable costs associated with Franchisee appearing at any such venue (including travel, lodging, meals and *per diem* salary).

SECTION 11: INSURANCE

11.0 The Franchisee shall procure before the commencement of Restaurant operations and maintain in full force and effect during the entire term of this Agreement, at its sole cost and expense, an insurance policy or policies protecting the Franchisee and the Company against any and all loss, liability or occurrence, arising out of or in connection with the condition, operation, use or occupancy of the Restaurant or Restaurant premises. The Company shall be named as an additional insured in all such policies, workers' compensation excepted. Such policy or policies shall be written by an insurance company or companies satisfactory to the Company and with a minimum Best's Rating of A- or other such comparable rating and shall include coverage in at least the following types and amounts:

KIND OF INSURANCE	MINIMUM LIMITS OF LIABILITY
Workers' Compensation	Statutory
Employers' Liability	\$2,000,000 per occurrence
Commercial General Liability	\$2,000,000 per occurrence
	\$5,000,000 annual aggregate
Products Liability	per occurrence included in Commercial General Liability, separate annual aggregate of \$5,000,000
Liquor Liability Insurance	\$3,000,000 annual aggregate per common cause and as further set out below

The insurance afforded by the policy or policies shall be primary with respect to insurance maintained by the Company and shall not be limited in any way by reason of any insurance which may be maintained by the Company. Subject to the express prior written approval of the Company (which the Company may withhold in its good faith discretion), that such program would not put the Company at any greater risk or exposure than would coverage from insurers described above, and to the Franchisee's full compliance with all pertinent laws and regulations, the Franchisee may satisfy its obligations with respect to Workers' Compensation coverage through a self-insurance program. Franchisee is only required to maintain Liquor Liability Insurance if serving alcoholic beverages at the Restaurant. Franchisee is required to maintain such Liquor Liability Insurance with limits of not less than the equivalent of \$3,000,000.00 each common cause and \$3,000,000.00 annual aggregate covering bodily injury and property damage if liability for either bodily injury or property damage is imposed by reason of the selling, serving or furnishing of any alcoholic beverage by Franchisee.

11.1 Within thirty (30) days after the execution of this Agreement, but in no event later than one week before the Restaurant opens for business, Certificates of Insurance showing compliance with the requirements of Subsection 11.0 shall be furnished by the Franchisee to the Company for approval. Such certificates shall state that the policy or policies shall not be canceled or altered without at least thirty (30) days' prior written notice to the Company. Maintenance of such insurance and the performance by the Franchisee of its obligations under this Section 11 shall not relieve the Franchisee of liability under the indemnity provisions of this Agreement or limit such liability.

11.2 The Franchisee shall maintain an all-risk property insurance (fire) policy on the Restaurant buildings and other improvements, equipment, furnishings, fixtures, signage and any additions. The policy shall be written on the basis of replacement cost of the property and shall include a minimum of six months' coverage for business interruption. Such policy or policies shall be written by an insurance company with a minimum Best's Rating of A- or other such comparable rating.

11.3 Should the Franchisee, for any reason, not timely procure and maintain the insurance coverage required by this section, then the Company shall have the right and authority to immediately procure such insurance coverage as part of or separate from its own policies, in its sole discretion, and to charge the cost thereof to the Franchisee, which charges shall be paid immediately upon notice and shall be subject to charges for late payments in the manner set forth in Subsection 7.1.

11.4 The Franchisee's insurance shall be endorsed to add the Company and each of its parents, subsidiaries, affiliates, officers, shareholders, members, directors, and employees as additional insureds.

SECTION 12: DEBTS AND TAXES

12.0 The Franchisee shall pay promptly when due all obligations incurred directly or indirectly in connection with the Restaurant and its operation, including, without limitation, all taxes and assessments that may be assessed against the Restaurant land, building and other improvements, equipment, fixtures, signs, furnishings and other property, and all liens and encumbrances of every kind and character created or placed upon or against any of said property (subject, however, to any conflicting provisions of any arm's length, bona fide lease or leases of any of the foregoing property), and all accounts and other indebtedness of every kind and character incurred by or on behalf of the Franchisee in the conduct of the Restaurant business.

SECTION 13: SALE AND ASSIGNMENT

13.0 The Franchisee's rights and interests under this Agreement and any interest in any of the Restaurant land, building, equipment, fixtures or other things which are subject to the provisions of this Agreement shall not be subject to sale, assignment, transfer or encumbrance, including the granting of any lien or security interest (all of which are hereinafter included within the term "transfer") in whole or in part in any manner whatsoever without the prior express written consent of the Company. The Company will not, however, unreasonably withhold its consent to any proposed sale or assignment. In considering a request for transfer, the Company will consider, among other things, the qualifications, apparent ability and credit standing of the proposed transferee as if the same were a prospective, direct franchisee of the Company; provided that Company may, in its sole discretion, set limits from time to time as to the number of Restaurants any franchisee or its affiliates (or prospective transferee and its affiliates) may own and operate at any given time, may prohibit or condition sale leaseback transactions and/or may withhold its consent to the proposed sale of all then owned Restaurants to a single prospective transferee via one or more transfer transactions. In addition, the Company shall require as a condition precedent to the granting of its consent with respect to any transfer that:

(a) there shall be no existing default in the performance or observance of any of the Franchisee's obligations under this Agreement or any other agreement with the Company and the Restaurant shall be in condition and appearance satisfactory to the Company and in accordance with its standards at that time;

(b) the Franchisee shall have settled all outstanding accounts with the Company and its affiliates and executed a Release in a form satisfactory to the Company;

(c) the Franchisee shall have paid the Company its then current transfer fee applicable to the type of transfer proposed. The amount of the transfer fee will be set by the Company from time to time and will be limited to the Company's good faith estimate of its costs and expenses expected to be incurred in connection with investigating the qualifications of the proposed transferee, training the proposed transferee and the direct administrative costs of reviewing and effecting the transfer;

(d) unless already a Taco Bell franchisee, the proposed transferee shall have personally attended and satisfactorily completed the Company's tuition-free training program; and

(e) the proposed transferee shall have executed the Company's then current form of Franchise Agreement for a term equal to the remaining term of this Agreement but requiring no initial franchise fee and requiring no greater periodic franchise fee than the applicable fee set forth in Subsection 7.0(b) above, except that the items described in clauses (c) and (d) above shall not be required with respect to a proposed transferee that is only to receive the benefits of a lien or security interest or borrowed money. Neither this Agreement nor any of the rights or interests conferred on the Franchisee hereunder shall be retained by the Franchisee as security for the payment of any obligation that may arise by reason of any such transfer.

13.1 It is acknowledged and agreed that a material part of the consideration for the Company's entering into this Agreement is the personal confidence reposed in the Franchisee, and no person shall succeed to any of the rights of the Franchisee under this Agreement by virtue of any voluntary or involuntary proceeding in foreclosure, bankruptcy, receivership, attachment, execution, assignment for the benefit of creditors or other legal process.

13.2 Except as expressly provided for herein, any attempt by the Franchisee to transfer any of its rights or interests under this Agreement shall constitute a material breach of this Agreement and the Company shall have the right to terminate this Agreement. The Company shall not be bound by any attempted sale, assignment, transfer, conveyance or encumbrance in any manner whatsoever, by law or otherwise, of any of the Franchisee's rights or interests under this Agreement.

13.3 If the Franchisee desires to conduct business in a corporate capacity, the Company will consent to the assignment of this Agreement to a corporation approved by the Company, provided that the Franchisee complies with the provisions hereinafter specified and any other condition which the Company may require, including restrictions on the number, identity and legal status of stockholders of the assignee corporation. Such assignee corporation shall be closely held and shall not engage in any business activity other than that directly related to the operation of TACO BELL RESTAURANTS franchised by the Company.

If the Franchisee's rights are assigned to a corporation, the individual Franchisee named herein or otherwise expressly designated in writing by the Company shall at all times be the legal and beneficial owner of at least 51% of the stock of the assignee corporation, and shall act as such corporation's principal officer; provided, however, subject to the express prior written consent of the Company, such stock may be held in trust by a trustee under a trust indenture, with each trustee and beneficiary of such trust personally guaranteeing all of the obligations of the Franchisee hereunder. Any issuance or transfer of stock in such corporation shall be treated for the purposes of this Agreement as a transfer of the Franchisee's rights under this Agreement requiring the Company's consent as provided herein. The Franchisee must prior to any issuance or transfer of any stock furnish the Company with a written notice containing the details of such proposed issuance or transfer in advance thereof. The Articles of Incorporation and the By-Laws of the assignee corporation shall reflect that the issuance and transfer of shares of stock are restricted, and all stock certificates shall bear the following legend, which shall be printed legibly and conspicuously on the face of each stock certificate:

"The transfer of this stock is subject to the terms and conditions of a franchise agreement with Taco Bell Franchisor, LLC and certain restrictions set forth in the charter and bylaws of this corporation, and no such transfer shall be valid unless Taco Bell Franchisor, LLC has consented thereto."

The Franchisee acknowledges that the purpose of the aforesaid restriction is to protect the Company's trademarks, service marks, trade secrets and operating procedures as well as the Company's general, high reputation and image, and is for the mutual benefit of the Company, the Franchisee and other franchisees of the Company. The Company shall not unreasonably restrict the issuance or transfer of shares of stock, provided that in no event shall any share of stock of such assignee corporation be sold, transferred or assigned to a business competitor of the Company.

13.4 The Franchisee shall at all times throughout the term of this Agreement have on file with the Company the name of a designated successor agent, approved by the Company, and authorized by the Franchisee to make, subject to and immediately upon the death or legal incapacity of the Franchisee (or if the Franchisee is not an individual, its designated agent), all operating decisions with respect to the Restaurant business (including but not limited to hiring and severance of employment, voting in the Local Association, purchasing, maintenance, etc.). Not less often than once each calendar year, the Franchisee shall confirm or change in writing such designated successor agent.

In the event of the death or legal incapacity of the Franchisee or, where the Franchisee is a corporation, any person owning the legal or

beneficial interest in 10% or more of the outstanding stock of the Franchisee, the rights and obligations of the Franchisee or of such stockholder hereunder shall inure to the benefit of such of the executors, administrators, heirs, conservators or legatees of the Franchisee or such stockholder (collectively the "Legatee") as shall (i) elect, in a written notice received by the Company within one hundred twenty (120) days after the date of death, or the judicial determination of legal incapacity, to perform all of the duties and obligations required to be performed, fulfilled and observed by the Franchisee under this Agreement and (ii) be determined by the Company, in its good faith discretion, to be able to perform such duties and obligations. In the event the Company determines that the Legatee is not capable of performing all of the duties and obligations required to be performed by the Franchisee under this Agreement, the Legatee shall use best efforts within the six (6) months from the date of written notice from the Company to sell the subject interest hereunder to a bona fide purchaser in accordance with and subject to all of the provisions of this Section 13. If by the end of such six month period, the Legatee has not effectuated a transfer of such interest in a transaction which meets the requirements of this Section 13, the Company shall have the option to purchase the subject interest in the Restaurant and franchise at the fair market value thereof as determined in good faith through negotiation or, failing that, upon written demand of either party, by three appraisers, with the Company and the Legatee each selecting one appraiser and the two appraisers so chosen selecting the third appraiser, with their cost to be shared equally between Legatee and the Company.

13.5 Notwithstanding anything contained in this Agreement to the contrary, if the Franchisee (or any of its direct or indirect parent entities and/or affiliates) proposes to (or receives an offer from a third party to), in any manner whatsoever, transfer, sell, assign, convey, exchange or otherwise dispose of any interest (a) in or under this Agreement, and/or (b) in any of the Restaurant, land, building, equipment, fixtures or other things which are subject to the provisions of this Agreement, in each case irrespective of whether any of the foregoing transactions are effected with or without consideration, voluntarily or involuntarily, directly or indirectly, by operation of law or otherwise (each such transaction in clauses (a) and (b), a "Transfer"), the Franchisee shall give at least ten (10) business days prior written notice thereof to the Company before the Franchisee discloses its decision to undertake any proposed Transfer to any third party (including any prospective purchaser). The Franchisee shall at no time offer to effectuate a Transfer (or enter into any agreement or contract to effectuate a Transfer) where such Transfer would in any manner be tied to the transfer of any interest or obligation other than an interest in this Agreement or the ownership, possession, use or operation of the Restaurant or the assets or business pertaining thereto.

In addition, the Company shall have a right of first refusal with respect to any and all Transfers, which right of first refusal shall be unrestricted and absolute. Before consummating a Transfer to any third party, the Franchisee shall first (i) provide written notice to the Company, which notice shall constitute an offering of the proposed Transfer to the Company and (ii) submit a copy of the purchase agreement (which purchase agreement shall be signed by the parties, but expressly by its own terms shall be subject to the Company's right of first refusal) to the Company together with all ancillary and other documents relating to such proposed Transfer (including, but not limited to, any exhibits and/or disclosure schedules to the purchase agreement) and any other information requested by the Company, in each case at least thirty (30) days in advance of any proposed consummation or closing date of the proposed Transfer for the Company's review and evaluation. The Company may, in its sole discretion, disclose any documentation relating to a proposed Transfer to any third party.

The Company shall in all cases have thirty (30) days following the later of (1) the Company's receipt of all Transfer documentation and any other information requested by the Company, and (2) any change in the terms or conditions of the Transfer, to consider and exercise (or assign to a third party for exercise) its right of first refusal, which exercise shall be effective by the Company's delivery of written notice to the Franchisee. In all cases, the Company shall have not less than thirty (30) days after the exercise of the right of first refusal to consummate the transactions contemplated by the proposed Transfer. If the Company exercises its right of first refusal (or assigns such right to a third party), (a) the purchase agreement to be entered into between the Company (or its assignee) and the Franchisee shall be on substantially similar terms and conditions as the purchase agreement between the Franchisee and the third party purchaser and (b) neither the Company nor its assignee shall have any obligation to reimburse the Franchisee or any third party for any costs or expenses relating to the proposed Transfer giving rise to the right of first refusal, the Company's review of the Transfer, or the exercise or assignment of its right of first refusal. In the event the consideration to the Franchisee under any such offer or contract with a third party is other than cash consideration and the Company elects to exercise or assign its right of first refusal, the Company or such assignee may, in its sole discretion, pay the reasonable equivalent in cash of such other consideration. Nothing contained in this Subsection 13.5 shall in any way be deemed to impair the Company's discretion in considering, approving or disapproving any request to transfer any interest under this Agreement.

In the event that the Company exercises its right of first refusal (or assigns such right to a third party), the Franchisee acknowledges and agrees that it shall take all actions as may be reasonably necessary to consummate the sale to the Company (or its assignee) as contemplated by this Subsection 13.5, including, without limitation, entering into agreements and delivering certificates, instruments, consents and/or other documents as may be deemed necessary or appropriate.

13.6 The Company has the right to assign any and all of its rights, privileges and/or obligations under this Agreement to any person or business entity. If the Company assigns this Agreement, the Franchisee expressly agrees that immediately upon and following such assignment, the Company shall no longer have any obligation or liability (whether directly, indirectly or contingently) to perform or fulfill any duties or obligations imposed upon the "Company" hereunder. Instead, all such duties and obligations will be performed solely by the Company's assignee, and the Franchisee agrees never to assert otherwise. The Franchisee agrees and affirms that the Company may undertake a refinancing, recapitalization, or other economic or financial restructuring. The Franchisee expressly waives any and all claims, demands or damages arising from or related to such activities.

SECTION 14: TRADEMARKS

14.0 The Franchisee acknowledges the sole and exclusive right of the Company (except for rights granted under existing and future franchise and license agreements) to use the Trademarks in connection with the products and services to which they are or may be applied by the Company, and represents, warrants and agrees that neither during the Term of this Agreement nor after the expiration or other termination hereof, shall the Franchisee directly or indirectly contest or aid in contesting the validity, ownership or use of the Trademarks by the Company or take any action whatsoever in derogation of the rights claimed therein by the Company.

14.1 The license granted to the Franchisee under this Agreement to use the Trademarks is non-exclusive and the Company, in its sole and absolute discretion, has the right to grant other licenses in, to and under the Trademarks in addition to those licenses already granted, both within and outside the Restaurant trading area, and to develop and license other names and marks on any such terms and conditions as the Company deems appropriate.

14.2 The Franchisee understands and expressly acknowledges and agrees that the Company has the exclusive, unrestricted right to engage directly and indirectly, through its employees, representatives, licensees, assigns, agents and others, at wholesale, retail and otherwise, within the Restaurant trading area and elsewhere, in (a) the production, distribution and sale of food products and beverages (including, without limitation, tacos, taco shells, sauces and fillings, and other Mexican style food products) under the Trademarks licensed hereunder or other marks; and (b) the use, in connection with such production, distribution and sale, of any and all trademarks, trade names, service marks, logos, insignia, slogans, emblems, symbols, designs and other identifying characteristics as may be developed or used from time to time by the Company, whether or not included in Appendix 1.

14.3 Except as expressly permitted by this Agreement and the Manual, the license granted under this Agreement does not include any right or authority of any kind whatsoever to pre-package or sell pre-packaged food products or beverages under the Trademarks.

14.4 Nothing contained in this Agreement shall be construed to vest in the Franchisee any right, title or interest in or to the Trademarks, the goodwill now or hereafter associated therewith, or any right in the design or any restaurant building, other than the rights and license expressly granted herein for the Term. Any and all use of the Trademarks as well as the goodwill associated with or identified by the Trademarks shall inure directly and exclusively to the benefit of the Company, including without limitation any goodwill resulting from operation and promotion of the Restaurant.

14.5 The Franchisee shall not use the Trademarks or refer to the Company or the System in connection with any statement or material, or do or fail to do anything else, which may, in the judgment of the Company, be in bad taste or inconsistent with the Company's public image, or tend to bring disparagement, ridicule or scorn upon the Company, the System, the products or services of the System, or the Trademarks or the goodwill associated therewith. The Franchisee, whether doing business as a proprietorship, partnership, corporation or other entity, shall not adopt, use or register (by filing a certificate or articles of incorporation, a fictitious business name statement, or otherwise) any trade or business name, style or design which includes, abbreviates, or is similar to, any of the Company's trademarks, service marks, trade names, logos, insignia, slogans, emblems, symbols, designs or other identifying characteristics.

14.6 The Company shall have the right at any time and from time to time upon notice to the Franchisee to make additions to, deletions from, and changes in the Trademarks, or any of them, all of which additions, deletions and changes shall be as effective as if they were incorporated in this Agreement. All such additions, deletions and changes shall be made in good faith, on a reasonable basis and with a view toward the overall best interest of the Taco Bell System. The Company will use commercially reasonable efforts to protect and preserve the integrity and validity of the Trademarks, including the taking of actions deemed by the Company to be appropriate in the event of any apparent infringement of the Trademarks.

14.7 The Franchisee shall notify the Company promptly of any claims or charges of trademark infringement against the Company or the Franchisee, as well as any information the Franchisee may have of any suspected infringement of the Trademarks. The Franchisee shall take no action with regard to such matters without the prior written approval of the Company, but shall cooperate fully with the Company in any such action.

14.8 The Franchisee shall adopt and use the Trademarks only in the manner expressly approved by the Company from time to time during the Term.

SECTION 15: EXPIRATION AND TERMINATION

15.0 This Agreement shall immediately terminate without notice if a petition in bankruptcy, an arrangement for the benefit of creditors, a petition for reorganization is filed by or against the Franchisee, or if the Franchisee shall make any assignment for the benefit of creditors, or if a receiver or trustee is appointed for the Restaurant;

15.1 The Company shall have the right to terminate this Agreement immediately:

- (a) in the event of any breach or default under Subsections 4.1, 5.1, 9.0, 13.2, 13.5, or 14.0;
- (b) if the Franchisee for any reason loses its right to possession of the Restaurant premises;

(c) if the Company discovers that the Franchisee has made any material misrepresentation or omitted any material fact in the information furnished by the Franchisee in connection with the grant of this Taco Bell franchise;

(d) if the Franchisee (or any shareholder if the Franchisee is a corporation) is convicted of any felony or any crime involving moral turpitude.

Any default or breach by Franchisee, Franchisee's Affiliates, Franchisee's Owners, or Obligors of any agreement between the Company or the Company's Affiliates and Franchisee, Franchisee's Affiliates, Franchisee's Owners or Obligors will be deemed a breach and default under this Agreement, and any breach or default of this Agreement by Franchisee, Franchisee's Affiliates, Franchisee's Owners or Obligors will be deemed a breach of any other agreement between the Company or the Company's Affiliates and Franchisee, Franchisee's Affiliates, Franchisee's Owners or Obligors. If the nature of the default under any agreement would have permitted the Company or the Company's Affiliate to terminate this Agreement if the default had occurred under this Agreement, then the Company will have the right to terminate all such other agreements in the same manner provided for in this Agreement for termination hereof. For purposes of this Section 15, "Affiliates" means any persons or entities controlling, controlled by or under common control with another person or entity, "Owners" means any persons or entities who own or hold some interest or perform some role or function in Franchisee, and "Obligors" means Owners who are party to a relationship agreement among the Company, Franchisee and others.

If the Franchisee defaults in the performance or observance of any of its other obligations hereunder or under any other franchise agreement with the Company, and such default continues for a period of thirty (30) days after written notice to the Franchisee, the Company may at any time thereafter terminate this Agreement as well as any other such franchise agreement. A repetition within a one-year period of any default shall justify the Company in terminating this Agreement without allowance for any curative period. The foregoing provisions of this Subsection 15.1 are subject to the provisions of any statutes or regulations which may prohibit the Company from terminating this Agreement without good cause or without giving the Franchisee additional prior written notice of termination and opportunity to cure any default. In the event of any termination for failure of the Franchisee to successfully complete the Company's TACO BELL RESTAURANT operations training course pursuant to Subsection 4.1, the Company shall refund to the Franchisee the initial franchise fee payment referred to in Subsection 7.0(a), less any expenses incurred and damages sustained by the Company in connection with its performance hereunder prior to the date of such termination.

15.2 Upon the expiration or earlier termination of this Agreement for any reason, the Franchisee shall:

(a) immediately discontinue the use of the System and Trademarks;

(b) if the Restaurant premises are owned by the Franchisee or leased from a third party, upon demand by the Company, remove the Trademarks from all buildings, signs, fixtures and furnishings, remove and dispose of all proprietary smallwares and equipment, including the production lines, in the manner specified by the Company, and alter and paint all buildings and other improvements maintained pursuant to this Agreement to a design and color which is basically different from any of the Company's authorized building designs and painting schedules.

If the Franchisee shall fail to make or cause to be made any such removal, alteration or repainting within thirty (30) days after written notice, then the Company shall have the right to enter upon the Restaurant premises, without being deemed guilty of trespass or any other tort, and make or cause to be made such removal, alterations and repainting at the reasonable expense of the Franchisee, which expense the Franchisee shall pay the Company upon demand; and

(c) not thereafter use any trademark, trade name, service mark, logo, insignia, slogan, emblem, symbol, design or other identifying characteristic that is in any way associated with the Company or similar to those associated with the Company, or operate or do business under any name or in any manner that might tend to give the public the impression that the Franchisee is or was a licensee or franchisee of, or otherwise associated with, the Company.

15.3 In the event that either party initiates any legal proceeding to construe or enforce the terms, conditions and provisions of this Agreement, including its termination provisions, or to obtain damages or other relief to which either may be entitled by virtue of this Agreement, the prevailing party shall be paid its reasonable attorneys' fees and costs by the other party.

If the Franchisee refuses to comply with a notice of termination given by the Company and a court later upholds such termination of this Agreement, operation of the Restaurant by the Franchisee from and after the date of termination stated in such notice shall constitute trademark infringement by the Franchisee and the Franchisee shall be liable to the Company for damages resulting from such infringements in addition to any royalties paid or payable hereunder, including, without limitation, any profits of the Franchisee at the Restaurant level (without deduction from sales revenues for any compensation or charges payable to the Franchisee or any entity owned or controlled by the Franchisee), which profits in no event shall be calculated as less than ten percent (10%) of the Franchisee's Gross Sales. No such payment or obligation for payment shall in any way imply or be construed to imply or reflect any right of the Franchisee to operate the Restaurant after expiration or termination of this Agreement.

15.4 (a) In the event that the premises at which the Franchisee operates the Restaurant are owned by the Franchisee, then, upon termination of this Agreement, whether it is terminated by the Franchisee or by the Company, the Company shall have the option of immediately purchasing said premises from the Franchisee. If the Company elects to exercise that option, the purchase price to be paid by the Company to the Franchisee shall be the fair market value of the Restaurant land, buildings, furnishings, and equipment owned by the Franchisee. In the event that the parties are unable to agree as to such amount or any other terms of purchase

within thirty (30) days following cessation of the Franchisee's operation of the licensed Restaurant at the premises, the amount or other terms of purchase as to which the parties are unable to agree shall be determined by three (3) appraisers, with each party selecting one appraiser and the two appraisers so chosen selecting the third appraiser. If appraisal occurs pursuant to this provision, following the announcement of the appraiser's decision the Company shall have thirty (30) days within which to elect whether or not to purchase the premises.

(b) In the event that the premises at which the Franchisee operates the Restaurant are leased by the Franchisee from a third party, such lease and any subsequent lease of those premises shall give the Franchisee the right to assign such lease to the Company. Upon termination of this Agreement, whether it is terminated by the Company or by the Franchisee, the Franchisee's rights and obligations under said lease shall, if the Company so elects, automatically be assigned to the Company. If the Company exercises this option, the Franchisee shall immediately vacate the premises, and the Company shall be entitled to take possession of said premises, including all fixtures and leasehold improvements. In such event the Company shall pay to Franchisee the fair market value of the interests owned by the Franchisee in the Restaurant's furnishings and equipment. Fair market value shall be determined in the same manner as set forth in the immediately preceding paragraph.

15.5 If this Agreement is terminated as a result of repudiation, default or other action by the Franchisee without material breach hereof by the Company, the Franchisee (in addition to any other remedy or right the Company may have) shall pay to the Company in lump sum as liquidated damages the greater of the amount of eleven percent (11%) times the Restaurant's Gross Sales (as defined in Subsection 7.2 above) for the twelve months immediately preceding termination of this Agreement or \$100,000.00. The parties hereby acknowledge and agree that the precise amount of the Company's actual damages in such event would be extremely difficult to ascertain and that the foregoing sum represents a reasonable estimate of such actual damages, based upon the approximate time it would take the Company to open another TACO BELL RESTAURANT in the vicinity. Such liquidated damages shall not apply if the Company exercises one of the options set forth in Subsection 15.4 above and either the Company or another Taco Bell franchisee continues operation of the Restaurant as a TACO BELL RESTAURANT following termination of this Agreement.

15.6 In the event that this Agreement is terminated prior to the end of the term set forth in Section 2 hereof as a result of condemnation proceedings or other action not within the control of the Franchisee or the Company, the Company shall use commercially reasonable efforts to assist the Franchisee in locating an alternative location for the Restaurant in the same area to be used for the balance of the Term upon the same terms and conditions as contained herein, and without the payment of any additional initial franchise fee. This provision shall not be construed to limit the Franchisee from receiving the full amount of any condemnation award or damages relating to the closing of the Restaurant.

15.7 The Franchisee acknowledges that termination and money damages alone are not an adequate remedy for any breach by the Franchisee of any provision of this Agreement, including continuing to operate the Restaurant or to use the Trademarks following expiration or termination of this Agreement, each of which operation or use shall be deemed to inflict irreparable harm upon the Company for which there may be no adequate remedy at law. Therefore, in the event of a breach or threatened breach of any provision of this Agreement by the Franchisee, including continuing to operate the Restaurant or to use the Trademarks following expiration or termination of this Agreement (each of which the Franchisee acknowledges shall constitute trademark infringement), the Company, in addition to all other remedies, shall have the right to immediately seek, obtain and enforce temporary and permanent injunctive relief prohibiting the breach, or to compel specific performance, without the need to post any bond or for any other undertaking, including without limitation proving the inadequacy of monetary damages or that due cause existed for the termination.

SECTION 16: MISCELLANEOUS

16.0 Waiver. The waiver by the Company of any breach or default, or series of breaches or defaults, of any term, covenant or condition herein or of any same or similar term, covenant or condition in any other agreement between the Company and any franchisee or licensee, shall not be deemed a waiver of any subsequent or continuing breach or default of the same or any other term, covenant or condition contained in this Agreement, or in any other agreement between the Company and any franchisee or licensee.

16.1 Cumulative Remedies. All rights and remedies of the Company shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies provided for herein or which may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement. The rights and remedies of the Company shall be continuing and not exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration or earlier termination of this Agreement shall not discharge or release the Franchisee from any liability or obligation then accrued or any liability or obligation continuing beyond or arising out of the expiration or earlier termination of this Agreement.

16.2 Partial Invalidity. If any part of this Agreement shall for any reason be declared invalid, unenforceable or impaired in any way, the validity of the remaining portions shall not be affected thereby and such remaining portions shall remain in full force and effect as if this Agreement had been executed with such invalid portion eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including therein any such portions which might be declared invalid; provided, however, that in the event any part hereof relating to the payment of fees to the Company, or the ownership or preservation of the Trademarks, trade secrets or secret formulae licensed or disclosed hereunder is for any reason declared invalid or unenforceable, then the Company shall have the option of terminating this Agreement upon written notice to the Franchisee.

16.3 Choice of Law. The Franchisee acknowledges that the Company will grant numerous licenses throughout the United States on terms and conditions similar to those set forth in this Agreement and that it is of mutual benefit to the Franchisee and to the Company that these terms and conditions be uniformly interpreted. This Agreement; all relations between the parties; and, any and all disputes between Franchisee and Company, whether such dispute sounds in law, equity or otherwise, is to be exclusively construed in accordance with and/or governed by (as applicable) the law of the State of New York without recourse to New York (or any other) choice of law or conflicts of law principles. If, however, any provision of this Agreement is not enforceable under the laws of New York, and if Franchisee's franchised business is located outside of New York and the provision would be enforceable under the laws of the state in which the franchised business is located, then that provision (and only that provision) will be interpreted and construed under the laws of that state. This Section is not intended to invoke, and shall not be deemed to invoke, the application of any franchise, business opportunity or similar law of the State of New York which would not otherwise apply by its terms jurisdictionally or otherwise but for the within designation of governing law.

16.4 Jurisdiction and Venue. With respect to any court proceeding between the Franchisee and the Company concerning the enforcement, construction or alleged breach or termination of this Agreement, the Franchisee hereby submits to the personal jurisdiction and venue of the federal and California state courts located in Orange County, California, for all such matters, and promises not to commence against the Company any court proceeding concerning such matters in any other courts.

16.5 Notices. Any notice from the Company that is required hereunder to be given in writing, and all notices from the Franchisee to be given hereunder, shall be in writing and shall be deemed given when first tendered or received, whether in person, through United States mail or through reputable private delivery service, during normal business hours for the locale of the addressee at the appropriate address set forth below, or such other address as one party may hereafter provide to the other with not less than three (3) days' notice.

THE COMPANY: TACO BELL FRANCHISOR, LLC
1 Glen Bell Way
Irvine, California 92618
Attn: General Counsel

THE FRANCHISEE: name
address
city state zip

16.6 Terms and Headings. Whenever any word is used in this Agreement in one gender, it shall also be construed as being used in the other genders, and singular usage shall include the plural and vice versa, all as the context shall reasonably require. The headings inserted in this Agreement are for reference purposes only and shall not affect the construction of this Agreement or limit the generality of any of its provisions.

16.7 Compliance with Laws. The Franchisee shall at its own cost and expense, promptly comply with all laws, ordinances, orders, rules, regulations, and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards, and offices thereof. Without limiting the generality of the foregoing, the Franchisee shall abide by all applicable rules and regulations of any Public Health Department having jurisdiction over the Restaurant.

16.8 Lease of Land and Building. In the event that the parties have executed a lease of land or building relating to the premises described in Subsection 1.0 (the "Lease"), such Lease is hereby incorporated in this Agreement by reference, and any failure on the part of the Franchisee (lessee therein) to perform, fulfill or observe any of the covenants, conditions or agreements contained therein shall constitute a material breach of this Agreement. It is expressly understood, acknowledged and agreed by the Franchisee that any termination of the Lease resulting in the Franchisee's loss of possession of the Restaurant shall result in immediate termination of this Agreement without further notice.

16.9 Entire Agreement. This Agreement and the documents referred to herein constitute the entire agreement between the parties and supersede and cancel any and all prior and contemporaneous agreements, understandings, representations, inducements and statements, oral or written, of the parties in connection with the subject matter hereof. Nothing in the preceding sentence, however, is intended to disclaim the representations the Company made in the franchise disclosure document that the Company has provided to the Franchisee.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

16.10 Amendment or Modification. Except as expressly authorized herein, no amendment or modification of this Agreement shall be binding unless executed in writing by both the Company and the Franchisee.

IN WITNESS WHEREOF, the parties personally or through their duly authorized signatories have executed this Agreement in duplicate on the day and year written below.

TACO BELL FRANCHISOR, LLC

By _____
Its

Date: _____

FRANCHISEE

Name Date

Name Date

Exhibit “G”

PAPA JOHNS
FRANCHISE AGREEMENT
STANDARD RESTAURANT

Franchisee: _____

Store No. _____

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PAPA JOHNS

FRANCHISE AGREEMENT

SINGLE LOCATION FRANCHISE

THIS FRANCHISE AGREEMENT ("Agreement") is made as of the "Effective Date" (as defined in Section 25.(k)), by and between **PAPA JOHN'S FRANCHISING, LLC**, a Kentucky limited liability company ("we", "us" or "Papa Johns"), and _____, a _____ ("you"). If you are a corporation, limited liability company, partnership or other business entity, certain provisions of the Agreement also apply to your owners and will be noted.

RECITALS:

A. We and our Affiliates (as defined in Section 25.(e)) have expended time, money and effort to develop a distinctive system for operating retail restaurants devoted primarily to carry-out and delivery of pizza and other food items. The chain of current and future standard Papa Johns restaurants in the United States is referred to as the "Papa Johns Chain" or the "Chain."

B. The Chain is characterized by a proprietary system which includes: special recipes and menu items; distinctive design, decor, color scheme and furnishings; software and programs; standards, specifications and procedures for operations; systems for communicating with us, suppliers and customers; procedures for quality control; training assistance; and advertising and promotional programs; all of which we may improve, amend and further develop from time to time (the "System").

C. We identify our goods and services with certain service marks, trade names and trademarks, including "Papa John's," "Papa John's Pizza" and "Pizza Papa John's and Design" (the Papa John's logo) as well as certain other trademarks, service marks, slogans, logos and emblems that have been or may be designated for use in connection with the System from time to time (the "Marks").

D. You desire to enter into this Agreement for the operation of one Papa Johns restaurant under the System and the Marks at the location listed below (the "Restaurant").

E. We have agreed to grant you a franchise for the Restaurant subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **Grant.** We grant to you the non-exclusive right and franchise (the "Franchise") to operate a retail restaurant under the System and the Marks to be located at the location specified in Section 25.(m) (the "Location"). Pursuant to this grant, you, at your own expense, must construct or remodel, and equip, staff, open and operate the Restaurant at the Location. Unless otherwise agreed in writing by us, you must commence operating the Restaurant within 60 days after the Effective Date and operate such business in accordance with this Agreement for the Term (defined below). Approval of the Location by us does not constitute an assurance, representation or warranty of any kind, expressed or implied, as to: (i) the suitability of the Location for a Papa Johns Restaurant; (ii) the successful operation of the Restaurant; or (iii) for any other purpose. Our approval of the Location indicates only that we believe it complies with acceptable minimum criteria that we establish solely for our purposes at the time of the evaluation. Unless we otherwise approve, the Franchise applies only to the Location and the operations of the Restaurant must be carried on only from the Location.

2. **Term, Renewal and Expiration.**

(a) **Term.** The initial term of the Franchise is 10 years from the Effective Date of this Agreement, unless terminated earlier as provided in this Agreement (the "Term").

(b) **Renewal of Franchise.** This Agreement does not automatically renew upon the expiration of the Term. However, you have an option to renew the Franchise for one additional 10-year term (the "Renewal Term") upon the expiration of the Term if, and only if, each and every one of the following conditions has been satisfied:

(i) You give us written notice of your desire to renew the Franchise not less than three months nor more than six months before the end of the Term. If we have not received notice from you of your desire to renew within such period, we may, in our sole discretion, notify you and provide you a 30-day grace period within which to submit the renewal notice.

(ii) You are not in material default of any provision of this Agreement or any other agreement with us or our subsidiaries or affiliates related to the Location and have substantially complied with the terms and conditions of these agreements during their terms. If there is any outstanding default under Section 19.(c) it must be cured within the time period specified in Section 19 with such renewal not being effective until it is cured; and all your debts and obligations to us and our Affiliates under this Agreement or otherwise must be current (or brought current before the effective date of the renewal), including your obligations to the Marketing Fund (as defined in Section 8.(b)) and if applicable each Cooperative (as defined in Section 8.(c)) of which you are a member.

(iii) You must promptly execute and deliver to us a new Papa Johns Franchise Agreement, which Franchise Agreement will supersede this Agreement in all respects, and the terms and conditions of which may differ from this Agreement, provided such Franchise Agreement will provide for a term of 10 years.

(iv) We then continue to operate the System under the Marks, in the state in which the Restaurant is located and have all required documents filed and all necessary approvals to offer renewals of Papa Johns franchises in that state. Any decision to withdraw from one or more states will be based on reasonable factors. Should we make such a decision, you may continue to

operate the Restaurant and your continued operation will not be in violation of Sections 16.(a) or 16.(c), provided that you cease using all of our Marks and properly de-identify the premises.

(v) You must pay us a renewal fee in the amount of \$4,000.

(vi) Subject to applicable laws, you, your owners, and we must execute and deliver a general release, in the form we prescribe, provided, our release of you will not include a release of any fees or royalties due under this Agreement, any amounts due to us or any of our Affiliates for products or services provided or otherwise payable to us or any of our Affiliates in the ordinary course of business, or any unfulfilled mandatory operational or system requirements (such as image or computer system upgrades or menu or product changes).

(vii) You must make, or provide for in a manner and timeframe reasonably satisfactory to us, such renovation and re-equipping of the Restaurant as may be necessary or appropriate to reflect the then-current standards and image of the System, including renovation or replacement of signs, equipment, furnishings, fixtures and decor; provided that substantial renovation and re-equipping will not be required if you have substantially renovated the Restaurant within the 3-year period immediately preceding the end of the Term.

(viii) You and your applicable employees must complete or comply with, or agree to complete and comply within a timeframe reasonably satisfactory to us, the then current qualification and training requirements we reasonably require.

(ix) This option to renew may not be exercised unless all of the preceding conditions are fully satisfied.

3. Franchise Fees and Payments.

(a) **Initial Franchise Fee and Royalties.** In consideration of the grant of the Franchise, you must pay to us the following fees:

(i) an Initial Franchise Fee of \$25,000, which must be paid upon the execution of this Agreement and which is deemed fully earned and non-refundable;

(ii) a continuing royalty (the "Royalty") of 5% of the "Net Sales" (as defined below) of the Restaurant for each "Period" (as defined in Section 13.(b)). Regardless of the date upon which this Agreement is executed, the royalty rate may be increased by us at any time, provided: (A) we may increase the Royalty only if and to the extent that our form of Franchise Agreement being offered to new Papa Johns franchisees at the time of the increase provides for the increased Royalty; and (B) the Royalty rate cannot exceed 6% during the Term. Net Sales means the gross revenues of the Restaurant from sales of approved products and provision of approved services (including revenues from special or promotional sales efforts such as Groupon, Living Social or other discounted sales programs), delivery services or any other revenue-generating activity carried on at, from or in connection with operation of the Restaurant and regardless of whether such sales are evidenced by cash, check, credit, charge account, gift card or otherwise, less: (a) sales tax, use tax or similar tax collected from customers in conjunction with such sales and paid in full to the state or other local taxing authority; (b) any documented refunds actually paid to customers (if such amounts were originally included in calculating Net Sales); and (c) proceeds

from sales of used furniture and fixtures and similar sales not in the ordinary course of business. The Royalty is due on the 10th day of the month following each Period; and

(iii) a continuing internet and digital ordering system transaction fee ("Digital Fee") in an amount determined by a board consisting of the same members of the Board of the Marketing Fund as a percentage of each Period's Net Sales of the Restaurant that arise from customer orders received via the internet through our internet/digital ordering system ("Digital Orders"). The fee generally will be set high enough to cover our actual and projected ongoing costs plus new capital expenditures each year in maintaining and operating the on-line/digital ordering system, including costs of integration of aggregator or other third-party platforms, provided: (A) we will contribute any revenue in excess of these costs to the Marketing Fund; and (B) any shortfall of revenue will be carried forward as a deficit and retired from future Digital Fee revenues. The Digital Fee is due on the 20th day of the month following each Period.

(b) **Alternative Ordering.** We reserve the right to develop or contract with third parties to develop centralized or technology-based methods of taking, processing, routing, and delivering orders in addition to the online and digital system that we currently use or authorize (collectively "Alternative Ordering Systems"). These may become mandatory at any time during the Term of this Agreement and may require you to spend money to add or replace equipment, wiring, hardware and software, and to pay licensing fees, support and maintenance fees, fees paid to third parties; to incur other costs, and to sign agreements with third parties. To the extent that these products and services are owned by us or provided to you by us, we may charge up front and/or ongoing fees. However, to the extent that all the direct and indirect costs to develop, test and implement an Alternative Ordering System are paid from the Digital Fee, then such up-front and ongoing fees charged by us would be intended only to cover our ongoing expenses, including direct costs and reasonable allocations. Regardless of the sources of funds to develop any Alternative Ordering System, as between you and us we are and will be the owner of all direct and related rights and assets, including software and hardware, intellectual property and all data generated by the Alternative Ordering Systems or as a result of their use, but excluding hardware or equipment that you purchase directly for the purpose of gaining access to the Alternative Ordering System (including computers and kiosks).

(c) **Papa Card Fees.** You are required to accept customer cash cards ("Papa Card(s)") administered by Papa Card, Inc., a subsidiary of the Marketing Fund. We will debit or credit your bank account on a weekly basis for the net amount of Papa Card purchase or redemption transactions. Upon redemption of a Papa Card balance, or portion thereof, for purchases from your Restaurant, you are required to pay a percentage of the amount of Papa Card redemption transactions, including tax and gratuities, to Papa Card, Inc. on a weekly basis. We will debit your bank account monthly for the amount of Papa Card transaction fees. The percentage to be paid will be set by the Board of Papa Card, Inc. and may be changed by the Board of Papa Card, Inc. from time to time, provided the rate cannot be less than 1½% nor more than 2% without our written approval.

(d) **Taxes.** If the state in which the Restaurant is located (or a local taxing authority within the state) imposes a sales tax, use tax, gross receipts compensating tax or similar tax on the Initial Franchise Fee, the Royalty or the Digital Fee, we will collect such tax from you in addition to the amount set forth or determined as provided herein and remit the amount of the tax directly to the taxing authority. This does not include income taxes imposed on us, for which we

are solely responsible. If the state in which the Restaurant is located (or a local taxing authority within the state) requires you to withhold tax on any payment that you are obligated to make to us or our Affiliates, you must timely pay such withheld amounts to the appropriate taxing authority and promptly deliver to us receipts of applicable governmental authorities for all such taxes withheld or paid. We have no obligation to recognize or give credit for any amounts so withheld until you provide to us receipts or other evidence acceptable to us that such amounts have been duly remitted to the appropriate taxing authority. We have no obligation to recognize or give credit for any such receipts provided more than three (3) years after the associated tax year. You are responsible for and undertake to indemnify us and our Affiliates against and hold us and our Affiliates harmless from any penalties, interest and expenses incurred by or assessed against us or any of our Affiliates as a result of your failure to withhold such taxes or to timely remit them to the appropriate taxing authority.

(e) **Payments.**

(i) At least 10 days before opening the Restaurant (and thereafter as requested by us), you must execute and deliver to us, our bank(s) and your bank, as necessary, all forms and documents that we may request to permit us to debit your bank account, either by check, electronic funds transfer or other means utilizing the "Information System" (as defined in Section 10.(c)(i)(B)) or by such alternative methods as we may designate ("Payment Methods"). You must comply with all procedures specified by us from time to time, and take such reasonable actions as we may request to assist in any of the Payment Methods. We may use the Payment Methods to collect the amount of each Period's Royalty, Digital Fee and any other amounts due to us, our Affiliates, the Marketing Fund or Papa Card, Inc. under this Agreement or otherwise, including amounts owed to us and/or our Affiliates in connection with: (A) Marketing Fund contributions; (B) purchases from "PJFS" (as defined in Section 12.(b)) and all of our other Affiliates; (C) Papa Card purchase and balance increase transactions by customers; (D) transfer fees and (E) renewal fees. You must complete and provide to us any tax forms or other instruments or documents necessary or appropriate to give effect to the terms and provisions of this Agreement, including an IRS Form W-9.

(ii) We will determine your Net Sales for each Period via the Information System, or if we are unable to do so, we may estimate the Net Sales of the Restaurant for such Period and debit your bank account the amount of the Royalty, Digital Fee and Marketing Fund contribution based on such estimate. If an estimate results in an overpayment, the amount of the overpayment will be deducted from the next Period's Royalty, Digital Fee and Marketing Fund contribution. Any deficiency resulting from such estimate may be added to the next Royalty, Digital Fee and/or Marketing Fund contribution payment(s) due and debited against your bank account. If, at any time, we determine that you have underreported the Restaurant's Net Sales or underpaid any Period's Royalty, Digital Fee, Marketing Fund contributions or payments to any of our Affiliates, we are authorized to immediately debit your account for these amounts by any of the Payment Methods. Any amounts of the Royalty, any other sums or fees owed to us or Marketing Fund contributions that are not paid when due bear interest until paid at a rate equal to the lesser of: (A) twelve percent (12%) per annum; or (B) the maximum rate permitted by law. Late charges, interest or other credit terms relating to your purchase of goods or services from our designated suppliers, including our Affiliates, will be as determined by the policies of the applicable supplier from time to time.

(iii) You must notify us at least 30 days before closing or making any change to the account against which such debits are to be made. If such account is closed or ceases to be used, you must immediately provide all documents and information necessary to permit us to debit the amounts due from an alternative account. You acknowledge that these requirements are only a method to facilitate prompt and timely payment of amounts due and do not affect any obligation or liability for amounts owed. If for any reason your account cannot be electronically debited, you must submit payments by wire transfer or certified or cashier's check on or before the dates when due. You must maintain a sufficient balance in your designated bank account to ensure that all transactions made by any of the Payment Methods are promptly and fully paid and you undertake to indemnify and hold us harmless from and against all damages, losses, costs and expenses resulting from any dishonored debit against your account, regardless whether resulting from the act or omission of you or your bank; provided that you are not obligated to indemnify us for any dishonored debit caused by our negligence or mistake.

(iv) Notwithstanding the commencement of any "Insolvency Proceeding" (as defined in Section 25.(a)) by or against you, you must: (A) comply with the Payment Methods described above; (B) use your best efforts to obtain court approval of the Payment Methods as may be necessary or otherwise requested by us; and (C) seek such court approval as expeditiously as possible, but in no event later than five business days after the commencement of such Insolvency Proceeding.

4. Franchisor Services. We will provide to you the following services at such time and in such manner as we deem appropriate:

(a) specifications for the design of the Restaurant and related facilities to be used in the operation of the Restaurant;

(b) specifications for fixtures, furnishings, decor, communications and computer hardware and software, signs and equipment;

(c) the names and addresses of designated and approved suppliers, and standards and specifications for (i) all food products, beverages, ingredients and cooking materials sold from or used in the operation of the Restaurant, and (ii) all containers, boxes, cups, packaging, menus, uniforms and other products and materials used in connection with the operation of the Restaurant;

(d) our periodic inspections and evaluations of your operation, as described more fully in Section 11.(m), which inspections and evaluations may be conducted at such times and in such manner as we reasonably determine;

(e) communication to you of information relating to Restaurant operations to the extent we deem it necessary or pertinent;

(f) operation of the online and digital ordering system, including integrated aggregator or other third-party platforms, which enables customers to place orders online via internet and mobile applications with access to our website, provided:

(i) we do not represent or warrant to you, and expressly disclaim any warranty that the online and digital ordering system (or any other Alternative Ordering System that

may be developed by us) will be error-free or that the operation and use of the online and digital ordering system or any such other Alternative Ordering System will be uninterrupted or error-free; and

(ii) we have no obligation or liability for any expense or loss incurred by you (including lost sales or profits) arising from operation (including failure of operations) or use of the online and digital ordering system or any other Alternative Ordering System that may be developed by us;

(g) preparation and presentation to the Board of the Marketing Fund of an annual budget for their input and approval; and

(h) foster positive, constructive and respectful communication between you and us, between us and the community of franchisees at large, and between franchisees.

5. Territorial Provisions.

(a) **Territory.** Subject to the provisions of this Section 5, we will not locate nor license another to locate a Papa Johns restaurant within a one and one-half mile radius of the Location OR a one-half mile radius in certain densely populated urban areas (the "Territory").

(b) **Non-Traditional Exclusion.** Venues suitable for non-traditional Papa Johns operations (collectively "Non-Traditional Locations"), are excluded from protection within the Territory. Such venues include enclosed malls, institutions (such as hospitals, colleges, universities or other schools), airports, parks (including theme parks), military bases, sports arenas or stadiums, train stations, travel plazas, and entertainment venues that are subject to exclusive food vending rights of third parties or for which you are otherwise precluded from obtaining occupancy or vending rights, such as, by way of example and not of limitation, financial or net worth requirements of the landlord or site operator; laws, rules or regulations applicable to the location (such as special regulatory or licensing schemes applicable to casino or gaming operations or Indian tribal laws or regulations); or national security issues. We may open non-traditional Papa Johns restaurants, or franchise the right to open non-traditional Papa Johns restaurants to other persons at any such Non-Traditional Locations, regardless of where they are located. No delivery services will be permitted from non-traditional restaurants located within the Territory, except as otherwise agreed by you and us.

(c) **Development Area Limitation.** Notwithstanding identification of the Territory above, if this Agreement is signed pursuant to a Development Agreement between you and us, in no event will the Territory extend outside the boundaries of the "Development Area" as defined in the Development Agreement and neither termination nor expiration of the Development Agreement will alter this limitation.

(d) **No Exclusive Trade Area for Sales or Delivery.** We do not warrant or represent that no other Papa Johns restaurant will solicit or make any sales within the Territory, and you expressly acknowledge that such solicitations or sales may occur within the Territory. We have no duty to protect you from any such sales, solicitations, or attempted sales. You recognize and acknowledge that: (i) you will compete with other Papa Johns restaurants that are now, or that may in the future be, located near or adjacent to your Territory; and (ii) that such Papa Johns restaurants may be owned by us, our Affiliates or third parties. If you relocate the Restaurant, the Territory in our

sole discretion may be reduced, changed, altered or restricted. We make no assurance that the Territory specified herein will be applicable to the new location, even if we have approved the new location.

(e) **Alternative Ordering Systems Area.** We will of necessity define the trade area for the Restaurant for Alternative Ordering Systems (“Alternative Order Area”) and such trade area may be significantly different than the Territory and may change from time to time. You must use reasonable efforts not to solicit sales within the defined Alternative Ordering trade area of another Papa Johns restaurant. However, you acknowledge that such solicitations and sales may occur in your trade area, including advertising spillover, directories, electronic media, direct mail drops by sector or ZIP code and other advertising and that we have no duty to monitor, control or stop such advertising, solicitations or sales. In determining which Papa Johns restaurant an online, digital or other Alternative Ordering System order will be routed to, we will consider such matters as we reasonably deem material, including: existing trade or delivery areas of Papa Johns restaurants in geographic proximity to the address or customer placing the order; demographic characteristics of the location of such proximate Papa Johns restaurants; traffic patterns and similar factors affecting delivery efficiency; the opening or closing of other Papa Johns restaurants; and other commercial characteristics of geographically proximate Papa Johns restaurants (collectively, the "Commercial Considerations"). You acknowledge that such Commercial Considerations may result in changes that remove particular addresses or groups of addresses or particular customers or groups of customers from routing to your Restaurant and that online, digital or other systematized orders from such addresses, groups of addresses, customers, or groups of customers may be re-routed to other Papa Johns restaurants that are now, or that may in the future be, located near or adjacent to your Restaurant, and that such Papa Johns restaurants may be owned by us, our Affiliates or third parties. You acknowledge that if you relocate the Restaurant, the routing of online, digital or systematized orders to your Restaurant may, in our sole discretion, be reduced, changed, altered or restricted, even though we have approved the new location for the Restaurant. Subject to any factors that are unique to electronic ordering or to our specific Alternative Ordering System, we will consider the same factors in changing the Restaurant’s Alternative Order Area as set forth in Section 5.(h). Provided we use reasonable judgment in considering these factors, you waive all rights to bring any claim or cause of action against us for lost sales or profits as a result of our definition of your Alternative Order Area, including any changes made from time to time.

(f) **Other Businesses.** We reserve the right to operate, directly and/or through Affiliates, franchise, or license others to operate or franchise, restaurants or other food related establishments or businesses other than Papa Johns restaurants and we and our Affiliates may do so within the Territory, provided, that such restaurants or food establishments or businesses do not sell pizza on a delivery basis, or primarily on a carry-out basis. We also reserve the right to develop, market and conduct any other business under the Marks or any other trademark.

(g) **Other Methods of Distribution.** We reserve the right to manufacture or sell, directly or through third parties, or both, within and outside your Territory, pizza and other products that are the same as or similar to those sold in Papa Johns restaurants using brand names that are the same as or similar to the Marks, through any channel of distribution, provided that such items are not sold through restaurants or on a ready-to-eat basis. We may in our discretion, contribute a portion of the “Net Revenue” from such other methods of distribution, up to 30% of such Net Revenue, to the Marketing Fund, to one or more co-ops or to a particular Papa Johns restaurant, in our reasonable discretion. “Net Revenue” means amounts paid to us less costs of securing such

revenue, including costs to manufacture, market and distribute such items, lease or location costs, shelving fees, commissions, product costs, marketing and overhead. Such contribution together with the amount contributed from Partnership Marketing pursuant to Section 8.(k) is limited to \$5.0 million in any fiscal year. These contributions will be made on at least an annual basis no later than March 1st of the immediately following year. You acknowledge that these amounts may be spent nationally, regionally or locally and that there is no obligation that the funds be spent in the area where the revenues were generated.

(h) **Impact Mitigation.** In exercising our rights to open or license others to open Papa Johns restaurants under Sections 5.(a) and 5.(b), we will take commercially reasonable steps to balance the impact to the sales and profitability of the Restaurant (measured as of the date 12 months after the opening of a new restaurant) with our duties to our shareholders and other franchisees to expand the Chain. We will rely on, among other factors, growth or other changes in population or demographic factors, changes to the System, new technologies, competitor actions, and advice or reports from third party experts we hire. We will also give consideration to any report prepared by a third party hired by you, provided such third party is independent and qualified to analyze new unit impact in the QSR/delivery segment.

6. **Premises.**

(a) **Leased Premises.** If the premises where the Restaurant will be operated (the "Premises") are leased, you must submit to us copies of the executed signature pages of all such leases immediately after signing and copies of the full leases and any exhibits and addendum at such other times as we may request. The term of all leases plus all options for you to renew must together equal or exceed the Term. Each original lease, renewal lease, and modification of any type must be submitted to us within thirty (30) days after execution by you and the landlord. All leases pertaining to the Premises must also include an Addendum in the form of Exhibit A attached hereto, or contain terms and conditions that we approve as substantially similar to those contained in **Exhibit A**. A copy of the executed Addendum must also be submitted to us.

(b) **Owned Premises.** If you own the Premises, you must submit to us proof of ownership. If you decide to sell the Premises together with the Restaurant at any time before the expiration or termination of the Franchise, you must notify us of your intention. We have a right of first refusal to purchase the Premises on the same terms and conditions as set forth in Section 14.(c)(ii). If the sale will also involve a relocation of the Restaurant, you must submit to us for our approval your proposed plans (including copies of any proposed lease or contract of purchase) for an alternative location.

(c) **Premises Identification.** Regardless of whether you own or lease the Premises, you must, within ten days after the expiration or termination of the Franchise, remove all signs and other items and indicia that serve, directly or indirectly, to identify the Premises as a Papa Johns restaurant and make such other modifications as are reasonably necessary to protect the Marks and the Papa Johns System, and to distinguish the Premises from Papa Johns restaurants. To enforce this provision, we may pursue any or all remedies available to us under applicable law and in equity, including injunctive relief. Your obligation is conditioned upon our giving you notice of the modifications to be made and the items removed.

(d) **Suitability of Premises.** Regardless of whether the Premises are owned or leased, it is your responsibility to determine that the Premises can be used, under all applicable laws and ordinances, for the purposes provided herein and that the Premises can be constructed or remodeled in accordance with the terms of this Agreement, and you must obtain all permits and licenses required to construct, remodel and operate the Restaurant. You must not use the Premises for any purpose other than the operation of the Restaurant in compliance with this Agreement.

(e) **Relocation; Assignments.** You must operate the Restaurant only from the Premises at the Location unless we agree otherwise in writing. You may not, without first obtaining our written consent: (i) relocate the Restaurant; or (ii) renew or materially alter, amend, or modify any lease, or make or allow any transfer, sublease or assignment of your rights under any lease or owned location pertaining to the Premises. You must give us notice not less than 30 days before any of the foregoing. We will not unreasonably withhold our consent. We may require you to relocate the Restaurant to another location upon: (A) expiration of the original term or any extension or renewal of your lease; or (B) any significant damage to the Premises or surrounding areas, or other event that would provide you with an option or right to terminate the lease. We will not require relocation if you prefer to remain at the same location and you demonstrate to our reasonable satisfaction that: (i) the trade area and location meet our then- current criteria for new restaurants; and (ii) you can restore or renovate the Premises to our then- current standards and agree in writing to do so if approved. You must give us notice not less than 60 days before the expiration of your lease, and you must give us written notice within five days after the occurrence of any event covered by (B) above. Our right to require you to relocate is conditioned upon: (1) the availability of a location approved by us for such relocation; (2) our offering to extend the Term of this Agreement for not less than five years, or at our option, offering to enter into our then-current form of franchise agreement (which will include an initial term of 10 years); and (3) the Territory (as measured from the new location) not extending into the "Territory" of any other Papa Johns Pizza franchisee. YOU ACKNOWLEDGE THAT SUCH RELOCATION, IF REQUIRED, WOULD INVOLVE SUBSTANTIAL ADDITIONAL INVESTMENT BY YOU DURING THE TERM OF THIS AGREEMENT, AND MAY INCLUDE AN OBLIGATION TO LEASE OR BUY LAND, CONSTRUCT A FREE-STANDING BUILDING, INSTALL LEASEHOLD IMPROVEMENTS AND/OR PURCHASE NEW EQUIPMENT AND SIGNAGE.

7. Proprietary Marks; Copyright.

(a) **Ownership of Copyrights.** We may authorize you to use certain copyrighted or copyrightable works (the "Copyrighted Works"), including the Manuals (as defined in Section 11.(e)) and the "Proprietary Programs" (as defined in Section 10.(c)(i)(A)(2)), and certain photographs, drawings, videos, music, or any materials used in advertisement of the Restaurant. The Copyrighted Works are our valuable property and your rights to use the Copyrighted Works are granted to you on the condition that this right is (a) only for and at the franchised business; and (b) only during the term of the Franchise Agreement. You further acknowledge that this right is conditioned upon compliance with the terms of this Agreement. We may further create, acquire or obtain licenses for certain copyrights in various works of authorship used in connection with the operation of the Restaurant, all of which are deemed Copyrighted Works under this Agreement. Such Copyrighted Works include the materials and information provided to you by us for use in the operation of the Proprietary Programs. You will not undertake to obtain patent or copyright registration or otherwise assert proprietary rights to the Copyrighted Works or any data generated by the use of the Proprietary Programs or any portion thereof. Copyrighting of any material by us

is not to be construed as causing the material to be public information. You must cause all copies of the Copyrighted Works and any data in your possession generated by use of the Proprietary Programs to contain an appropriate copyright notice or other notice of proprietary rights specified by us. All data provided by you, uploaded to our system from your system, and/or downloaded from your system to our system is and will be owned exclusively by us, and we will have the right to use that data in any manner that we deem appropriate without compensation to you.

(b) Ownership; Use by Others. We are the sole and exclusive owner of: (i) the Marks and all goodwill associated with or generated by use of the Marks; (ii) the Copyrighted Works; and (iii) any and all data generated by use of the Copyrighted Works. All works of authorship related to the System that are created in the future will be owned by, or licensed to, us or our Affiliates. Your use of the Copyrighted Works and the Marks does not vest you with any interest therein other than the non-exclusive license to use the Copyrighted Works and Marks granted in this Agreement. You must execute any documents that we or our counsel deem necessary for the protection of the Copyrighted Works or the Marks or to maintain their validity or enforceability, or to aid us in acquiring rights in or in registering any of the Marks or any trademarks, trade names, service marks, slogans, logos or emblems that we subsequently adopt. You will give notice to us of any knowledge that you acquire concerning any actual or threatened infringement of the Copyrighted Works or the Marks, or the use by others of names, marks or logos that are the same as or similar to the Marks. You must cooperate with us in any suit, claim or proceeding involving the Marks or the Copyrighted Works or their use to protect our rights and interests in the Marks or the Copyrighted Works. We, in our sole discretion, are entitled to control all decisions concerning the Marks or the Copyrighted Works.

(c) Use of Marks. You are authorized to use the Marks only in connection with the promotion and operation of the Restaurant or the Chain and only in the manner that we authorize, including compliance with brand identity guidelines and other directives contained in the Manuals. Your right to use the Marks is limited to use during the Term and in compliance with specifications, procedures and standards prescribed by us from time to time. You must prominently display the Marks in the manner that we prescribe on all signs, plastic and paper products, and other supplies and packaging materials that we designate. You will not: (i) fail to perform any act required under this Agreement; (ii) commit any act that would impair the value of the Marks or the goodwill associated with the Marks, including publicly disparaging us, the System, the products or services offered by Papa Johns restaurants, or any of our officers or directors; (iii) at any time engage in any business or market any product or service under any name or mark that is confusingly or deceptively similar to any of our Marks; (iv) use any of the Marks as part of your corporate or trade name, or as part of any e-mail address, web-site address, domain name, or other identification of your business in any electronic medium without our express, written consent; or (v) use any trademark, trade name, service mark, logo, slogan or emblem that we have not authorized for use in connection with the Restaurant, including any co-branding or cross-promotional efforts containing the name, trademark, service mark, logo or emblem of any third party, without our approval. You must obtain such fictitious or assumed name registrations as required by applicable state law and forward to us copies of the same upon request.

(d) Designation as You. You must identify yourself as the owner of the Franchise in conjunction with the use of the Marks, including on checks, invoices, receipts, letterhead, contracts, and all employment-related documents (such as employment applications, pay checks or pay stubs, time cards, employee handbooks or manuals and employment agreements). You must

also post, at conspicuous locations on the Premises in both the area of the Restaurant accessible to the public and in an area conspicuous to your employees, such as adjacent to the time clock or other employee check-in area, a notice that specifies your name, followed by the phrase "an independently owned and operated franchise" or such other phrase as we direct or approve.

(e) **Discontinuance of Use; Additional Marks and/or Copyrights.** You must: (i) modify or discontinue use of any Mark or Copyrighted Work if a court of competent jurisdiction or other governing body orders it and do so within the timeframe required by such court or governing body, or if we in our sole discretion deem it necessary or advisable; (ii) comply with our directions regarding any such Mark or Copyrighted Work within 30 days after receipt of notice from us; and (iii) use such additional or substitute Marks or Copyrighted Works as we may direct. We are not obligated to compensate you for any costs or expenses incurred by you to modify or discontinue using any Mark or Copyrighted Work or to adopt additional or substitute Copyrighted Works or Marks.

8. **Advertising.**

(a) **Contributions and Expenditures.** Recognizing the value of advertising and the importance of the standardization of advertising to the furtherance of the goodwill and public image of the System, each month during the Term, you must make the following contributions and expenditures for advertising:

(i) To the extent you are not obligated to perform grand opening marketing pursuant to a development agreement, you must submit to us proof at least four (4) weeks prior to opening of the Restaurant that you have a grand opening marketing budget of Ten Thousand Dollars (\$10,000.00) to be used to support pre-opening and for use within the first ninety (90) days of the opening of the Restaurant. You must provide us receipts and invoices evidencing the expenditure of such funds within 120 days after the opening of the Restaurant. The sufficiency of such receipts and invoices will be in our reasonable discretion. If you do not provide reasonable evidence of the required grand opening marketing budget as outlined herein, we may require that you place the grand opening marketing funds into an escrow account.

(ii) You must contribute to the Marketing Fund such amount: (A) as designated by the Board of Directors of the Marketing Fund (the "Board") from time to time; or (B) as proposed by the Board and approved by a vote of the members in good standing of the Marketing Fund, if such a vote is required by the "Bylaws," as defined in Section 8.(b).

(iii) You must contribute to the "Cooperative" (as defined below) that percentage of Net Sales that the governing body of the Cooperative designates from time to time. The governing body of the Cooperative may propose a change in the required contribution to the Cooperative. Approval of such change must be submitted to a vote of the members in good standing of the Cooperative (including both Franchisor-owned and franchised restaurants) and will take effect only if approval of the proposed change receives a majority of votes cast in such election. However, the contribution rate may not be less than 2% of the monthly Net Sales of the Restaurant, without our consent, except as otherwise provided below. We may approve a monthly contribution rate to the Cooperative of less than 2% of Net Sales, provided, we also reserve the right to withdraw our approval of any such reduced contribution rate to the Cooperative and require that the minimum 2% contribution rate be reinstated.

(iv) Notwithstanding the provisions of Section 8.(a)(ii), if the combined Marketing Fund and Cooperative contributions exceed 7% of Net Sales due to a subsequent change in either contribution rate, then any franchisee in the Cooperative may elect to contribute a lower percentage of Net Sales to the Cooperative such that the combined total for that franchisee equals 7% of Net Sales. Each franchisee in the Cooperative must make the same election for all the restaurants that the franchisee owns that are in the Cooperative. An invocation of this provision will not cause the franchisee to lose membership or voting rights in the Cooperative or any other benefit of participation in the Cooperative except as expressly provided in Section 8.(c)(vi). In no event may a Restaurant reduce the Marketing Fund contribution without our prior written approval.

(v) You must expend, at a minimum, an aggregate amount equal to 8% of the annual Net Sales of the Restaurant on your combined Marketing Fund contributions, Cooperative contributions and local store promotion, marketing and advertising

(b) **Marketing Fund.** Papa John's Marketing Fund, Inc., a Kentucky nonstock, nonprofit corporation (the "Marketing Fund"), has been organized for the purposes set forth in the Articles of Incorporation and By-Laws of the Marketing Fund, as they may be amended from time to time (the "Bylaws"). You automatically become a non-voting member of the Marketing Fund upon the execution of this Agreement. Before opening the Restaurant, you must execute and deliver to the Marketing Fund an Advertising Agreement in the form prescribed by the Board. The Marketing Fund is governed by the Board, which is established in accordance with the Bylaws and which, as of the date of this Agreement, consists of four directors, two appointed by us and two chosen by the franchisee-elected members of the FAC (as defined in Section 25.(l)). Each director has one vote, provided that we have the tie-breaker vote, except as may be otherwise provided in the Bylaws.

(i) The Marketing Fund is intended to increase recognition of the Marks and to further the public image and acceptance of the Chain and may do all things necessary, suitable, convenient or proper for, or in connection with, or incident to, the accomplishment of any of the aforesaid purposes, including planning, preparing, designing, producing, broadcasting, distributing, maintaining, supervising and administering advertising and promotional programs, materials and activities for present and future Papa Johns restaurants and all activities related and incident thereto, such as (but not by way of exclusion, limitation or exhaustion): television, radio, magazine and newspaper advertising; advertising related to special offers and promotions and introductory products; marketing surveys and other public relations activities; and engaging and consulting with advertising and public relations firms to assist in such activities. We, the Marketing Fund and the directors of the Marketing Fund do not undertake any obligation to ensure that expenditures by the Marketing Fund in or affecting any geographic area are proportionate or equivalent to contributions to the Marketing Fund by Papa Johns restaurants operating in such geographic area or that you or the Restaurant will benefit directly or in proportion to your contribution to the Marketing Fund. We (including our officers, directors, agents and employees) are not a fiduciary or trustee of the contributions to, or the assets of, the Marketing Fund. We, the Marketing Fund and our respective officers, directors, agents and employees will not be liable to you with respect to the maintenance, direction or administration of the Marketing Fund, including with respect to contributions, expenditures, investments and borrowings.

(ii) We and our Affiliates will make contributions to the Marketing Fund for each Papa Johns restaurant that we own on the same basis as required of comparable franchisees within the United States.

(iii) As long as you are in compliance with the Advertising Agreement and the Articles and By-Laws of the Marketing Fund, you will be furnished with advertising materials produced by or for the Marketing Fund for Chain-wide distribution, on substantially the same terms and conditions as such materials are furnished to other similarly situated franchisees.

(iv) You must make your monthly contribution to the Marketing Fund on the date and in the manner provided for in this Agreement, the Advertising Agreement and the By-Laws and submit such statements and reports as the Board may designate from time to time. From time to time the Board may designate one or more accounts to which such contributions must be made and if requested or directed by the Marketing Fund, you must make such payments separately. Contributions to the Marketing Fund may be used to defray our expenses only to the extent of the administrative costs and overhead that we may reasonably incur in rendering services to the Marketing Fund.

(v) The funds collected by the Marketing Fund, and any earnings thereon, are not and will not be our asset or the asset of any franchisee.

(vi) Although the Marketing Fund is intended to be of perpetual duration, the Board has the right to terminate the Marketing Fund. However, the Marketing Fund will not be terminated until all monies held by it have been expended for the purposes set forth in its Articles of Incorporation and By-Laws or distributed as permitted by law.

(vii) Each member of the Marketing Fund (including us and our Affiliates), is entitled to one vote per Restaurant (excluding non-traditional restaurants) it owns on certain changes of the contribution rate, as described in Section 8.(a)(i).

(c) Regional Cooperative Advertising. We have the right, in our sole discretion, to designate a geographical area in which the Restaurant is located for the purpose of establishing an advertising cooperative (the "Cooperative"). If a Cooperative has been established applicable to the Restaurant at the time you commence operations, you are deemed to be a member of such Cooperative upon the date the Restaurant opens for business. If a Cooperative applicable to the Restaurant is established at any later time during the Term, you automatically become a member of such Cooperative, by virtue of your execution of this Agreement, on the date the Cooperative commences operation. In no event will the Restaurant be required to contribute to more than one Cooperative. We may designate, from time to time, a formula for calculating a proration or reduction of the contribution rate for Papa Johns restaurants in a Cooperative based on media coverage, demographics or other factors. The following provisions apply to each Cooperative:

(i) Each Cooperative will be organized and governed in a form and manner conforming to applicable state law but your obligation hereunder to participate in and make monetary contributions to a Cooperative is not dependent on any organizational formalities. Each Cooperative must commence operation on a date that we approve or designate, which, for purposes of this Agreement, constitutes the date that the Cooperative is established. Your contribution

obligation will commence on that date (or on the date of this Agreement, if a Cooperative applicable to the Restaurant has already been established at that time).

(ii) Each Cooperative is owned, operated and controlled by its members, provided: (A) no dissolution of a Cooperative by its members will affect the requirement that all restaurants in the area that we have specified must participate in a Cooperative; (B) member contributions to the Cooperative must be expended for the purposes set forth in subsection (iii) of this Section 8.(c) and may not be refunded, distributed or redistributed to members except with our consent and approval or as required by applicable law; and (C) the terms of this Agreement supersede and will prevail over any contradictory or conflicting: (1) provision of any bylaw or other regulatory document of the Cooperative; or (2) decision or action of the Cooperative or its membership or other governing body. On all matters to be voted on by the Cooperative's membership, each member (including Papa Johns and our Affiliates) has one vote for each Papa Johns restaurant it owns within the Cooperative's geographical area (excluding non-traditional restaurants).

(iii) Each Cooperative has been or will be organized exclusively for the purposes of producing and conducting general advertising, marketing and promotional programs and activities, including both print and electronic media, for use in and around the applicable geographic area and developing standardized promotional materials for use by the members. Use of member contributions for any other purpose is prohibited and will constitute a breach of this Agreement if you knowingly or intentionally acquiesce or participate in, aid, abet or act in furtherance of any such prohibited use.

(iv) We make contributions to each Cooperative of which we are a member on the same basis as required of comparable Papa Johns restaurant franchisees within the System.

(v) No advertising, marketing or promotional programs or materials may be used by the Cooperative or furnished to its members, and no advertising, marketing or promotional activities may be conducted by the Cooperative, without our prior written approval. All such programs, materials and planned activities must be submitted to us for approval in accordance with the procedure set forth in Section 8.(f). Advertising agencies employed by a Cooperative must be approved by us.

(vi) Subject to the provisions of this Section 8, each Cooperative has the right to require its members to make contributions to the Cooperative in such amounts as are determined by the governing body of the Cooperative. If a franchisee elects to reduce contributions to the Cooperative pursuant to Section 8.(a)(iii), the Cooperative may: (A) allocate benefits of the Cooperative's advertising, marketing and promotional efforts, in whole or in part, on a basis reasonably calculated to apportion such benefits according to relative contribution rates (as a percent of Net Sales) of the members; and/or (B) bar such franchisee from serving as an officer or governing board member of the Cooperative.

(vii) You must make your contributions to the Cooperative on the date and in the manner designated by the Cooperative and submit such statements and reports as may be designated from time to time by us or the Cooperative. The Cooperative must submit to us such statements and reports as we may designate from time to time and we have the right to examine or

audit the books and records of the Cooperative to ensure compliance with the terms of this Agreement. Amounts contributed to the Cooperative are unencumbered assets of the Cooperative and will not be refunded upon your withdrawal from the Cooperative or upon transfer or closure of the Restaurant, even if such contributions are held by the Cooperative and not expended at the time of such withdrawal, closure or transfer.

(viii) Notwithstanding the foregoing, we, in our sole discretion, may, upon written request of a franchisee stating reasons supporting such request, grant to any franchisee an exemption from the requirement of membership in a Cooperative or allow a restaurant or member to contribute at a reduced rate if we determine, in our reasonable judgment, such exemption or reduced rate is warranted by the restaurant or franchisee not receiving full media coverage or by other factors that we, in our reasonable judgment, deem relevant. Such an exemption or rate reduction may be for any length of time and may apply to one or more Papa Johns restaurants owned by such franchisee. We may also exempt one or more restaurants owned or controlled by us from the requirement of membership in a Cooperative for such periods as we reasonably deem appropriate. We also have the right to authorize any Cooperative to determine contributions on a different basis (fixed amount, geographic location, etc.). Our decision on any issue concerning Cooperative contributions is final.

(d) **Local Advertising.** You must submit verification of your local advertising expenditures at such times and in such form as we request from time to time.

(i) **Supplemental Advertising.** You have the right to conduct, at your separate expense, supplemental advertising, marketing or promotional programs or activities in addition to the expenditures specified herein. All such supplemental programs or activities and all materials to be used in connection therewith must be either prepared or previously approved by us within the 90-day period preceding their use, or approved by us as provided below.

(ii) **Telephone and Other Directories.** You must, at your own expense, obtain (or contribute to the cost of obtaining) a listing for the Restaurant in telephone and business directories as designated or approved by us (including digital or electronic directories) serving the Territory and each such listing must be of the style, format and size, and in such form, as we may specify from time to time.

(e) **National Promotions.** You must participate, in compliance with our standards, specifications and directives, in each national promotion that we designate as mandatory for the Chain due to its value to the Chain and for which we, in our judgment, determine that United States restaurant participation is essential to, or a significant element in, the value or success of the promotion. These promotions may include (by way of example and not of limitation or exclusion): (i) offering of premium or other specialty promotional products, which may require you to purchase non-standard inventory items; (ii) customer service incentives; (iii) sponsorships of or association with selected promotional associates; and (iv) advertising promoting the Papa Johns brand or customer service features of the System with or without specific product or promotional offers. Except for required purchases of non-standard inventory items, costs you incur in mandatory promotions may be counted towards your minimum advertising expenditure requirements. While we have the right to dictate the products, services, maximum price points and other parameters of national promotions, you have the right to select lower pricing for such promotions in the Restaurant.

(f) **Our Approval.** Before use by the Cooperative or by you, samples of all advertising, marketing and promotional materials not prepared or previously approved by us within the 90-day period preceding their use, including co-branding or cross-promotional efforts containing the name, trademark, service mark, logo or emblem of any third party, must be submitted to us (to the attention of your designated Papa Johns Marketing team contact unless otherwise directed by us) for our approval. If approval is not received within 20 days from the date of receipt by us of such materials, the materials are deemed approved. To be considered pre-approved, advertising, marketing, and promotional materials must be identical to what was previously submitted and approved, except for non-substantive changes such as changes to dates and store addresses. The Cooperative and you may not use, and must cease using, any advertising or promotional materials that we may at any time disapprove, regardless of whether we have previously approved any such items.

(g) **Our Advertising.** We may from time to time expend our own funds to produce marketing or promotional materials and to conduct advertising as we deem necessary or desirable. In any advertising, marketing or promotional efforts conducted solely by or for us, we have the sole discretion to determine the products and geographical markets to be included, and the medium employed and we have no duty or obligation to supply you with any advertising, marketing or promotional materials produced by or for us at our sole expense.

(h) **Ownership of Advertising.** We are the sole and exclusive owner of all materials and rights that result from advertising and marketing programs produced and conducted, whether by you, us, the Cooperative or the Marketing Fund. Any participation by you in any advertising, whether by monetary contribution or otherwise, does not vest you with any rights in the Marks employed in such advertising or in any tangible or intangible materials or rights, including copyrights, generated by such advertising. You must assign to us any contractual rights or copyright that you acquire in any advertising and execute such documents or instruments as we may reasonably require in order to implement the terms of this Section 8.(h).

(i) **Internet Website, Social Media and Other Digital or Electronic Marketing.** Any internet website, social media site or channel (such as, but not limited to, Facebook and Twitter accounts or sites) and other digital or electronic marketing channels or media, whether now existing or hereafter created (collectively "Electronic Channels") are deemed "advertising" under this Agreement and will be subject to, among other things, Sections 8.(f) and 8.(h) above. In connection with any Electronic Channel:

(i) If required by us, you will not establish a separate Electronic Channel, but only have one or more Electronic Channel page(s), as designated by us, within our Electronic Channel;

(ii) If we approve, in writing, a separate Electronic Channel for you, then each of the following provisions apply:

(A) Before establishing the Electronic Channel, you must submit to us (to the attention of your designated Papa Johns Marketing team contact, unless otherwise directed by us), for our prior written approval, a sample of the proposed Electronic Channel domain name, format, visible content (including proposed screen shots), and non- visible content (including

meta tags) in the form and manner that we may reasonably require; you must not establish or use the Electronic Channel without our prior written approval; and you must not modify such Electronic Channel without our prior written approval as to such proposed modification. For the avoidance of doubt, each new post, modification, or submission on an Electronic Channel constitutes “advertising” and is subject to, among other things, Sections 8.(f) and 8.(h) above.

(B) You must comply with our standards and specifications for Electronic Channels as prescribed from time to time in the Manuals or otherwise in writing.

(C) If required by us, you must establish such hyperlinks or other link or connection to our Electronic Channel and others as we may request in writing.

(D) Upon expiration or termination of the Franchise, you must cease use of any Electronic Channel associated with the Restaurant and assign to us or, at our election delete, any domain name or other Electronic Channel page, name or site containing any of the Marks or any words or combinations of words, letters or symbols that are confusingly or deceptively similar to any of the Marks.

The provisions of this Section 8.(i) also apply to Cooperatives.

(j) **Contributions from Non-Traditional Locations.** Any Non-Traditional Location that we license or franchise under the Papa Johns name on or after June 1, 2007 will be required to pay one-quarter (25%) of the then current rates for the Marketing Fund and that Cooperative for the area in which the Non-Traditional Location is located. Notwithstanding the foregoing, if you are the franchisee or licensee of the Non-Traditional Location and also own more than 80% of the Restaurants in the Cooperative, you will not be required to make the Cooperative contribution on behalf of the Non-Traditional Location. If we own 80% or more of the restaurants in a Cooperative, we may exempt the Non-Traditional Location from the Cooperative contribution regardless of whether we operate or license a third party to operate the Non-Traditional Location.

(k) **Partnership Marketing.** We may establish marketing programs with third parties to promote our brand or their brand, or both ("Partnership Marketing"). If the program solely promotes another brand, we will reimburse any funds paid by the Marketing Fund. These programs may involve electronic media, including Alternative Ordering Systems, or print (including direct mail, box toppers, door hangers, etc.) and you may be required to participate. We expect to receive revenues from these promotions in excess of our direct and allocated expenses associated with securing these programs. After we recover net revenues (amounts paid to us less all direct and allocated expenses incurred to secure such revenues) equal to \$2.25 million, we may, in our discretion, contribute a portion of net revenue from Partnership Marketing to the Marketing Fund, up to 30% of such net revenue, provided, that the amount that we so contribute to the Marketing Fund together with the amount that we contribute to the Marketing Fund under Section 5.(g), is limited to \$5.0 million in any fiscal year.

(l) **Leverage Marketing.** We may adopt various marketing programs from time to time that involve merchandise, samples or promotional material to be distributed in Papa Johns restaurants or delivered with customer orders, or both (collectively, "Leverage Marketing"). You must participate in these promotions, but you are also entitled to receive any net revenue (revenue minus direct and allocated expenses) paid or payable based on the number of items distributed,

identified goals or other criteria for the applicable program. To the extent that we receive net revenue from Leverage Marketing conducted at franchisee-owned restaurants, we will use reasonable efforts to allocate it among all participating restaurants on an equitable basis.

9. Telephone Number. The only customer ordering telephone number assigned to the Restaurant is set forth in Section 25.(m) (the "Telephone Number"). You must not use the Telephone Number for any other business. If you obtain any additional or substitute telephone service or telephone number at the Restaurant, you must promptly notify us and such additional or substitute number will be subject to this Agreement. You acknowledge that, as between us and you, we have the sole right to and interest in all telephone numbers and directory listings associated with the Restaurants or the Marks. Concurrently with the execution of this Agreement, you will execute and deliver the form of assignment of telephone numbers and listings (the "Telephone Number Assignment"), required by the applicable local telephone service provider or, if the local telephone service provider has no form, our current blank assignment form attached to this Agreement as Exhibit B. You acknowledge that the telephone service provider and all listing agencies may accept this Agreement and/or the Telephone Number Assignment as conclusive evidence of our exclusive right in such telephone numbers and directory listings and its authority to direct their transfer.

Upon termination or expiration of the Franchise or transfer of the Restaurant:

- (a) you must cease use of the Telephone Number;
- (b) you must immediately take any and all actions as may be necessary to transfer the Telephone Number, any other telephone number publicized to customers, and any telephone directory listings associated with the Restaurant or the Marks to us or our designee (or to an approved transferee, if applicable);
- (c) we have the right and are hereby empowered to effectuate the Telephone Number Assignment, and, in such event, you will have no further right, title or interest in the telephone numbers and listings, but you remain liable to the telephone service provider for all charges and fees owing to the telephone service provider on or before the effective date of the assignment hereunder;
- (d) as between us and you, we have the sole right to and interest in and to all telephone numbers and listings, including listing in online, digital or other electronic directories, associated with the Restaurant or the Marks;
- (e) you appoint us as your true and lawful attorney-in-fact to direct the telephone service provider or other directory provider to assign same to us, and execute such documents and take such actions as may be necessary to effectuate the assignment; and
- (f) you must immediately notify the telephone service provider or other directory provider to assign the telephone numbers and listings to us. If you fail to promptly direct the telephone service provider or other directory provider to assign the telephone numbers and listings to us, we have the right to direct the telephone service provider or other directory provider to effectuate the Telephone Number Assignment. The telephone service provider or other directory provider may accept our written direction, this Agreement or the Telephone Number Assignment as conclusive proof of our exclusive rights in and to the telephone numbers and listings upon

termination, expiration or transfer of the franchise and that such assignment will be automatically and immediately effective upon the telephone service provider's or other directory provider's receipt of such notice from us or you. If the telephone service provider or other directory provider requires that the parties execute the telephone service provider's or other directory provider's assignment forms or other documentation at the time of termination or expiration of the Franchise, our execution of such forms or documentation on your behalf constitutes your consent and agreement to the assignment. You will perform any and all acts and execute and deliver any and all documents as necessary to assist in or accomplish the assignment described herein and the Telephone Number Assignment.

10. Construction, Design and Appearance; Equipment.

(a) **Construction.** You must construct or remodel the Premises at the Location in accordance with our new construction or remodeling plans and design specifications. You must purchase or lease specific products in accordance with our brand standard specifications as we may reasonably prescribe. Changes to any building plan or signage without our prior written consent will be a violation of this Agreement. You must maintain the interior and exterior in accordance with our brand standard specifications as we may reasonably prescribe. Prior to the opening of the Restaurant or within thirty (30) days of a remodel of the Premises, you shall provide to us a copy of the final Health Inspection and Certificate of Occupancy issued by the relevant authorities.

(b) **Signs.** You must prominently display, at your expense, the interior and exterior signs per our brand specifications in the form, color, number, location and size, and containing Marks, logos and designs that we designate. Such signs must be obtained from a source designated or approved by us. You must obtain all permits and licenses required for such signs and you are responsible for ensuring that all signs comply with all applicable laws and ordinances. You shall not display in or upon the Premises any sign that was not approved by Papa Johns.

(c) **Information System.** You must: (1) acquire, maintain and use in the operation of the Restaurant the "Information System" (as defined below) for the Restaurant and the right to use, for the Term, the "Designated Software" (as defined below) in the manner specified by us; (2) obtain any and all hardware, peripheral equipment and accessories, arrange for any and all support services and take all other actions that may be necessary to prepare or enable the Information System and the Designated Software to operate as specified by us (including installation of electrical wiring and data cabling, and temperature and humidity controls); and (3) install and use the Designated Software on the Information System, and use such items solely in the operation of the Restaurant in the manner specified by us. You are responsible for all costs associated with the foregoing, including but not limited to transportation, installation, sales, use, excise and similar taxes, site preparation and disposal of retired hardware. You must operate only Designated Software on the Information System. The Designated Software, and all additions, modifications and enhancements thereto, constitute "confidential information," and are subject to the provisions of Section 17 of this Agreement.

(i) **Definitions.** For purposes of this Agreement, the terms listed below have the meanings that follow them.

(A) **"Designated Software"** - The software, programming and services that we specify or require from time to time for use by you in the Restaurant. The Designated Software may consist of and/or contain either or both of the following:

(1) **Packaged Software.** Software purchased and licensed from us or a third party and/or third-party subcomponents that we have the authority to license or sell to you ("Packaged Software") pursuant to and in accordance with agreements that we enter into with such third-party vendors (collectively, the "Packaged Software Agreements").

(2) **Proprietary Programs.** Proprietary computer software programs that we develop or cause to be developed and that are owned by us or licensed exclusively to us and that we designate for use on the Information System in the operation of a Restaurant, including any modifications, additions or enhancements to such software programs ("Proprietary Programs").

(B) **"Information System"** The Designated Software and those brands, types, makes, and/or models of communications and computer systems, hardware, network devices, security systems and internet access platforms specified and required by us for: (i) use in the Restaurant; (ii) between or among Papa Johns Restaurants and/or us; or (iii) between customers, vendors or suppliers and the Restaurant. The Information System may include, but is not necessarily limited to, hardware and point of sale systems, back-office systems, information storage, retrieval, data transmission systems, third party integrations, inventory management, software maintenance, reporting and analytics, research and development systems, high speed broadband connectivity and monitoring, methods and means of encryption, internet and intranet access, and security systems.

(ii) **Use of Information System.** You will record and store all customer transactions on the Information System and in so doing comply with the provisions of any applicable laws and regulations related to data protection and not use the data and information for any purpose other than in the operation of the Restaurant.

(iii) **Grant of Software License.** We will grant to you, and cause our Packaged Software vendors to grant to you, a nonexclusive, nontransferable, nonassignable license to use the Designated Software, subject to the same terms and conditions under which the Designated Software is licensed to our other franchisees in general. You are bound by the terms of each Packaged Software Agreement. The Designated Software and any data generated by the use of the Designated Software are the valuable, proprietary property and trade secret of us and/or our Packaged Software vendors, and you must use the utmost care to safeguard the Designated Software and any data generated by the use of the Designated Software and to maintain the copyright protection and the secrecy and confidentiality thereof. We have the right to use the data as we determine appropriate, provided, we will: (i) not use or sell the data to any "Competitive Business" (as defined in Section 16.(c)); and (ii) consult with the FAC regarding any sale to or use by a third party of data generated by franchisees (limited to phone numbers, names, street addresses, email addresses and purchase history). We will account for the Net Revenues from the sale to, or use by, third parties of data generated by franchisees as Partnership Marketing under Section 8.(k).

(iv) **Access; Enhancements and Changes.**

(A) **Access to System.** We have the right at all times to access the Information System and to retrieve, analyze, download and use the Designated Software and all software, data and files stored or used on the Information System. We may access the Information System in the Restaurant or from other locations, including our headquarters and regional offices. You must store all data and information that we designate from time to time on the Information System. No unauthorized data or information may be stored on the Information System.

(B) **Enhancements and Changes.** We will notify you of, and you must promptly implement, all upgrades, modifications, enhancements, extensions, error corrections and other changes to Designated Software and the other components of the Information System developed or adopted by us for use in the operation of the Restaurant.

(C) **Information Systems Maintenance.** You must maintain the Information System in accordance with our published maintenance program, as amended from time to time (which will also be adhered to by our Papa Johns restaurants). If you fail to maintain the Information System in accordance with our published maintenance program, you must reimburse any costs that we or our agents incur to bring your Information System up to our standards. The published maintenance program may include a hardware spares program and a preventive maintenance program. Such maintenance is necessary to help ensure the proper functioning of the Information System. You will not attach any device to the Information System without our prior written approval. If any component of the Information System reaches its end of useful life, and the ongoing use of such component would, in our discretion, result in an unreasonable security risk, then you must immediately replace such components with approved replacements. Any installation of hardware for the Information System must be performed securely according to the terms and conditions outlined herein and as such terms and conditions may be updated by us at our discretion. We reserve the right to disable the Information System at the Restaurant if we deem reasonably necessary for security purposes due to your utilization of such non-secure end-of-life components or non-secure installation of hardware. You agree to dispose of non-secure end-of-life hardware in accordance with PCI standards.

(D) **Ideas and Suggestions.** You must promptly disclose to us all ideas and suggestions for modifications or enhancements of the Information System or any component thereof that are conceived or developed by or for you, and we and our Affiliates have the right to use and license such ideas and suggestions without compensation to you therefor. All modifications and enhancements made to the Information System, together with the copyright therein, are our property (or of the appropriate Packaged Software vendor if we so designate), without regard to the source of the modification or enhancement, and you hereby assign all of your right, title, and interest in any ideas, modifications, and enhancements to us (or the appropriate Packaged Software vendor if we so designate). You must execute any documents, in the form provided by us, that we determine necessary to reflect such ownership.

(E) **Removal.** Upon expiration or termination of the Franchise, you must: (1) allow our employees or agents to remove the Designated Software from the Information System; (2) immediately return to us the Designated Software, each component thereof, any data generated by the use thereof, all documentation for the Designated Software and other materials or information that relate to or reveal the Designated Software and its operation; and (3)

immediately destroy any and all back-up or other copies of the Designated Software or parts thereof, and any data generated by the use of the Designated Software (other than financial information relating solely to you). Any destruction of hardware must be completed in accordance with PCI standards and requirements.

(v) **On-Site Installation Fee.** Our Affiliate, Papa John's USA, Inc. ("PJUSA"), offers installation services for the Designated Software. You are not obligated to use PJUSA's services but installation must be performed by a qualified provider approved by us. If PJUSA installs the Designated Software on your Information System, you must pay to PJUSA upon installation an on-site installation fee (the "On-Site Installation Fee") at its then-current rates, plus all reasonable travel, lodging and other expenses that PJUSA incurs in connection with the installation. In exchange for this On-Site Installation Fee, PJUSA will install the Designated Software on the Information System and provide one or more system installers/trainers at the Restaurant, generally, for a two day install, one day before the Restaurant opens for installation and training and the day the Restaurant opens, for support. This installer/trainer will assist with the configuration and testing of the Information System. If you are opening your first Restaurant, a four-day install will generally be required, unless we approve reduction to a 2 day install. The first 3 days will include installation, testing, configuration and training of your employees in the use of the Information System. The 4th day will be the opening day of the Restaurant and the installer/trainer will remain on site at the Restaurant opening for support. PJUSA may also charge additional On-Site Installation Fees, at its then-current rate, each time a modification of additional days or services to the agreed upon installation is performed at the Location. The On-Site Installation Fees does not include any hardware, supplies, data cabling, electrical wiring, or shelving installation or other site work necessary to prepare the Restaurant of the Information System. These are your sole responsibility. However, some or all of these materials and services may be offered by PJUSA or its agent for an additional fee.

(vi) **On-Site Support Fee.** You must pay a fee to PJUSA each time on-site support is required for enhancements, modifications or maintenance to the Information System a fee for such on-site support (the "On-Site Support Fee") at its then-current rate. Generally, enhancements and upgrades are accomplished electronically through direct access to the Information System, in which case no on-site support or fee payment is required.

(vii) **Help Desk Service Fee.** PJUSA may offer software support services for the Information System. If you choose to use these services, you must pay to PJUSA a recurring software support service fee ("Help Desk Service Fee") equal to PJUSA's then-current fee and on a timeframe determined by PJUSA. In exchange for this fee, PJUSA will provide general assistance and support for your Information System.

(viii) **Software Maintenance Fee.** You must pay to PJUSA a monthly software maintenance fee ("Software Maintenance Fee") at its then-current rate. This Software Maintenance Fee covers PJUSA's continuing efforts to enhance, develop and upgrade the Information System, including: functionality for point-of-sale; back office; makeline; delivery and driver technologies; inventory management; information storage, data transmission systems, retrieval systems, third party integrations, high speed broadband connectivity and monitoring, methods and means of encryption, internet and intranet access, reporting and analytics; software maintenance; research and development; upgrades and enhancements to installation media; if any, that we adopt,

require or provide. Installation on the Information System, if required, will be charged as described in Section 10.(c)(v).

(ix) **Changes in Fees.** The On-Site Installation Fee, the On-Site Support Fee, Help Desk Fee, the Software Maintenance Fee and/or per diem charges may be changed by PJUSA from time to time; provided that the Help Desk and Software Maintenance Fees are intended to cover PJUSA's actual costs, including reasonable allocations of direct, actual overhead, any associated taxes, and other expenses related to the Information System and the services that PJUSA provides.

(x) We may require you to modify, enhance and/or replace all or any part of the Information System and/or the Designated Software at your expense, and you must, within 120 days of receipt of written notice from us, acquire, or acquire the right to use for the remainder of the Term, the modified, enhanced or replacement version of the Information System and/or Designated Software specified by us. Such written notice may be in the form of a physical or electronic (email or other software-based messaging) communication. You must take all other actions necessary to enable the modified, enhanced or replacement Information System and Designated Software to operate as specified by us. Any such modifications, enhancements, and replacements may require you to incur costs to purchase, lease and/or license new or modified computer hardware and/or software or other equipment and to obtain different and/or additional service and support services. You acknowledge that changes or advancements in technology are likely to occur and that the timing and pace of such changes or advancements are not predictable. We have the right to establish reasonable new standards for implementation of new technology as part of the System and you will promptly adopt and implement such new standards as if this Agreement were periodically revised for that purpose. Such new standards may apply to the Information System or the Alternative Ordering Systems or may consist of entirely new technologies that we, in our discretion, determine are valuable enhancements or additions to the System.

(xi) **Warranties and Limitation of Liability.** We represent and warrant to you that if we sell or license the Proprietary Programs to you: (A) we will have all rights, licenses and authorizations necessary to license the Proprietary Programs to you, subject only to nonexclusive licenses granted to others; and (B) the Proprietary Programs will not, and as a result of any enhancements, improvements or modifications provided by us will not, to the best of our knowledge, infringe upon any United States patent, copyright or other proprietary right of any third party. If your use of the Proprietary Programs as provided by us is enjoined as a result of a claim by a third party of patent or copyright infringement or other violation of proprietary rights, we will, in our sole discretion, either: (1) procure for you the right to continue use of the Proprietary Programs as contemplated hereunder; or (2) replace the Proprietary Programs or modify it such that there is no infringement of the third party's rights; and such action by us will be your sole and exclusive remedy against us in such event. We do not represent or warrant to you, and expressly disclaim, any warranty that the Proprietary Programs are error-free or that the operation and use of the Proprietary Programs by you will be uninterrupted or error-free. We have no obligation or liability for any expense or loss incurred by you arising from use of the Proprietary Programs in conjunction with any other computer program. Without limiting the generality of the foregoing, you are solely responsible for inputting into and configuring the Information System to accommodate information of local applicability, including state and local taxability of goods and services sold or provided in the Restaurants and state and local sales tax rates.

EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE DESIGNATED SOFTWARE OR ANY PORTION THEREOF, INCLUDING ANY PROGRAM DOCUMENTATION OR OTHER MATERIAL FURNISHED HEREUNDER, OR ANY COMPONENT THEREOF, AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT THERETO ARE EXPRESSLY EXCLUDED. WE HAVE NO LIABILITY FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES.

(d) Maintenance, Remodeling, Re-equipping, Enhancements and Replacements. You must at all times to maintain the Restaurant in accordance with our standards, and, within 90 days from the date of written notice from us, remodel or re-equip or perform maintenance at the Restaurant in accordance with the specifications we provide. Such maintenance, remodeling and re-equipping may include: replacing worn out, obsolete, or dated equipment, fixtures, furnishings and signs; structural modifications; painting and; and purchasing more efficient or improved equipment. We may require you to perform maintenance and remodeling and to purchase equipment at such times as we deem necessary and reasonable; provided, that we may not require any significant remodeling of the Restaurant during the first two years of the Term (this restriction is not applicable to any Renewal Term even if a new Franchise Agreement is executed in connection with the renewal of the Franchise). You must use a licensed commercial general contractor for any repairs or remodels of the Restaurant and provide us with their applicable contract information and proof of liability insurance upon request. You acknowledge that we cannot estimate the costs of future maintenance, enhancements, modifications, and replacements to the Restaurant, equipment, signage, the Information System or other items. YOU ACKNOWLEDGE THAT EQUIPMENT, ADDITIONS, ENHANCEMENTS, ALTERATIONS, MAINTENANCE AND RENOVATIONS REQUIRED BY US MAY INVOLVE SUBSTANTIAL ADDITIONAL INVESTMENT BY YOU DURING THE TERM.

11. Operations; Standards of Quality; Inspections.

(a) Principal Operator. You must designate an individual to serve as the "Principal Operator" of the Restaurant, provided, if you are developing and operating multiple Restaurants pursuant to a Development Agreement, you need designate only one Principal Operator for your operation, not one for each Restaurant. The Principal Operator must meet the following qualifications:

(i) The Principal Operator must own at least a 5% equity interest in you; provided that you will not be in default of this requirement if the Principal Operator is entitled to a bonus of not less than 5% of the net profits of the Restaurant, payable after the end of each Period, and also has the right to acquire not less than a 5% equity interest in you within 12 months of his or her hire date, which rights must be evidenced by a written agreement between the Principal Operator and you. You must provide us with a copy of any such agreement upon request. Once the Principal Operator has acquired an equity interest in you, he or she must continue to own that interest (or a greater interest) during the entire period he or she serves as the Principal Operator.

(ii) The Principal Operator must agree to be bound by the confidentiality and non-competition provisions of the Owner Agreement. At such time as the Principal Operator

becomes an owner of an interest in you, he or she must agree to be bound by all the provisions of the Owner Agreement.

(iii) The Principal Operator must be a person approved by us who completes, to our satisfaction, our initial training requirements and participates in and successfully completes, to our satisfaction, all additional training that we reasonably designate.

(iv) The Principal Operator must be proficient in writing and speaking English, to ensure compliance with our operational standards and to ensure efficient communications with customers and us.

(v) The Principal Operator must interact with us and our representatives in a positive, constructive and respectful manner.

If, at any time for any reason, the Principal Operator no longer qualifies to act as such, you must promptly designate another Principal Operator subject to the same qualifications listed above. Any sale or transfer of any portion of the Principal Operator's interest in you, if any, that would reduce the Principal Operator's equity interest or voting rights in you to less than 5% of the total constitutes a transfer of an interest, subject to the terms and conditions of Section 14 hereof; and any failure to comply with such terms and conditions constitutes a default by you under this Agreement. However, if the Principal Operator owns 5% or less of you, then a transfer of the Principal Operator's interest to you, another shareholder, member or partner of you or to a successor Principal Operator does not require our consent, is not subject to our right of first refusal and no transfer fee is required. You must promptly notify us in writing of any such transfer and provide all information about the transferee and the terms of the transfer as we may reasonable request. If it is determined that you have designated an unapproved Principal Operator, you will be considered in default of this Agreement and we may terminate this Agreement subject to any cure periods outlined herein. Such unapproved Principal Operator must be removed immediately regardless of any cure periods.

(b) **Management of the Restaurant.** The Principal Operator must personally devote his/her full time and best efforts to the management and operation of the Restaurant in order to ensure compliance with this Agreement and to maintain our high standards. Management responsibility includes: presence of the Principal Operator or designated manager at the Restaurant during all business hours; maintaining the highest standards of product quality and consistency; maintaining the Restaurant in the highest condition of sanitation, cleanliness and appearance; and supervising employees to ensure that the highest standard of service is maintained.

(c) **Compliance with Our Standards.** You have full responsibility for the conduct and terms of employment for your employees and the day-to-day operation of your business, including hiring, termination, pay practices and any other employment practices. However, in order to ensure compliance with the quality standards and other requirements of the System, you must operate the Restaurant through strict adherence to the standards, specifications and policies of the System as they now exist, and as they may from time to time be modified. Such standards and policies include: (i) specifications and preparation methods for food and beverages; (ii) days and hours of operation; (iii) menu items and services offered; (iv) requirements and specifications for uniforms and/or attire of Restaurant personnel; (v) use of specified emblems and Marks on containers, bags, boxes, napkins; and (vi) methods of payment accepted from customers;

(vii) data privacy and security (viii) cleanliness, sanitation and public health precautions and procedures; (ix) handling of customer complaints, and (x) specifications and approval or disapproval of certain furnishings or equipment. You acknowledge that our specifications and standards with respect to public health or safety, or the health or safety of employees and data privacy and security may be stricter or more rigorous than the requirements of applicable laws and that you must in all cases adhere to our standards and specifications.

(d) **Training.** You must, at your own expense, conduct such training and instruction, using such materials, equipment, and supplies, as we reasonably require from time to time. Should any employee or prospective employee of yours perform work that in our reasonable judgment requires additional operational training, skills or knowledge, such employee must take part in such additional training and instruction. You are solely responsible for all wages, travel and living expenses, and all other costs incurred by you and your employees in connection with any training or instruction that we provide or require. You agree not to employ any person who fails or refuses to complete applicable training programs or is unqualified to perform his or her duties in accordance with the requirements established for the operation of a Papa Johns Restaurant. You acknowledge and understand that ensuring applicable training programs for employees of the Restaurant are completed and training your employees to follow safe and proper procedures for the operation of the Restaurant will remain your sole responsibility even if, from time to time, you obtain training materials, tools, and advice from us or our affiliates about these topics. You further acknowledge and understand that it is not our responsibility or duty to implement any employment or staffing training programs, nor do we have the responsibility or duty to instruct your employees about matters of safety and security in or around the Restaurant or delivery service area or on the way to or from the Restaurant. By providing training materials, tools, and advice, we do not assume any of your responsibilities or duties.

(e) **Manuals.** We will lend to you one or more manuals that contain: (i) the mandatory and suggested specifications, standards and operating procedures prescribed from time to time by us; and (ii) information relative to other obligations hereunder and the operation of the Restaurant (the "Manuals"). The Manuals remain our sole property and contents are considered proprietary information of Papa Johns. We may, from time to time, revise the contents of the Manuals. To the extent that we deem it necessary or appropriate, we will provide you with policy and procedure statements or other written notice of specifications, standards and procedures. You must promptly adopt and use the formulas, methods, procedures, policies, menus, recipes, food products and other standards and specifications contained in the Manuals, policy and procedure statements and other written notices as issued and/or as modified from time to time by us. All information in the Manuals, policy and procedure statements and other notices constitutes confidential information and trade secrets, subject to the provisions of Section 17. You will not copy any part of the Manuals or any other communication or information provided by us.

(f) **Variations in Standards.** You will not implement any change to the System without our prior written consent. However, because complete and detailed uniformity under varying conditions may not be possible or practical, we reserve the right, in our sole discretion and as we may deem in the best interests of you, other franchisee(s) or the Chain, to vary the System, including specific standards, policies and/or procedures, within the Restaurant or any other restaurant(s) in the Chain based upon peculiarities of a particular location or circumstances, including: density of population and other demographic factors; size of the Territory; business

practices or customs; and any other condition that we deem to be of importance to the operation of such restaurant(s) or the Chain. You acknowledge that because of these factors and others, there may be variations from standard specifications and practices in the Chain and that you are not entitled to require us to grant like or similar variations or privileges to you.

(g) **Your Developments.** We have the right to use and incorporate into the System for the benefit of other franchisees and us any modifications, ideas or improvements, in whole or in part, developed or discovered by you or your employees or agents, without any liability, payment or obligation to you or the developer thereof.

(h) **Compliance with Laws and Other Business Practices.** You will ensure that your operation of the Restaurant is at all times in compliance with all applicable laws, ordinances, rules and regulations of all governmental bodies, including, without limitation; all federal and state wage and hour laws and regulations; all laws and regulations relating to antitrust, restraint of trade, unfair competition or unfair or deceptive trade practices; all applicable tax laws, including sales tax, payroll tax and income tax laws and regulations; workers compensation and other insurance laws and regulations; and all laws and regulations relating to public health or safety or health or safety of employees. As part of your responsibility to comply with all applicable tax laws, you must collect, at the applicable time of sale, all sales and use tax exemption certificates and documentation (which must be properly completed) that you are required to collect in connection with sales that are exempt from sales and use taxes, and you must retain all such exemption certificates until the applicable statute of limitations has expired. It is your sole responsibility to determine the provisions and requirements of applicable law and to ensure your compliance. We do not represent that we have detailed knowledge of the laws and regulations of the state, locality or other legal jurisdiction in which the Restaurant is located. In any case, we do not dispense legal advice to you and therefore we do not undertake to evaluate or make any judgment with respect to your compliance with applicable law. However, under Sections 19.(b) and 19.(c), we reserve the right to invoke our contractual remedies if you are found to be in violation of any law or regulation by the legal authority charged with enforcement of such law or regulation or via a civil proceeding, or if any such violation otherwise comes to our attention. You agree to secure and maintain in force all required licenses, permits and certificates. You shall file all tax returns and pay all taxes before they become delinquent. Furthermore, if you are subject to any withholding taxes on royalty fees or other payments due, you shall provide us with quarterly evidence that such tax has been remitted to the appropriate governmental agency on a quarterly basis. Additionally, if requested, you shall provide us with quarterly evidence of proper sales tax exemption certificates for any sales to tax exempt groups (i.e. schools, churches, and other non-profits).

(i) **PCI Compliance.** You agree to abide by the Payment Card Industry Data Security Standards enacted by the applicable Card Associations, applicable to your business. If you know or suspect a security breach, you shall immediately notify us. You shall promptly identify and remediate the source of the compromise. You assume all responsibility for providing all notices of breach or compromise and all duties to monitor credit histories and transactions concerning your customers. We will use commercially reasonable efforts to ensure that any required technology complies with applicable law, assuming you properly operate and maintain the technology.

(j) **Anti-Terrorism Measures.** You and your owners acknowledge that Executive Order 13224 (the "Executive Order") prohibits transactions with terrorists and terrorist organizations and that the government of the United States has adopted and may in the future adopt other anti-terrorism measures (the "Anti- Terrorism Measures"). You certify that neither you or your owners nor any of your employees, affiliates or any other person or entity associated with the Store is: (1) a person or entity listed in the Annex to the Executive Order; (2) a person or entity otherwise determined pursuant to the Executive Order to have committed acts of terrorism or to pose a significant risk of committing acts of terrorism (such a person or entity and those persons and entities listed in the Annex to the Executive Order are referred to herein as "Terrorists"); (3) a person or entity who assists, sponsors or who supports Terrorists or acts of Terrorism ("Sponsors of Terrorism"); or (4) owned or controlled by Terrorists or Sponsors of Terrorism. Furthermore, you covenant that neither you or your owners, nor any of your employees, affiliates or any other person or entity associated with the Store shall, during the term of this Agreement, become a person or entity described in clause (1), (2) or (3) above, or shall otherwise become a target of any Anti-Terrorism Measures. Should you or any of your owners, employees, affiliates, or any person or entity associated with the Store, violate the provisions of this paragraph, we will have the right to immediately terminate this Agreement.

(k) **Privacy and Data Protection.** You will: (i) comply with all applicable international, national, federal, provincial, state, or local laws, codes or regulations that regulate the processing of information that can be used (alone or when used in combination with other information within your control) to identify, locate or contact an individual or pertains in any way to an identified or identifiable individual ("Personal Information") in any way, including, but not limited to, national and state data protection laws, laws regulating marketing communications and/or electronic communications, information security regulations and security breach notification rules ("Privacy Laws"); (ii) employ administrative, physical, technical and organizational safeguards that: (a) are designed to prevent the unauthorized collection, access, use and disclosure of Personal Information ("Safeguards"); and (b) meet or exceed industry standards regarding Safeguards, including payment card industry ("PCI") standards, norms, requirements and protocols to the extent applicable; (iv) comply with all Safeguards that have been and are in the future developed and compiled by us that relate to Privacy Laws and the privacy and security of Personal Information; (v) refrain from any action or inaction that could cause us to breach any Privacy Laws; (vi) do and execute, or arrange to be done and executed, each act, document and thing we deem necessary in our business judgment to keep us in compliance with the Privacy Laws. You will be fully responsible for any unauthorized collection, access, use and/or disclosure of Personal Information arising from your action or inaction. You will immediately notify us in writing of any breaches or suspected breaches of security (either electronic or physical) that may result in the unauthorized collection, access, use or disclosure of Personal Information or (ii) if you receive any oral or written notice of inquiry, investigation or review from any individual or administrative agency (such as the Federal Trade Commission or State Attorney Generals' offices or other similar agency in countries outside of the U.S.) that arises out of, relates to or affects Personal Information within your control. You will comply with our requests and make all reasonable efforts to assist us in relation to the investigation and remedy of any such breach of security and any claim, allegation, action, suit, proceeding or litigation with respect to the unauthorized access, use or disclosure of the Personal Information. We will use commercially reasonable efforts to ensure that any required technology complies with applicable law, assuming you properly operate and maintain the technology.

(l) **Courtesy; Cooperation.** At all times and under all circumstances, you and your Principal Operator and other employees will treat all customers and other persons, including our agents, officers, and employees, with the utmost respect and courtesy and fully cooperate with us and our agents, officers and employees in a positive, constructive and respectful manner in all aspects of the franchise relationship.

(m) **Inspections.** An agent, officer or employee of ours may make inspections of the Restaurant to ensure compliance with all required standards, specifications and procedures of the System, this Agreement and the Manuals. Our representative may inspect the condition and operation of the Restaurant and all areas of the Restaurant at any time during normal business hours. Such inspections may include: (i) reviewing sales and order forms; (ii) observing the Principal Operator, managers and all your other employees; (iii) interviewing any such persons; (iv) interviewing customers of the Restaurant; and (v) conducting any type of audit or review necessary to evaluate your compliance with all required standards, specifications or procedures. We may, from time to time, make suggestions and give mandatory instructions with respect to your operation of the Restaurant, as we consider necessary or appropriate to ensure compliance with the then-current quality standards and other requirements of the System and to protect the goodwill and image of the Chain. To the extent a non-privileged, written report is generated, we will provide a copy to you or your Principal Operator following each inspection stating our findings and recommendations on the operation of the Restaurant. We will advise you from time to time of operating problems of the Restaurant disclosed by reports submitted to or inspections made by us or our designee. By providing advice, certifications or suggestions, we do not assume any of your responsibilities or duties.

(n) **Guidance.** You acknowledge and understand that it is not our responsibility or duty to operate the Store and we do not have the legal right to direct your employees in the operation of the Restaurant. Those functions remain your sole responsibility and duty. Further, you understand that the assistance provided to you under this Section 11 does not obligate us to provide the accounting, bookkeeping, administrative, inventory control or marketing services required for the operation of the Restaurant or to otherwise operate the Store. By providing advice or suggestions, we do not assume any of your responsibilities or duties.

12. Products; QCCs; Menu.

(a) **Products.** You must use only those food items, ingredients, beverages, cooking materials, containers, boxes, cups, packaging, menus, uniforms, and other products and materials in the operation of the Restaurant as we designate or approve. You may be required to purchase from us or our Affiliates certain products that involve trade secrets or that have been specially prepared by us or at our direction or that we consider to be integral to the System. We may require that certain products be purchased from one or more designated suppliers. Products other than those required to be obtained from us or a designated supplier may be purchased from any source, provided that the particular supplier and products (including delivery arrangements) have been approved by us, which approval will not be unreasonably withheld. We may, from time to time, amend the list of approved products and suppliers. You acknowledge that we, our Affiliates or the Marketing Fund may, from time to time, derive revenue from designated or approved suppliers based on the sale of products to you and our other franchisees. We will disclose all such revenues and the identity of the suppliers to you, but we are entitled to retain such revenues for our or our Affiliates' own use and credit without obligation to you. To the extent such revenues are generated from sales by "PJFS" (as defined below), they will be included (net of expenses and allocations) in

the disclosure of PJFS's income. PJFS will not unreasonably require you to purchase a non-proprietary item as a condition to purchasing a confidential or proprietary item that can be purchased only from PJFS.

(b) **Quality Control Centers.** PJ Food Service, Inc. ("PJFS") currently supplies designated and approved products to Papa Johns restaurants owned by us or our Affiliates and those of our franchisees from quality control centers that are owned and operated either by PJFS or us (the "QCCs"). PJFS is currently the only designated supplier of dough, prepared pizza crusts and Papa Johns proprietary pizza sauce for use by Papa Johns restaurants and you must purchase dough, prepared pizza crusts and pizza sauce from PJFS or a designated representative unless and until such time as a successor supplier of dough, crusts and/or pizza sauce is designated. PJFS has no obligation to continue supplying you or to continue to operate a QCC. If PJFS ceases operating a QCC capable of supplying the Restaurant, or terminates service to you (other than as a result of the termination or expiration of the Franchise or your failure to timely pay for your purchases), we will provide you with the name, address and phone number of an alternative approved supplier(s) and the products to be purchased from such supplier(s). All purchases by you from the QCCs are on the reasonable terms and delivery policies and procedures specified from time to time by PJFS, including payment and credit terms and your provision of safe and unobstructed access to the Restaurant for the purpose of effecting both attended and unattended deliveries, including dates and times which may be designated by PJFS, which may include times when the Restaurant is closed. PJFS, through us, reserves the right to specify different terms for different franchisees. We make no representations or warranties about any of the services performed by or any of the products produced or sold by or through PJFS or any other designated or approved supplier.

(c) **Alternative Suppliers.** If you desire to: (i) use any equipment, supplies or other products not previously designated and approved by us; (ii) obtain designated products from a source of supply not previously approved by us; or (iii) offer any non-standard menu item or service in the Restaurant; you must furnish to us for our prior approval, free of cost, samples of such products (or a description and demonstration of any such service) in reasonable quantities, its cartons, containers and packaging and wrapping material, the quality and style of which will be subject to our approval. Such distributor, supplier, products or services will be approved for use in the Restaurant only upon your receipt of written approval from us. We may withdraw our approval of any previously approved supplier, products or services and you must cease using such products, supplier and/or services upon receipt of written notice from us. In connection with our investigation and review of any alternative supplier identified and submitted for approval by you (including re-qualification of any supplier that, after our initial qualification and approval, fails to adhere to or maintain our quality standards or specifications) or investigation and review of any non-standard menu item that you desire to offer, you must reimburse to us all of our reasonable expenses incurred in investigating such alternative supplier or establishing standards for, and approving the offering of such non-standard menu item or service and the supplier(s) thereof (or ingredients therefor, as the case may be), in each case including all travel, lodging and meal expenses of our employees or agents, and regardless of whether we approve or disapprove such alternative supplier or non-standard menu item. We will not unreasonably withhold, condition, delay or revoke approval of any qualified third-party product or supplier.

(d) **Commercial Terms.** We have no responsibility for the commercial terms of transactions between you and your distributors and suppliers, including payment and credit terms.

The terms and conditions of your purchase of goods from suppliers (including our Affiliates) will be upon the terms and conditions established by such suppliers from time to time, or through your independent arrangements with such distributors or suppliers. Except for the payment provisions of Section 3.(e), this Agreement does not establish the commercial terms of any purchase and sale transaction between you and any supplier (including our Affiliates). To protect the business reputation, image and goodwill of the System and the Chain, you must promptly and within the due time allowed, make payment to all suppliers of goods and services sold or provided to you in connection with the construction, equipping and operation of the Restaurant, including us, our Affiliates, and our designated suppliers, excepting only non-payment resulting from a bona fide dispute with a vendor. We will disclose to the FAC the terms of purchases from designated or approved suppliers, including all revenues, rebates, and discounts that the supplier provides to or for the account of Papa Johns franchisees or their affiliates. Your failure to timely pay for purchases from our designated or approved suppliers (including our Affiliates) may restrict your ability to obtain further service or products from such suppliers. Our designated and approved suppliers (including our Affiliates) may enforce their respective credit terms and invoke their contractual remedies, including suspension or termination of service to the Restaurant, regardless of whether we have determined that you are in breach or default under this Agreement.

(e) **Menu Items.** You must: (i) offer for retail sale, and carry on your menu, only those types, sizes, styles and brands of pizza, pizza dough, pizza sauce, toppings, beverages, and other products as we specify from time to time; (ii) offer all menu items and services that we specify or designate from time to time as mandatory for the System, including (A) items that are temporary promotion items, and (B) non-food items that are integral to Chainwide or national promotional programs; (iii) make all menu items specified by us available for carry-out and delivery service from the Restaurant; and (iv) offer only approved services at or from the Restaurant or under or in connection with the Marks. You will not sell or carry on your menu any food items or other products, or provide any services, that we have not specified or approved.

(f) **Pricing.** You have the sole responsibility for establishing your prices, provided however: (i) we may set mandatory maximum price points for national promotions to the extent permitted by law; (ii) you will not make or collect any delivery charge or other separate charge for delivered products, regardless of how named or characterized, without our reasonable approval; and (iii) you will not enter into any agreement, arrangement or concerted practice with any other person whatsoever, in violation of any applicable law.

13. Accounting and Reports.

(a) **Accounting.** We may lend to you and/or the person(s) who will be preparing your reports and financial statements for each Period or year-end one or more manuals, which manual(s) may contain mandatory and/or optional accounting procedures, forms, chart of accounts and other items deemed relevant or necessary by us. You must direct your bookkeeper/accountant to follow all mandatory policies, procedures, forms, formats and other items set forth in such manuals. The accounting manual(s) constitute part of the "Manuals" as defined in this Agreement.

(b) **Recordkeeping.** You must: (i) establish and maintain accounting and record keeping systems substantially in accordance with the specifications and procedures provided by us and as amended from time to time, including maintaining accounting records on a basis enabling or facilitating reporting to us according to monthly or multi-week periods designated by us (each such

accounting period is referred to as "Period"); (ii) make all such records available to us upon request; and (iii) maintain and preserve, for at least five years from the date of preparation, full, complete and accurate books, records and accounts.

(c) **Periodic Reports.** Upon our request, you must deliver to us complete copies of: (i) a statement, in the form prescribed by us, of the revenues and expenses of the Restaurant for the immediately preceding Period; and (ii) such other records and reports as are requested by us, including bank statements, sales and expense forms and reports, and a current balance sheet in the form reasonably required by us or our Affiliates. Any such reports should clearly identify revenue, expenses, and other data requested of the Restaurant, and such information shall not be combined with information for any other business you may operate, including any other Papa Johns restaurants.

(d) **Year-End Reports.** Within 120 days following your fiscal year end, you must provide us with copies of your financial statements, including an income statement for the fiscal year just ended and a balance sheet as of the end of such fiscal year, which financial statements must be prepared in accordance with generally accepted accounting principles applied on a consistent basis. You must: (i) furnish us with copies of all state sales tax returns as we request from time to time; and (ii) promptly notify us if any such return is not timely filed, or if any extension is filed, and the reasons therefor.

(e) **Examinations and Audits.** We or our designated agents have the right, at all times and upon reasonable notice, to review all your sales and expense records and reports that relate to the Restaurant, as well as all sales and use tax exemption certificates that you are required to collect and retain, and to examine or audit your books and records and to make copies of all such items. If any such examination or audit discloses any underpayment of the Royalty, Marketing Fund payments, or any other sums or fees owed to us and/or any of our Affiliates, you must immediately pay the deficient amount plus interest thereon from the date due until paid, at a rate equal to the lesser of 12% per annum or the maximum amount permitted by applicable law. All payments received will first be credited against interest due and then against other payments due. If such an examination or audit discloses an understatement in any statement or report of 5% or more, you must, in addition to the above provision, reimburse us for the cost of having your books examined or audited. The foregoing are in addition to any other rights or remedies we may have, including the termination of the Franchise granted herein.

14. Transfers; Our Right of First Refusal.

(a) **Transfer Defined.** For purposes of this Agreement, "transfer" means any issuance, sale, assignment, gift, grant, transfer by bankruptcy, transfer by judicial order, merger, consolidation, share exchange, or transfer in substance of a beneficial interest in the Restaurant or all or a substantial part of its assets (including transfer of an interest in or right to receive the profits of the Restaurant or the obligation to bear the risk of loss incurred in the operation of the Restaurant) even if not formally styled as a transfer of ownership of the Restaurant, and any ownership or structural changes in you or any beneficial owner in you, including any merger, reorganization, issuance of additional shares or classes of stock or additional membership or partnership interests.

(b) **Assignment by Us.** We may assign this Agreement or any or all of the rights, interests, benefits or obligations arising hereunder without restriction. Upon any assignment of this

Agreement by us, we will be automatically released from all obligations and liabilities arising or accruing in connection with this Agreement after the date of such transfer or assignment.

(c) **Transfers by You.** Your rights and interests under this Agreement are and remain personal to you. You recognize that we have granted the Franchise in reliance on your business and financial capacity and other attributes, and in reliance upon the Owner Agreement. Accordingly, neither you nor any beneficial holder of any capital stock or other ownership interest in you (if you are a corporation or other entity) may, without obtaining our prior written consent, transfer: (i) any interest in the Franchise or this Agreement (including any security interest); (ii) any material portion of your assets or the assets of the Restaurant; or (iii) any stock or other ownership interest in you or in any owner of you; except as provided in this Section 14.(c). We have the right to communicate with both you, your counsel, if any, and the proposed transferee on any aspect of such proposed transfer. Our consent to a particular transfer does not constitute consent to any subsequent, modified or different transfer and does not constitute a waiver of any claims that we have against you. Any attempted transfer not in accordance with this Agreement shall have no effect and shall constitute a breach of this Agreement.

(i) **Restricted Transfers.** Except for Permitted Transfers as described in subsection 14.(c)(viii) below, you must give us at least 45 days prior written notice of any intended transfer of any of your rights or interest under this Agreement or the proposed transfer of any interest in you, the Restaurant or any material portion of your assets or the assets of the Restaurant. Subject to the conditions set forth in Section 14.(c)(vi), below. We will not unreasonably withhold our consent to a proposed transfer.

(ii) **Right of First Refusal.** Irrespective of the qualifications or acceptability of any prospective transferee, we have the first right and option to purchase the interest intended or proposed to be transferred at the same price and on the same terms between you and the prospective transferee contained in the notice, except that:

(A) any proposed closing date or other deadlines or dates certain contained in the notice may be postponed as reasonably necessary or appropriate to accommodate our 45-day evaluation period as described below;

(B) our right of first refusal applies to transfer of the real property of the Location only if the proposed transfer includes, or is part of a series of separate transfers that include, transfer of the Restaurant and/or the Franchise;

(C) we will not be bound by any term or condition in the notice that purports to waive, nullify or alter our right of first refusal or condition or restrict our exercise thereof, that purports to bind or place an obligation on us rather than on you or your proposed transferee, that purports to trigger a termination of the transaction or give you the right to withdraw from the transaction if we exercise our right of first refusal or that purports to be or would in effect constitute an amendment to this Agreement;

(D) if the Restaurant or interest therein or in you is being transferred together with other assets or interests not directly related to the Restaurant or its operations, we may exercise our right of first refusal with respect to the Restaurant or interest therein or in you separate and apart from such other assets or interests and we will not be obligated to

purchase any other assets or interests in order to exercise our right of first refusal with respect to the Restaurant, interest therein or in you;

(E) we will not be bound by any allocation of purchase price between the Restaurant, interest therein or in you and other assets or interests that we are not obligated to purchase; and

(F) our purchase option does not apply to Permitted Transfers or Conditional Transfers (as defined in Section 14.(c)(vii) below).

(iii) Review Period; Exercise. Our right commences and is exercisable for a period of 45 days from the date we receive written notice of the proposed transfer, provided, if you are transferring the Restaurant as part of a single transaction or a series of related or substantially contemporaneous transactions involving 50 or more Papa Johns restaurants, we may, at our option, extend the exercise period for an additional 15 days, upon written notice to you. To be effective, the notice of proposed transfer must include, at a minimum:

(A) the name of the proposed transferee and the name and address of each proposed owner thereof;

(B) a fully executed Letter of Intent in substantially the form attached as Exhibit C or a fully executed sales agreement containing the material terms of the proposed transfer;

(C) copies of all leases (and deeds for the Restaurant(s) if real property is included in the sale);

(D) an income statement for each Restaurant for the full prior year and year-to-date for the current year, unless the notice of transfer is delivered during the first fiscal quarter of a year, in which case income statements for the previous two years must be submitted; and

(E) a listing of the material assets to be conveyed.

The 45-day period will not begin until you have provided written notice of the transfer and all the foregoing information, including any additional information reasonably related to the foregoing, has been provided to us. During this 45-day period (or, if extended, 60-day period), you must give us or our designated representatives or agents access to the Restaurant(s) to inspect facilities, signage and equipment and we may contact landlords as necessary. If we exercise our right of first refusal and no form of purchase agreement is provided with your notice, the transfer to us must be completed pursuant to our then standard transfer agreements, including, but not limited to, our standard Asset Purchase Agreement, Bill of Sale, and Assignment of Lease. If we exercise our right of first refusal you agree to take all reasonable action necessary to assign the lease with the lessor of the Restaurant to us. We may assign our first right and option to an Affiliate at any time during our 45-day (or, if extended, 60-day) evaluation period.

(iv) Valuation. Should the proposed transfer not involve payment of any consideration or involve the payment of any non-cash consideration, we have the option to purchase the interest at a price equal to the fair market value of such interest. We may determine the fair

market value using fair and reasonable methods. We will make such determination as promptly as practicable, but in no event later than 45 days (or 60 days, if extended as provided herein) after we have received fully complete notice of the intended transfer, including all items specified above. If you disagree with the value as we determine, then you and Papa Johns must each hire an appraiser (or a single appraiser, if you and Papa Johns so agree) to value the interest. If the appraisals are within 10% of each other (measured from the higher of the two appraisals), then the difference between the two will be equally divided to establish the price at which we may exercise our first right and option. If the difference between the appraisals is greater than 10%, then the issue of the fair market value of the interest will be determined by a third appraiser selected by the other two appraisers and whose decision will be final and binding, except that it may not be lower or higher than the lowest appraisal and highest appraisal, respectively, determined by the first two appraisers. In a case described in 14.(c)(ii)(E) above, our purchase price for the assets of the Restaurant, interest therein or in you as a result of our exercise of our right of first refusal will be the fair market value thereof as determined in the same manner as provided above for transfers involving non-cash consideration.

(v) **Approved Transfers.** If we decide not to exercise our right of first refusal, and if we approve the transfer in writing, you (or the transferor of an interest in you) may make the proposed transfer on the exact terms and conditions specified in your notice to us, within 60 days after the expiration of our first right and option. If there is any change of the proposed transferee or material change in the terms of the transfer or the assets or interest(s) to be transferred or if the transfer is not consummated within such 60-day period, you may not thereafter make any transfer without again complying with this Section 14.(c). You must keep the bank account designated for the Payment Methods (as provided in Section 3.(e)(i)) open for a minimum of 60 days after the transfer and fund such account in sufficient amounts to permit us to use the Payment Methods to collect amounts owed to us and/or any of our Affiliates in connection with your operation of the Restaurant. In the case of an approved transfer of this Agreement and/or the assets of the Restaurant, the transferee has the option of assuming this Agreement for its then remaining term or executing a new agreement in the form of the then current Franchise Agreement being offered to Papa Johns franchisees with a term equal to the remaining Term hereof (except that no Initial Fee will be due); provided that the transferee must make the same election for all Restaurants it is acquiring from you.

(vi) **Conditions on Transfer.** We will not unreasonably withhold, delay or condition our consent to a proposed transfer if all of the following conditions are satisfied or waived by us, in our discretion:

(A) we have decided not to exercise our right of first refusal as provided above;

(B) you are then in full compliance with this Agreement and there are no uncured defaults by you hereunder or if we have given you notice of default you cure it within the earlier of the proposed transfer date or the time specified in Section 19, all your debts and financial obligations to us and our Affiliates under this Agreement or otherwise are current and your obligations to the Marketing Fund and if applicable each Cooperative of which you are a member are current;

(C) you and the proposed transferee execute and we receive fully executed copies of such documents as we reasonably require to evidence the transfer including

documents evidencing that such transferee has assumed your obligations under this Agreement and that you will remain liable to us for all obligations in connection with this Agreement prior to the transfer, and if required by us, the proposed transferee executes, and in appropriate circumstances causes such other parties as we require to execute, our then-current form of Owner Agreement, and other then-current ancillary agreements, which documents may be substantially different than those you entered into in connection with this Agreement;

(D) the proposed transferee enters into an Advertising Agreement with the Marketing Fund and also becomes a member of the Cooperative to which the Restaurant is required to contribute;

(E) before the date of the proposed transfer, the proposed transferee's Principal Operator and managers undertake and successfully complete, to our satisfaction, such training and instruction as we deem necessary;

(F) we are satisfied that the proposed transferee (and if the proposed transferee is an entity, each owner of any interest in such entity) meets all of the requirements for our new franchisees applicable on the date that we receive notice of the proposed transfer, including, but not limited to, good reputation and character, business experience, restaurant management experience, evidence of compliance with non-competition requirements, and financial strength and liquidity;

(G) you and any owner transferring an interest in you acknowledge and agree in writing that you and they are bound by the non-competition and confidentiality provisions set forth in this Agreement and in the Owner Agreement (and any similar provision in any other document that either you or they have executed) to the maximum extent allowed under applicable law;

(H) you and all owners of an interest in you execute a general release, in the form prescribed by us, releasing, to the fullest extent permitted by applicable state law, all claims that you or any of them may have against us or our Affiliates, including our and their respective shareholders, officers, directors and employees, in both their individual and corporate capacities and, if you are the transferor, you acknowledge in writing that your interest under this Agreement is terminated;

(I) you pay to us a transfer fee of \$4,000, provided that, if the proposed transfer is of the Restaurant together with one or more other Papa Johns restaurants owned by you to more than one transferee not under common ownership, then the total transfer fee will be an amount equal to \$4,000 per transferee, and provided further that if such multiple transferees are under common ownership you shall be charged a total transfer fee of \$8,000;

(J) you perform, or the proposed transferee agrees in writing to perform, such maintenance, remodeling and re-equipping of the Restaurant as we specify in writing, which may include: replacing worn out, obsolete, or dated equipment, fixtures, furnishings and signs; structural modifications; painting and redecorating; and purchasing more efficient or improved equipment;

(K) the proposed transferee and all owners of any interest in a transferee that is an entity provide to us, at least 45 days before the proposed transfer date, copies of

financial statements for the preceding three years, and where applicable, its certificate of incorporation and bylaws, articles of organization and operating agreement (if an LLC) or agreement and certificate of partnership (and any amendments or modifications thereof), minutes and resolutions and all other documents, records and information pertaining to the transferee's existence and ownership as we may reasonably request;

(L) you or the proposed transferee provides written evidence that the proposed transferee has obtained any required consents from the lessor of the Restaurant or any federal, state, or local authorities.

(vii) **Conditional Transfers.** If a member, partner or shareholder of you proposes to transfer all or a portion of such interest in you to another member, partner or shareholder or to you and such transfer would effect a change of "control" (as defined below) of you or your business operations, such transfer is subject to our prior written consent and we may condition our consent on compliance with all the conditions set forth in Sections 14.(c)(v) and 14.(c)(vi), provided: (A) our right of first refusal does not apply; (B) the transfer fee will be reduced to \$2,000; and (C) no maintenance, remodeling or re-equipping of the Restaurant will be required solely in respect of the transfer (but our rights under this Agreement to otherwise require maintenance, remodeling, re-equipping, or enhancement of the Restaurant will not be affected). As used herein, "control" means either: (1) 50% or more ownership interest in you; or (2) the power to direct the conduct or management of your business affairs, with or without majority ownership.

(viii) **Permitted Transfers.** You must provide us at least thirty (30) days prior written notice of a Permitted Transfer.

(A) **No Change of Control.** A member, partner or shareholder of you may transfer all or a portion of such stock or other ownership interest in you to another member, partner or shareholder or to you in a transaction that does not effect a change of control of you and such transfer will not be subject to our consent or right of first refusal and no transfer fee will be required. You must promptly notify us of any such transfer as outlined herein.

(B) **Transfers to Descendants or Family Trusts.** anything to the contrary in this Section, we will not withhold our consent to a proposed transfer of the ownership interests of any owner (the "Owner") of an interest in the Franchisee, either *inter vivos* or upon the death of such Owner, to his or her spouse, immediate family members, direct descendants or a family trust or limited partnership in which the Owner's spouse, another Owner or a state or national bank is the sole trustee or the sole general partner (collectively, a "Trust," and the proposed transfer is referred to as a "Pre-Approved Trust Transfer"); provided, that the Franchisee, the Owner and the Trust agree to:

(1) furnish to us such documents and information concerning the proposed transferee as we may request, including copies of the Trust document, a list of direct and indirect beneficiaries of the Trust (which must be the Owner's spouse, immediate family members or direct descendants via birth or adoption), and an undertaking: (a) by the beneficiaries not to transfer their interests in the Trust without our prior written approval; and (b) by the Trust that the Trust acknowledges and agrees that

ownership interests in you that are held by the Trust remain subject to the transfer provisions of the Franchise Agreements and the Owner Agreement; and

(2) enter into such transfer agreements with us as we may reasonably specify, which agreements may require a transfer of the Agreements to the Trust, a general release by Owner or his/her Authorized Representative, and new personal guarantees from the Trust and/or the beneficiaries of the Trust.

If these conditions are fully satisfied, we will not charge a transfer fee as provided herein; provided, however, that Franchisee or the transferring Owner must instead reimburse us for the out-of-pocket costs (including reasonable attorneys fees), if any, that we incur in connection with a Pre-Approved Trust Transfer effected pursuant to this Section.

(ix) **Securities Offers.** In the event of any transfer or proposed transfer involving materials or solicitation for an offering of stock, ownership, and/or partnership interests in you or any of your affiliates that are subject to the Securities Act of 1933, the Securities and Exchange Act of 1934, and/or any applicable state blue sky laws you must:

(A) notify us at least 60 days in advance and provide us with any records or documents that we reasonably request;

(B) not include in any offering documents relating to such offering any information, data, forecast or statement to which we reasonably object and not omit any information, data or statement whose inclusion we determine, in our reasonable judgment, is necessary to cause the documents not to be misleading;

(C) include in any offering document or registration filing in connection with the offering, such statements as we reasonably request, such as, by way of illustration and not of exclusion or limitation: (1) that Papa Johns is not participating in the offering; and (2) that Papa Johns makes no representations concerning the offering and has not verified or joined in any statements or representations made by you in any offering document or filing in connection with the offering;

(D) agree that: (1) our review of any offering will be limited solely to the relationship between you and us (and, if applicable, any of your affiliates and us); (2) we will have the right, but not obligation, to require that you revise the offering materials to remove language that violates the limitations stated above; and (3) we will have the right, but not obligation, to require that you revise the offering materials to add a written statement that we require concerning the limitations stated above. You also agree to reimburse us for our reasonable costs and expenses (including legal and accounting fees) that we incur in connection with our review of those materials; and

(E) agree that after your initial offering, described above, for the remainder of the term of the Agreement, you will submit to us for our review, if requested, all additional securities documents (including periodic reports, such as quarterly, annual, and special reports) that you prepare and file (or use) in connection with any such offering.

15. Death, Incapacity or Dissolution.

(a) **Transfer Upon Death, Etc.** If you are an individual, upon your death or permanent incapacity; or, if you are a corporation, limited liability company, partnership or other entity, upon the death, incapacity or dissolution of any owner of a 25% or greater interest in you; the executor, administrator, conservator, trustee or other representative of such person or entity must assign such interest in the Franchise, or such interest in you, to us or a third party approved by us; provided, that if the transferee is a Permitted Transferee, our right of first refusal will not apply and no transfer fee will be due. Further, if an approved transfer involves less than 25% of the ownership of you, no transfer fee will be due. If you are or are owned by one or more individuals and any of such individuals dies or becomes permanently incapacitated, and if the law of the jurisdiction where the Restaurant is located so provides, nothing contained in this Section is intended to deny your spouse, heir(s) or personal representative the opportunity to participate in the ownership of the Franchise for a reasonable time after your death or incapacity, provided that: (i) this Agreement is valid and in effect; (ii) the spouse, heirs or representative meets all conditions and qualifications otherwise required of transferees; and (iii) such spouse, heirs or representative maintains and complies with all standards and obligations contained in this Agreement. An assignment under this Section 15 must be completed within a reasonable time, not to exceed nine months from the date of death, permanent incapacity or dissolution and, except as otherwise provided above, will be subject to the terms and conditions applicable to lifetime transfers contained in Section 14, including our right of first refusal.

(b) **Management by Us.** Pending assignment pursuant to this Section 15, if the Principal Operator ceases managing the Restaurant and another shareholder, member, partner or employee of you that qualifies as the Principal Operator does not assume such obligations, we may, at our sole option, appoint a manager to operate the Restaurant for your account. All expenses of the Restaurant, including compensation, travel and living expenses, and other costs of the appointed manager, and a reasonable per diem fee for our administrative expenses, will be charged to you. Operation of the Restaurant during any such period will be for and on your behalf. The appointed manager will have a duty only to utilize his or her best efforts in the management of the Restaurant and neither we nor the appointed manager will be liable to you or your owners for any debts, losses, liabilities or obligations incurred by the Restaurant, or to any of your creditors for any merchandise, materials, supplies or services purchased by the Restaurant during any period in which it is managed by our appointed manager.

16. Your Operational Covenants.

(a) **Limitations on Activities.** If you are a corporation, limited liability company, partnership or other entity, you may not at any time during the Term of this Agreement own, operate or have any interest in any other business or business activity other than the operation of Papa Johns restaurants pursuant to agreements with us. If you are an individual and are also the Principal Operator, you represent and warrant that you have disclosed to us all businesses in which you have an interest, or are engaged in, and covenant that you will notify us of any intention to participate or engage, directly or indirectly, in any other business activity at least 30 days before undertaking such activity or becoming a party to any agreement or understanding relating to such activity. You must provide us with such information in regard thereto as we may reasonably request and not engage or participate in any such activity unless you receive our written consent.

(b) **Execution of Ancillary Documents.** Upon our request or direction, at any time, you must cause any person or entity owning any beneficial interest in you, directly or indirectly, to execute an Owner Agreement in the form provided by us.

(c) **Your Non-Compete.** You covenant that during the Term you will not engage in any of the following activities without our consent:

(i) directly or indirectly, irrespective of whether compensation is provided, enter into the employ of, render any service to or act in concert with any person, partnership, limited liability company, corporation or other entity that owns, operates, manages, franchises or licenses any business that (A) sells pizza or other products (excluding soft drinks) that are the same as those sold by Papa Johns restaurants on a delivery or carry-out basis, including business formats such as Domino's, Pizza Hut, Mr. Gatti's, Sbarro, Marco's and Little Caesars, or (B) derives 20% or more of its gross revenues, at the retail level, from the sale of pre-cooked, ready-to-eat food products on a delivery basis (a "Competitive Business"); or

(ii) directly or indirectly, irrespective of whether compensation is provided, engage in any such Competitive Business on your own account; or

(iii) become interested in any such Competitive Business, directly or indirectly, irrespective of whether compensation is provided, as an individual, partner, member, shareholder, director, officer, principal, agent, employee, consultant or in any other relationship or capacity; provided, that the purchase of a publicly traded security of a corporation engaged in such business or service does not in itself constitute a breach of this Section so long as you do not own, directly or indirectly, more than 1% of the securities of such corporation; or

(iv) divert or attempt to divert any business or any customers of the Papa Johns Chain to any Competitive Business.

To the extent required or permitted by the laws of the state in which the Restaurant is located, the duration or the geographic areas included within the foregoing covenants, or both, may be deemed amended in accordance with Section 16.(h) or Section 25.(b).

(d) **Managerial and Supervisory Employees.** You covenant that you will use reasonable efforts to cause all persons who are involved in managerial or supervisory positions to be trained and instructed to observe your covenants in this Section 16 and Section 17 as if they were personally and individually bound thereby and to interact with us and our representatives in a positive, constructive and respectful manner.

(e) **Copying.** You covenant that you will not copy or duplicate our System or any aspect thereof, or any of our trade secrets, recipes, methods of operation, processes, formulas, advertising, marketing, designs, trade dress, plans, software, programs, know-how or other proprietary ideas or information nor convey, divulge, make available or communicate any such information to any third party or assist others in doing so (except as permitted or required by this Agreement).

(f) **Validity of Marks and Copyrights; Registrations.** You covenant that you will not, either during the Term or any time thereafter, directly or indirectly challenge or contest the

validity of, or take any action to jeopardize our rights in or ownership of, any of the Marks or any registration of a Mark or any Copyrighted Work. If you violate this provision, we will be entitled to equitable, monetary and punitive remedies and any other relief that may be available under applicable law, as well as the recovery of all costs, expenses and attorneys' fees incurred by us as a result of such violation.

(g) **Reasonableness of Scope and Duration.** You acknowledge that the covenants and agreements contained herein and in Section 20.(a) are, taken as a whole, reasonable with respect to the activities covered and their geographic scope and duration, and you covenant that you will not raise any issue of the reasonableness of the areas, activities or duration of any such covenants in any proceeding to enforce any such covenants. You acknowledge that you have other skills and resources and that the restrictions contained in this Section 16 and in Section 20.(a) will not hinder your activities or ability to make a living either under this Agreement or in general.

(h) **Enforceability.** We may not be adequately compensated by damages for a breach by you of any of the covenants and agreements contained in this Section 16 and in Section 20.(a). Consequently, in addition to all other remedies we will be entitled to injunctive relief and specific performance in the event of such breach. The covenants contained in this Section 16 and in Section 20.(a) are to be construed as separate covenants, and if any court or arbitrator makes a final determination that the restraints provided for in any such covenant is too broad as to the area, activity or time covered, said area, activity or time covered may be reduced to whatever extent the court or arbitrator deems reasonable, and such covenant may be enforced as to such reduced area, activity or time.

17. Trade Secrets and Confidential Information. We have disclosed or may disclose to you certain confidential or proprietary information and trade secrets. Except as necessary in connection with the operation of the Restaurant and as approved by us, you will not, during the Term or at any time after the expiration or termination of the Franchise, regardless of the cause of termination, directly or indirectly, use for your own benefit or communicate or divulge to, or use for the benefit of any other person or entity, any trade secrets, confidential information, knowledge or know-how concerning the recipes, food products, advertising, marketing, designs, plans, software, programs or methods of operation of the Restaurant or the System. You may disclose to your employees such confidential, proprietary or trade secret information only as is necessary to operate your business hereunder and then only while this Agreement is in effect. Any and all information, knowledge, or know-how, including drawings, materials, equipment, marketing, recipes, and other data, that we designate as secret or confidential is deemed secret and confidential for purposes of this Agreement. Confidential and proprietary information for all purposes under this Agreement does not include information that: (i) at the time disclosed to or obtained by you is in the public domain; (ii) after being disclosed or obtained becomes part of the public domain other than through your breach of this Agreement; (iii) before disclosure was already in your possession, as evidenced by written records kept in the ordinary course of business or by proof of actual use; (iv) was received by you from a third party (other than our Affiliate) and which the third party had a bona fide right to possess and disclose without breaching any duty, obligation or restriction imposed by agreement, operation of law or otherwise; or (v) is independently developed by you without reference to information disclosed to you by us or our Affiliate. Disclosure of information in compliance with lawful legal process will not constitute a breach of this Agreement, provided, that you give us notice of such process and a reasonable opportunity to oppose the disclosure or seek other protective orders or remedies.

18. Insurance.

(a) Types and Extent of Coverage. You must obtain and maintain throughout the Term such insurance coverages with such limits as specified below (or such greater amounts of insurance as may be required by the terms of any lease or mortgage relating to the Premises) under policies issued by carriers rated "B+" or better by A.M. Best Company:

(i) fire, extended coverage, vandalism, malicious mischief and special extended peril insurance at no less than the actual replacement value of the building (if owned), the contents, and improvements of the Restaurant;

(ii) workers' compensation and other insurance and limits as required by law;

(iii) commercial general liability insurance on an "occurrence" form covering all operations by or on behalf of you, providing insurance for bodily injury liability, property damage liability and personal injury liability for the limits of liability indicated below and including coverage for:

(A) Premises and Operations Liability;

(B) Products and Completed Operations Liability;

(C) Independent Contractors Protective Liability;

(D) Blanket Contractual Liability insuring the obligations assumed by you under this Agreement;

(E) Incidental Medical Malpractice; and

(F) Fire legal liability, with a minimum coverage limit of \$500,000, unless you own the Premises or have a cross-waiver of subrogation with your landlord.

(iv) Automobile liability insurance, including non-owned automobiles, with limits of liability not less than \$1,000,000 combined single limit each accident for bodily injury and property damage combined; and

(v) Umbrella insurance with a minimum of \$1,000,000 of coverage, which must expressly provide coverage above the insurance specified in (ii) with regard to employer's liability, (iii), and (iv) above.

Except as otherwise provided in subsection 18.(a)(iii)(F) above, the limits of liability required for the policies specified in (iii) above are: \$1,000,000 each occurrence (combined single limit for bodily injury and property damage); \$1,000,000 personal injury liability; \$1,000,000 aggregate for products - completed operations; and \$2,000,000 general aggregate. Except with respect to bodily injury and property damage included within the products and completed operations hazards, the

aggregate limit must apply separately to each location if you operate at more than one location pursuant to multiple franchise agreements with us. We and our designated subsidiaries must be named as an additional insured on all your policies. These are only the minimum coverages required. We do not represent or warrant that these coverages are adequate. You should consult with your insurance advisors to assure that you obtain all required coverages as well as any additional types of coverages or higher limits that they may recommend. You must maintain the insurance coverages and amounts listed above, even if using a third- party delivery service. In addition, you should check with your insurance advisor to ensure your non-owned auto insurance policy will cover a loss caused by that service while delivering your product. Papa John's Franchising, LLC must be listed as an additional insured on any insurance policy provided to you by a third- party delivery service.

(b) **Other Insurance Requirements.** Upon request, you must deliver to us copies of all such policies of insurance and proof of payment therefor; as well as any applicable certificates or insurance. All policies required hereunder must provide that the insurer will endeavor to give us written notice not less than 30 days before the date the coverage is canceled, altered, or permitted to lapse or expire. We may, from time to time, increase the limits of any required policy of insurance. If you fail to obtain or maintain the insurance coverages specified in Section 18.(a), we may, in our sole discretion, obtain and maintain insurance coverage up to the limits and types of coverages specified in Section 18.(a). If we obtain such coverage, you must reimburse us for all costs and expenses that we incur to obtain and maintain such insurance coverage, including all premiums paid or incurred by us.

19. Termination by Us.

(a) **Automatic Termination.** You will be in default under this Agreement, and the Franchise and all rights granted to you in this Agreement automatically terminate without notice to you, if: (i) a bill in equity or other proceeding is filed for the appointment of a receiver or other custodian for your business or assets and consented to by you; (ii) a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; (iii) proceedings for a composition with creditors under any state or federal law are instituted by or against you; (iv) a final judgment against you remains unsatisfied or of record for 30 days or longer (unless an appeal or supersedeas bond is filed); (v) you are liquidated or dissolved; (vi) any portion of your interest in the Franchise becomes subject to an attachment, garnishment, levy or seizure by any creditor or any other person claiming against or in your rights; (vii) execution is levied against your business or property; or (viii) the real or personal property of your Restaurant is sold after levy thereupon by any sheriff, marshal, or constable.

(b) **Upon Notice.** The occurrence of any of the following events constitutes a default by you under this Agreement and we may, at our option, terminate the Franchise and all rights granted in this Agreement as a result of such default, without affording you any opportunity to cure the default, effective upon notice of termination by us:

(i) at any time you cease to operate or otherwise abandon the Restaurant by failing to open and operate the Restaurant for three or more consecutive days (except with our consent or as otherwise permitted under this Agreement) or forfeit the right to do or transact business in the jurisdiction where the Restaurant is located or lose the right to possession of the Premises; provided however, that if any such cessation of operation or loss of possession results from the

governmental exercise of the power of eminent domain or if, through no fault of yours, the Premises are damaged or destroyed, then you will have 45 days after either such event in which to apply for our approval to relocate or reconstruct the premises of the Restaurant (which approval will not be unreasonably withheld), provided, that you either relocate or begin and diligently pursue reconstruction of the Restaurant within 60 days after the event;

(ii) except as otherwise permitted in Sections 14 and 15, any owner of more than a 5% interest in you transfers all or part of such interest or you transfer any interest in the Franchise or a material portion of your assets or the assets of the Restaurant without our prior written consent;

(iii) you, or any person or entity owning more than 5% of you, are (or is) proven to have engaged in fraudulent conduct or are (or is) convicted of, or pleads guilty or no contest to, a felony or a crime involving moral turpitude or any other crime or offense that is reasonably likely to have an adverse effect on the Chain, the Marks or the goodwill associated therewith; provided, that if the act or conviction involves your owner, we will not terminate the Franchise if you notify us promptly after you learn of the event constituting the default and within 15 days of the date of the notice, that either: (A) the person or entity that committed the wrongful act has divested his, her or its entire interest in you; or (B) you obtain our consent for such owner to maintain his, her or its ownership interest;

(iv) an approved transfer is not effected within 9 months of your death or incapacity, or the death, incapacity or dissolution of an owner of an interest in you pursuant to Section 15;

(v) you make any intentional, unauthorized disclosure or divulgence of the contents of any Manual or other confidential information provided to you by us;

(vi) you are repeatedly notified of being in material default of any of the terms or requirements of this Agreement, whether or not such defaults are timely cured after notice;

(vii) you fail to comply with any of your covenants set forth in Sections 16 or 17, fail to maintain the insurance coverages under Section 18, or make any material misrepresentations to us or breach any warranty or representation made to us, whether in this Agreement or otherwise;

(viii) you knowingly or intentionally maintain false books or records or submit any false record, statement or report to us;

(ix) you, by act or omission, materially impair the value of, or the goodwill associated with, the Chain, any of the Marks or the System; or

(x) you receive a written notice from a governmental or quasi-governmental authority that you are not complying with applicable law, and you do not begin complying with such law within fifteen (15) days after written notice of non-compliance from us, in the absence of a good faith dispute over the law's application or legality and without promptly resorting to an administrative or judicial forum for relief; provided, however, that if a notice from a

governmental or quasi-governmental authority provides for a cure period of longer than fifteen (15) days, then such longer time period shall apply.

(c) **Upon Notice and Failure to Cure.** In addition to those defaults provided for under subsections (a) or (b) above, you will be in default hereunder for any failure to maintain or comply with any of the terms, covenants, specifications, standards, procedures or requirements imposed by this Agreement or in any Manual, policy or procedure statement or other written document provided by us, or to carry out the terms of this Agreement in good faith. Except as provided under subsections (a) or (b) above, we will provide you with written notice and, except as provided in subsection 19.(c)(v) below, 30 days to cure or, if a default cannot reasonably be cured within 30 days, to begin within that time substantial and continuing action to cure such default and to provide us with evidence of such actions. If the defaults specified in such notice are not cured within the 30-day period, or if substantial and continuing action to cure has not been initiated, we may, at our option, terminate the Franchise effective on notice of termination by us. Such defaults include, by way of illustration and not of exclusion or limitation, the occurrence of any of the following:

(i) you fail to construct, remodel, or commence operating the Restaurant in accordance with this Agreement;

(ii) you fail, refuse, or neglect to promptly pay any monies owing to us, our Affiliates or the Marketing Fund or if required hereunder a Cooperative when due, or to submit the financial or other information required under this Agreement;

(iii) any person or entity owning 5% or less beneficial interest in you transfers such interest in violation of this Agreement; provided, however, that we may condition your right to cure such a default upon you immediately notifying us of the unauthorized transfer and taking all actions necessary to either: (A) obtain our approval thereof; or (B) if approval is not desired or the transfer or transferee is not approved by us, to re-acquire the interest so transferred;

(iv) you misuse or make any unauthorized use of the Marks;

(v) you, by act or omission in connection with the operation of the Restaurant, permit a continuing violation of any applicable law, ordinance, rule, or regulation of a governmental body or if, in our reasonable judgment, an imminent threat or danger to public health or safety, an imminent hazard to the health or safety of Restaurant personnel, or other threat or danger of immediate and substantial harm to the System or the image and goodwill associated with the System and the Marks results from the construction, maintenance, or operation of the Restaurant (and, in the case of any such imminent threat or danger or any law, ordinance, rule or regulation for public or Restaurant personnel health or safety, we have the right to reduce the cure period to 72 hours and require you to close the Restaurant until the cure is effected);

(vi) you commit a material breach of the lease for the Premises or suffer or permit the existence of any condition that could result in your default or material breach of such lease; or

(vii) you fail to comply with any mandatory standards, procedures, specifications, or requirements set forth in the Manual.

(d) **Materiality of Breaches.** A breach or violation of any term, covenant, condition, warranty, representation or other obligation by you constitutes a material breach and default under this Agreement. A breach or default that may be cured under Section 19.(c) and is in fact cured within the cure period specified in or pursuant to Section 19.(c) does not constitute grounds for termination of the franchise except as provided in Section 19.(b)(vi).

20. Obligations upon Transfer, Termination or Expiration.

(a) **Post Termination Obligations.** Upon transfer, termination or expiration of the Franchise, all rights granted to you under this Agreement terminate and you are obligated to:

(i) immediately cease to operate the business franchised under this Agreement, and not thereafter, directly or indirectly, represent to the public or hold yourself out as a Papa Johns franchisee with respect to such business;

(ii) immediately and permanently cease to use, in any manner whatsoever, all confidential information, Designated Software, Electronic Channel, methods, procedures and techniques used by or associated with the System, and the proprietary Marks "Papa John's," "Papa John's Pizza," and all other Marks and distinctive forms, slogans, signs, symbols, logos and devices associated with the Papa Johns Chain, including in any Electronic Channel or domain name;

(iii) immediately return to us (or, if approved by us, convey to your transferee) any property held or used by you that is owned by us and cease to use, and either destroy or convey to us (or, if approved by us, to your transferee), all signs, advertising materials, displays, stationery, forms and any other materials that bear or display any of the Marks;

(iv) take such actions as may be necessary to cancel any fictitious or assumed name or similar registration that contains the mark "Papa John's" or "Papa John's Pizza" or any other Mark, and furnish us with evidence satisfactory to us of compliance with this obligation within thirty (30) days after transfer, termination or expiration of the Franchise;

(v) if we elect to purchase the assets of the Restaurant pursuant to Section 20.(b) below, assign to us any interest that you have in any lease for the Premises; provided we will use reasonable efforts to effect a termination of the existing lease for the Premises and enter into a new lease on reasonable terms with the landlord, and if we are unable to negotiate an acceptable new lease, we will indemnify and hold you harmless from any ongoing liability under the lease from the date on which we assume possession of the Premises. The assignment of the lease must be made at the same time as we purchase the assets of the Restaurant pursuant to Section 20.(b). If we do not elect to purchase the assets of the Restaurant, you must, within 10 days after termination or expiration of the Franchise, make such modifications and alterations to the Premises as may be necessary to distinguish the appearance of the Premises from that of other Papa Johns restaurants and make such specific additional changes thereto as we may reasonably request or as may be required by any then-existing Closing Policy;

(vi) promptly pay all sums owed to us and our Affiliates and for that purpose you will continue to be obligated under and must comply with the provisions of Section 3.(e)(iii) until the earlier of: (a) 60 days after transfer, termination or expiration of the Franchise; or (b) our notice to you that we will no longer use any of the Payment Methods to collect sums owed to us or our Affiliates. Your payment obligations hereunder include all damages, costs, and expenses, including reasonable attorneys' fees, incurred by us as a result of your default under this Agreement or the termination of this Agreement and will give rise to and grant, and remain until paid in full, a security interest in favor of us in and against any and all of the personal property, furnishings, equipment, signs, fixtures and inventory owned by you and located on the Premises on the date the Franchise terminated and we have the right to set off against and deduct any amounts owed to you by us or any of our Affiliates any or all sums owed to us or our Affiliates that remain unpaid 30 days after termination or expiration of this Agreement;

(vii) If we terminate this Agreement based on your default (including if you abandon or otherwise cease to operate the Franchise), you agree to pay to us, as liquidated damages, an amount calculated as follows: (a) the average of your monthly Royalty that are due under this Agreement for the twelve (12) months immediately before your abandonment or our delivery of the notice of default (or, if you have been operating for less than 12 months, the average of your monthly Royalty for the number of months you have operated the Franchise); (b) multiplied by the lesser of 24 or the number of months remaining in the then-current term of this Agreement under Section 2 above. Notwithstanding the foregoing, if we approve the closure of the Location according to the then existing Store Closing Policy you will not be charged liquidated damages as described herein.

(viii) immediately deliver to us (or, if approved by us, convey to your transferee) all Manuals, policy and procedure statements, instructions, and other materials related to operating the Restaurant, including brochures, charts and any other materials provided by us and all copies thereof, and neither retain nor convey to another (other than an approved transferee) any copy or record of any of the foregoing and, in the case of expiration or termination of the Franchise, and allow us to remove the Designated Software as described in Section 10.(c)(iv)(E);

(ix) if requested by us, take all further action and execute all documents necessary to convey and assign to us all Telephone Numbers that have been used in the operation of the Restaurant or if we do not so request, cease all use of such Telephone Numbers;

(x) not, for a period of two (2) years after the transfer, termination or expiration of the Franchise (the "Restricted Period"), regardless of the reason for any such termination or expiration, within a 10-mile radius of (1) the Restaurant, or (2) any business location at which we or an Affiliate or our franchisee then operates a Papa Johns restaurant,

(A) directly or indirectly, irrespective of whether compensation is provided, enter into the employ of, invest in, assist, render any service to or act in concert with any person, partnership, limited liability company, corporation or other entity that owns, operates, manages, franchises or licenses any Competitive Business, or

(B) directly or indirectly, irrespective of whether compensation is provided, engage in any such Competitive Business on your own account, or

(C) become interested in any such Competitive Business, directly or indirectly, irrespective of whether compensation is provided, as an individual, partner, member, shareholder, director, officer, principal, agent, employee, consultant or in any other relationship or capacity, provided that the purchase of a publicly traded security of a corporation engaged in such business or service does not in itself constitute a breach of this Section so long as you do not own, directly or indirectly, more than 1% of the securities of such corporation, or

(D) divert or attempt to divert any business or any customers of the Papa Johns chain to any Competitive Business.

You are also hereby obligated to comply with the other covenants contained in this Agreement that expressly or necessarily by their terms survive the expiration, termination or transfer of this Agreement, including the covenants not to disclose trade secrets or confidential information contained in Sections 16 and 17.

(b) Asset Purchase Option.

(i) **Option.** Upon termination of this Agreement by us, upon termination of this Agreement by you without cause or upon expiration of this Agreement, we have the option, exercisable by giving written notice thereof within 15 days from the date of such expiration or termination, to purchase from you all (except as otherwise provided in this Section) the assets used in the Restaurant. Assets subject to this purchase option include leasehold improvements, equipment (including hardware and ancillary equipment components of the Information System), furniture, fixtures, signs and inventory for the Restaurant, but not any real property. We have the unrestricted right to assign this option to purchase. We or our assignee are entitled to all customary warranties and representations given by the seller of a business, including representations and warranties as to: (A) ownership, condition and title to assets; (B) liens and encumbrances relating to the assets; and (C) validity of contracts and liabilities inuring to us or affecting the assets, contingent or otherwise.

(ii) **Purchase Price.** The purchase price for the assets of the Restaurant will be the fair market value thereof, determined as of the date of termination or expiration of this Agreement in a manner consistent with reasonable depreciation of leasehold improvements owned by you and the equipment, furniture, fixtures, signs and inventory of the Restaurant, provided that the purchase price will not contain any factor or increment for any trademark, service mark or other commercial symbol used in connection with the operation of the Restaurant, any goodwill or "going concern" value for the Restaurant or any value for computer software or other proprietary information of ours that is merely lent or licensed to you and which you are obligated to cease using and/or return to us upon expiration or termination of the Franchise; and further provided that we may exclude from the assets purchased hereunder any equipment, furniture, fixtures, signs and inventory that do not, as determined by us in our sole discretion, meet quality standards for Papa Johns restaurants. If you and we are unable to agree on the fair market value of the assets, the fair market value will be determined by an independent appraiser selected by us and you. If you and we are unable to agree on a single appraiser, each party must select one appraiser, who must select a third appraiser, and the fair market value will be the average of the three independent appraisals. The fees and costs of such appraiser or appraisers will be borne equally by you and us. Except as provided above, nothing contained herein restricts the manner in which the appraisers so selected value the leasehold improvements, equipment, furniture, fixtures, signs and inventory.

(iii) **Closing.** The purchase price will be paid in cash, a cash equivalent, or marketable securities of equal value at the closing of the purchase, which must take place no later than 90 days after receipt by you of notice of exercise of this option to purchase, at which time you must deliver instruments transferring to us or our assignee: (1) good and merchantable title to the assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to us or our assignee), with all sales and other transfer taxes paid by you; and (2) all licenses and permits of the Restaurant that may be assigned or transferred. If you cannot deliver clear title to all of the purchased assets as aforesaid, or if there are other unresolved issues, the closing of the sale may, at our election, be accomplished through an escrow. You must, before closing, comply with all applicable legal requirements, including the bulk sales provisions of the Uniform Commercial Code of the state in which the Restaurant is located. We have the right to set off against and reduce the purchase price by any and all amounts owed by you to us or our Affiliates, and the amount of any encumbrances or liens against the assets or any obligations assumed by us. You and each owner of an interest in you must indemnify us against all liabilities not so assumed.

(iv) **Actions Pending Closing.** If we or our assignee exercise this option to purchase, pending the closing of such purchase as hereinabove provided, we have the right to appoint a manager to maintain the operation of the Restaurant as set forth under Section 15.(b). Alternatively, we may require you to close the Restaurant during such time period without removing any assets from the Restaurant. You must maintain in force all insurance policies required pursuant to this Agreement, until the closing on the sale.

21. Independent Contractor; Indemnification.

(a) **Independent Contractor.** This Agreement creates only a contractual relationship between the parties subject to normal rules of contract law. This Agreement does not create a fiduciary relationship between us, and you and you are and will remain an independent contractor. Nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever. You will hold yourself out to the public as an independent contractor, separate and apart from us. You will not make any contract, agreement, warranty or representation on our behalf without our prior written consent, nor incur any debt or other obligation in our name. This Agreement does not confer any rights or benefits to any person or entity not expressly referenced herein.

(b) **Business Management.** You acknowledge that: (i) we will have no responsibility for the day-to-day operations of the Restaurant or the management of your business, including ensuring the safety and security of your customers or employees; (ii) you independently control the operation of your business and the results of your operations will depend substantially on your business acumen and promotional and managerial efforts; and (iii) we have no responsibility for or control or supervision of your employees or your employment practices.

(c) **Indemnification.** We will not be liable by reason of any act or omission by you in your operation of the Restaurant or for any claim, cause of action or judgment arising therefrom against you or us. You undertake to hold harmless, defend and indemnify us and our Affiliates, and our and their respective shareholders, officers, directors, agents, and employees, from and against any and all losses, expenses, judgments, claims, costs (including reasonable attorney fees,

court costs, and expert witness costs, as and when incurred) and damages arising out of or in connection with any claim or cause of action in which we or any of our Affiliates are or become a named defendant and that arises, directly or indirectly, out of any act or omission by you in the construction or operation of, or in connection with, your Restaurant.

22. Your Representations. You acknowledge and represent that:

(a) All information submitted to us by you or those owning an interest in you, including all applications, financial statements and other documents and information, is true and correct in all respects and does not omit any material statement or item of fact necessary to make the statements made therein not false or misleading. You have disclosed to us the identity of all owners of any beneficial interest in you and, if and to the extent that any such owner is a corporation, LLC or other business entity, the names of all beneficial owners of such owner/entity.

(b) Neither you nor any shareholder, member or other holder of any ownership interest in you is subject to or has entered into any other agreement, promise, representation, warranty, covenant, court order or other legal or equitable obligation that conflicts with this Agreement or prohibits or limits your entering into this Agreement or your ability to perform your obligations under this Agreement.

23. ENFORCEMENT.

(a) **Arbitration.** Except for controversies, disputes or claims related to or based on: (1) any action to stop or prevent any threat or danger to public health or safety resulting from the construction, maintenance, or operation of the restaurant; (2) any debt collection action (other than our enforcement of your obligation to contribute to a cooperative); or (3) at the claimant's option, any alleged violation of any provision of section 16, 17 or 20.(a)(x) hereof, or use of the marks after the expiration or termination of this Agreement; all controversies, disputes or claims between us (including our affiliates, shareholders, officers, directors, agents or employees) and you (including your owners, guarantors, affiliates and employees, if applicable) arising out of or related to:

(i) this agreement or any other agreement between you and us or any provision of any such agreement, including your obligation to contribute to a cooperative;

(ii) our relationship with you, including issues relating to our decision to terminate that relationship;

(iii) the validity of this agreement or any other agreement between you and us or any provision of any such agreement; or

(iv) any standard, specification or operating procedure relating to the establishment or operation of the restaurant;

Must be submitted on demand of either party to the American Arbitration Association ("AAA") for a binding arbitration proceeding to be conducted in Louisville, Kentucky and heard by one arbitrator in accordance with the then-current commercial arbitration rules of AAA. All matters

relating to arbitration (including arbitrability of any claim, dispute or controversy) will be governed by the federal arbitration act (9 U.S.C. §§ 1 et seq.) And not by any state arbitration law.

The arbitrator will have the jurisdiction, power and authority to award or include in the award any relief that the arbitration deems proper in the circumstances, including money damages (with interest on unpaid amounts from the date due or date damages arise or are incurred), specific performance, injunctive relief and attorneys' fees and costs, provided that the arbitrator will not have the power to declare any mark generic or otherwise invalid or, except as otherwise provided in this agreement, to award exemplary or punitive damages. The award and decision of the arbitrator will be conclusive and binding upon all parties hereto, and judgment upon the award may be entered in any court of competent jurisdiction.

We and you are bound by the provisions of any limitation on the period of time in which claims must be brought under applicable law or this agreement, whichever expires earlier. In connection with any such arbitration proceeding, each party must submit or file any claim that would constitute a compulsory counterclaim (as defined by rule 13 of the federal rules of civil procedure) within the same proceeding as the claim to which it relates. Any such claim that is not submitted or filed as described above will be forever barred.

Except for inclusion of related parties as expressly provided in this section 23.(a), arbitration must be conducted on an individual basis, not a class-wide or other collective basis, and any arbitration proceeding between us (including our affiliates, shareholders, officers, directors, agents or employees) and you (including your owners, guarantors, affiliates or employees, if applicable) may not be consolidated with or brought as part of any other arbitration proceeding between us and any other person, corporation, limited liability company, partnership or association.

Notwithstanding anything to the contrary contained in this section 23.(a), we and you each have the right in a proper case to bring an action to obtain a temporary restraining order or temporary or preliminary injunctive relief from a court of competent jurisdiction (subject to the provisions of section 23.(c)), provided, that we and you must contemporaneously (within ten (10) business days of commencement of court action) submit our dispute for arbitration on the merits as provided herein, except as otherwise provided in the first paragraph of this section 23.(a).

The provisions of this section are intended to benefit and bind certain third-party non-signatories and continue in full force and effect subsequent to and notwithstanding the expiration or termination of this agreement.

(b) **Governing Law.** Except to the extent governed by the federal arbitration act, the United States trademark act of 1946 (Lanham act, 15 U.S.C. Sections 1051 et seq.) Or other applicable preemptive federal law, this agreement and all claims arising from the relationship between us and you will be governed by the laws of the commonwealth of Kentucky, without regard to its conflict of laws principles.

(c) **Consent to Jurisdiction and Venue.** All judicial actions brought by us against you or your owners or by you or your owners against us or our subsidiaries, affiliates, shareholders; officers, directors, agents or employees must be brought exclusively in a court of competent jurisdiction in Jefferson county, Kentucky or U.S. District court for the Western District of Kentucky, and you (and each owner) irrevocably submit to the jurisdiction of such courts and

waive any objection you, he or she may have to either the jurisdiction of or venue in such courts. Notwithstanding the foregoing, we may bring an action to obtain a restraining order or temporary or preliminary injunction, or enforce an arbitration award, in any federal or state court of general jurisdiction in the state in which you reside or in which the restaurant is located. Nothing in this Section 23.(c) shall preclude us from removing an action from state to federal court where appropriate to do so.

(d) **Waiver of Punitive Damages.** Except with respect to your obligation to indemnify us pursuant to section 21 and claims we bring against you under sections 16.(c), 16.(f), 17 or 20.(a)(x), we and you and your owners waive to the fullest extent permitted by law any right to or claim for any punitive or exemplary damages against the other and stipulate that, in the event of a dispute between us, the party making a claim is limited to equitable relief and to recovery of any actual damages it sustains (including pre-judgment interest).

(e) **Waiver of Jury Trial** We and you irrevocably waive trial by jury in any action, proceeding or counterclaim, whether at law or in equity, brought by either of us.

(f) **Limitations of Claims.** Except for claims brought by us with regard to your obligations under sections 16, 17 or 20.(a)(x), and your obligation to indemnify us pursuant to section 21, any and all claims arising out of or relating to this agreement or the relationship of you and us pursuant to this agreement must be commenced within one (1) year from the date on which the act or event giving rise to the claim occurred, or one (1) year from the date on which the claimant knew or should have known, in the exercise of reasonable diligence, of the facts giving rise to such claims, whichever later occurs.

(g) **Costs, Expenses and Attorneys' Fees.** Except as provided in Sections 16.(f), 20 and 21, each party must pay its own costs, expenses and attorneys' fees in any arbitration, claim, suit or proceeding arising out of this Agreement or the franchise relationship of the parties.

24. Notices. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement must be in writing and given: (i) by personal delivery; (ii) provided such notice, request, demand or communication is actually received by the party to which it is addressed in the ordinary course of delivery, by deposit in the United States mail, postage prepaid; (iii) by registered or certified mail, return receipt requested, postage prepaid; (iv) by delivery to a nationally-recognized overnight courier service; in each case addressed as follows, or (v) via electronic mail sent to a party's specified email address; provided, however, that a copy of the notice is also sent via one of the methods specified in subsections (i) through (iv) above. All notices, requests, demands and other communications must be sent to each party at the addresses listed below or to such other person or entity as either party may designate by proper notice to the other party in accordance with this section.

Us: If by Mail:
 P.O. Box 99900
 Louisville, Kentucky 40269-0900
 ATTN: General Counsel

If by Courier or Personal Delivery:

2002 Papa John's Boulevard
Louisville, Kentucky 40299-2367
ATTN: General Counsel

You:

ATTN: _____

Except as otherwise provided herein, a notice will be deemed to have been given: (a) on the date of personal delivery to a party; (b) the date of actual receipt by regular US Mail; (c), on the second business day after deposit with a nationally recognized courier service; or (d) on the third business day after deposit in the United States registered or certified mail, return receipt requested.

25. Miscellaneous.

(a) Insolvency Proceeding. In any event described in Section 19.(a) (an "Insolvency Proceeding"), the following provisions apply:

(i) Fees and Expenses. In the event of any Insolvency Proceeding, you must pay all reasonable fees and expenses (including attorneys' fees) incurred by us or our Affiliates in: (A) advising, structuring, drafting, reviewing, administering or amending the Agreement and/or (B) terminating, enforcing or otherwise protecting our rights under the Agreement in such Insolvency Proceeding, irrespective of whether suit is brought by or against us (the "Insolvency Expenses").

(ii) Enforcement of Agreement in Insolvency Proceeding. If you continue to operate the Franchise and otherwise continue to accept the benefits of this Agreement during the pendency of any Insolvency Proceeding, you will remain bound by each term and provision of this Agreement and you acknowledge that you will be benefitted by the continued use and enjoyment of the rights and benefits provided to you by and under this Agreement. You acknowledge that the value of such ongoing benefit is equal to the amount(s) payable under this Agreement and so long as you continue to operate the Franchise and otherwise continue to accept the benefits of this Agreement during the pendency of any Insolvency Proceeding, you must timely pay all of the amounts due under this Agreement in the manner provided by this Agreement.

(iii) Assumption and/or Assignment of Agreement. In any Insolvency Proceeding, this Agreement cannot be assigned and/or assumed under 11 U.S.C. Sections 363 or 365 or otherwise, without our express written consent, which consent may be given or withheld in our sole and absolute discretion. In order to assume and/or assign the Agreement in any Insolvency Proceeding, the defaults that must be cured as an express condition to such assumption and/or assignment and otherwise in accordance with 11 U.S.C. Section 365(b)(1) include the Insolvency Expenses plus all amounts due from you to: (A) Papa Johns, (B) any and all Affiliate(s) of Papa Johns, (C) PJFS, and (D) the Papa Johns Marketing Fund, Inc. or Papa Card, Inc., whether the amounts due from you arise under this Agreement or otherwise.

(iv) **Rejection of Agreement.** Rejection of this Agreement in any Insolvency Proceeding, whether pursuant to 11 U.S.C. 365 or otherwise, will result in a termination of this Agreement and a revocation and reversion to us of the Franchise and all of the rights provided to you under this Agreement.

(b) **Tolling; Severability.** During any period in which any covenant in Section 20.(a)(x) is being breached by you, including any period in which we or you are seeking arbitral or judicial enforcement, interpretation or modification of any such covenant, and all appeals thereof, the Restricted Period will be tolled and suspended. You are bound to the maximum extent permitted by law that is subsumed within the terms of any provision hereof, as though it were separately articulated in and made a part of this Agreement, that may result from the striking of any provision hereof by a court or arbitrator, or that a court or arbitrator holds to be unenforceable in a final decision to which we are a party, or that may result from reducing the scope of any provision to the extent required to comply with a court order, arbitral award or decisions or with any applicable state or federal law, whether currently in effect or subsequently enacted.

(c) **Construction.** All references herein to the masculine, neuter or singular will be construed to include the masculine, feminine, neuter or plural, as the case may require. All acknowledgements, warranties, representations, covenants, agreements and obligations herein made or undertaken by you are deemed jointly and severally undertaken by all those executing this Agreement as you. All uses of the words "include", "includes" and "including" mean "including but not limited to" or "including without limitation."

(d) **Entire Agreement.** This Agreement, the documents incorporated herein by reference and the Exhibits attached hereto constitute the entire agreement between the parties, and all prior understandings or agreements concerning the subject matter hereof are canceled and superseded by this Agreement, provided, nothing in this Agreement is intended to disclaim any representations made in the Franchise Disclosure Document furnished to you in connection with the offer and sale of Papa Johns franchises. The Exhibits to this Agreement are incorporated herein by reference and made a part hereof as if set out in full herein.

(e) **Affiliate.** As used in this Agreement, "Affiliate" means any person or entity that is owned or controlled by, or that owns or controls, or is under common control with, an identified person or entity, directly or through one or more intermediaries.

(f) **Amendments.** Except for those permitted to be made unilaterally by us, no supplement, amendment or variation of the terms of this Agreement is valid unless made in writing and signed by the parties hereto.

(g) **Waivers.** No failure to exercise any right hereunder or to insist upon strict compliance with any obligation, agreement or undertaking hereunder, and no custom or practice of the parties at variance with the terms hereof, constitutes a waiver of any right to demand full and exact compliance with the terms hereof. Waiver of any particular default does not affect or impair any rights with respect to any subsequent default of the same or of a different nature, nor does any delay or omission to exercise any right arising from such default affect or impair any rights as to such default or any subsequent default.

(h) **Counterparts.** This Agreement may be executed in several counterparts, each of which constitutes an original, and all of which together constitute one and the same instrument. An electronic signature or execution of an electronic procedure indicating assent to and intent to be bound by this Agreement constitutes execution and delivery of this Agreement.

(i) **Headings.** The headings used in this Agreement are for convenience only, and the paragraphs will be interpreted as if such headings were omitted.

(j) **Time of Essence.** Time is of the essence with regard to your obligations hereunder and all of your obligations are material to us and this Agreement.

(k) **Effective Date.** This Agreement is effective only upon execution by an authorized representative of Papa Johns and delivery to you. The date that we set forth in Section 25.(m) is the Effective Date of this Agreement (the "Effective Date").

(l) **Policies.** We may, after consulting with the Franchise Advisory Council, an advisory board representing our domestic franchisees, or any successor approved by us (the "FAC"), periodically adopt and amend policies on: (i) how Alternative Ordering Areas are defined and changed; (ii) restaurant closings; and (iii) PJFS profitability. We will not make any substantive changes to any of these three policies that will have, or could reasonably be expected to have in the next 12 months after the change, any adverse effect on the sales or profitability of a majority of the franchised Papa Johns restaurants, without first presenting the change(s) to the FAC. At such meeting the members of the FAC will be allowed to comment on the changes, make suggestions and vote for or against the changes per normal practice. However, notwithstanding any comments, objections or vote against the proposed change(s), we have the final decision on these policies, including changes to, or elimination of, one or more policies and the interpretation of them as they may exist from time to time.

(m) **Identification of Restaurant; Effective Date.** The Location, Telephone Number, Store Number used to identify the Restaurant in the Papa Johns Chain and Effective Date are as follows:

- (i) **Location:** _____
- (ii) **Telephone Number:** _____
- (iii) **Store Number:** _____
- (iv) **Effective Date:** _____

IN WITNESS WHEREOF, the parties hereto intend to be legally bound by the terms of this Agreement and have duly executed this Agreement as of the Effective Date.

By: _____
Title: _____

PAPA JOHN'S FRANCHISING, LLC

By: _____
Title: _____

PAPA JOHNS FRANCHISE

AGREEMENT

EXHIBIT A

ADDENDUM TO LEASE

THIS ADDENDUM TO LEASE, dated _____, 20 ___, is entered into by and between _____ ("Lessor"), and _____ ("Lessee").

RECITALS:

A. The parties hereto have entered into a certain Lease Agreement, dated _____, 20 ___, and pertaining to the premises located at _____ (the "Lease").

B. Lessor acknowledges that Lessee intends to operate a Papa Johns restaurant in the leased premises (the "Premises") under a Papa Johns Franchise Agreement (the "Franchise Agreement") with Papa John's Franchising, LLC ("PJF").

C. The parties now desire to amend the Lease in accordance with the terms and conditions contained herein.

AGREEMENT:

NOW, THEREFORE, Lessor and Lessee hereby agree as follows:

1. **Remodeling and Decor.** Lessee has the right to remodel, equip, paint and decorate the interior of the Premises and to display such proprietary marks and signs on the interior and exterior of the Premises as Lessee is reasonably required to do pursuant to the Franchise Agreement and any successor Franchise Agreement under which Lessee may operate a Papa Johns business in the Premises.

2. **Assignment.** Lessee has the right to assign all of its right, title and interest in the Lease to PJF or any Affiliate or franchisee of PJF at any time during the term of the Lease, including any extensions or renewals thereof, without first obtaining Lessor's consent. However, no assignment will be effective until such time as PJF or its designated Affiliate gives Lessor written notice of its acceptance of such assignment, and nothing contained herein or in any other

document constitutes PJF or its designated Affiliate a party to the Lease, or guarantor thereof or creates any liability or obligation of PJF or any Affiliate of PJF unless and until the Lease is assigned to, and accepted in writing by, PJF or its designated Affiliate.

3. **Default and Notice.**

(a) If there is a default or violation by Lessee under the terms of the Lease, Lessor will give Lessee and PJF notice of such default or violation within a reasonable time after Lessor receives knowledge of its occurrence.

(b) All notices to PJF must be sent by registered or certified mail, postage prepaid, by nationally recognized courier service or electronic mail to the following address:

If by mail:

Papa John's Franchising, LLC.
P.O. Box 99900
Louisville, Kentucky 40269-0900
Attn: Chief Legal & Risk Officer

If by courier service:

Papa John's Franchising, LLC
2002 Papa John's Boulevard
Louisville, Kentucky 40299
Attn: Chief Legal & Risk Officer

If by email:

Franchise_Notice@papajohns.com

PJF may change its address for receiving notices by giving Lessor written notice of such new address. Lessor agrees that it will notify both Lessee and PJF of any change in Lessor's mailing address to which notices should be sent.

4. **Termination or Expiration.** Upon the expiration or termination of either the Lease or the Franchise Agreement, Lessor will allow PJF to enter the Premises, without being guilty of trespass and without incurring any liability to Lessor, to remove all signs and other items identifying the Premises as a Papa Johns restaurant, to repossess any personal property owned by PJF and to make such other modifications as are reasonably necessary to protect PJF's proprietary marks and the Papa Johns System and distinguish the Premises from Papa Johns restaurants. Provided, however, that this obligation of Lessor shall be conditioned upon PJF giving Lessor prior notice of the modifications to be made and the items to be removed.

5. **Consideration; No Liability.**

(a) Lessor acknowledges that the provisions of this Addendum to Lease are required pursuant to the Franchise Agreement under which Lessee plans to operate its business and that Lessee would not lease the Premises without this Addendum.

(b) Lessor further acknowledges that Lessee is not an agent or employee of PJF and that Lessee has no authority or power to act for, or to create any liability on behalf of, or to in any way bind PJF or any Affiliate of PJF, and that Lessor has entered into this Addendum to Lease with full understanding that it creates no duties, obligations or liabilities of or against PJF or any Affiliate of PJF.

6. **Amendments.** No amendment or variation of the terms of this Addendum to Lease will be valid unless made in writing and signed by the parties hereto.

7. **Reaffirmation of Lease.** Except as amended or modified herein, all of the terms, conditions and covenants of the Lease remain in full force and effect and are incorporated herein by reference and made a part hereof as though copied herein in full.

8. **Affiliate.** As used in this Agreement, the term "Affiliate" means any person or entity that is owned or controlled by PJF or which owns or controls PJF or is under common control with PJF, directly or through one or more intermediaries.

IN TESTIMONY WHEREOF, witness the signatures of the parties hereto as of the day, month and year first written above.

By: _____

Title: _____

("Lessor")

By: _____

Title: _____

("Lessee")

PAPA JOHN'S FRANCHISE

AGREEMENT

EXHIBIT B

**ASSIGNMENT OF TELEPHONE NUMBERS,
LISTINGS AND ELECTRONIC CHANNELS**

THIS ASSIGNMENT is entered into this ____ day of _____, 20____ in accordance with the terms of that certain Papa John's Franchising, LLC Franchise Agreement (the "**Franchise Agreement**") between _____ ("**You**") and Franchising, LLC, a Kentucky limited liability company ("**we**", "**us**" or "**Papa Johns**"), executed concurrently with this Assignment, under which we granted you the right to own and operate a Papa Johns restaurant located at _____ (the "**Restaurant**").

FOR VALUE RECEIVED, you hereby assign to us all of your right, title and interest in and to those certain telephone numbers listed below and regular, classified or other telephone directory listings and listings or advertisements on or in any other directory, internet website, domain name, social media site or channel (such as, but not limited to, Facebook and Twitter accounts or sites) and other digital or electronic marketing channel or media that includes or is associated with our trademarks and service marks and used from time to time in connection with the operation of the Restaurant at the address provided above (collectively, the "**Telephone Numbers and Listings**"). Except as specified herein, we shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment, unless we notify the telephone service provider or other directory provider and/or the listing agencies with which you have placed telephone directory listings (all such entities are collectively referred to herein as the "**Telephone Service Provider**") to effectuate the assignment pursuant to the terms hereof.

PAPA JOHN'S FRANCHISING, LLC:

YOU:

By: _____
Title: _____

By: _____
Title: _____

Telephone Numbers:

PAPA JOHN'S FRANCHISE

AGREEMENT

EXHIBIT C

LETTER OF INTENT

[date]

[name]

[company]

[street address]

[city, state, zip]

RE: [subject]

Dear [name]:

This Letter of Intent ("LOI") sets forth the proposal as to the material provisions addressed herein and a bona fide offer (the "Transaction") for the acquisition by _____ ("Buyer") of _____ (____) Papa Johns restaurants (the "Restaurants") from _____ (the "Seller" or "Company"), as more particularly described on Exhibit A attached hereto.

This LOI is to be used as a guide in the negotiation of a definitive asset purchase agreement ("Purchase Agreement"), and does not preclude other mutually satisfactory provisions from being included in the Purchase Agreement. The Buyer and Seller will work in good faith toward entering into a definitive Purchase Agreement, which shall contain, among other things, the following terms and conditions.

1. Acquired Assets. This transaction is an asset purchase. At Closing, Seller will sell, transfer and assign to Buyer, free and clear of all liens, restrictions and encumbrances, substantially all of the assets used in the operation of the Restaurants owned by the Seller or assignable as the case may be, including, but not limited to personal property, equipment, supplies, signs, smallwares, food, supplies, inventory, furniture and fixtures, permits, intellectual property, point-of-sale hardware ("POS equipment"), computer system (both computer hardware and software), contracts (excluding any Papa Johns Development Agreement), improvements, and leasehold interests, customer data, business records, marketing materials and franchise agreements (collectively, the "Purchased Assets").

2. Purchase Price. The Buyer will pay to the Seller _____ Dollars (\$_____) for the Restaurants, as follows:

a. Buyer will pay Seller \$_____ by certified check or wire transfer at the Closing; [and

b. Buyer will tender to Seller a promissory note (the "Note") in the principal amount of \$_____ at a [fixed annual interest rate of ____%] [variable rate equal to the "Prime Rate" published in *The Wall Street Journal*, plus ____%], to be repaid as follows:

i. *optional terms and provisions*

ii. *optional terms and provisions*

The Note will be secured by a first-priority security interest granted by Buyer to Seller in all of the Purchased Assets and will be guaranteed by the principal owners of Buyer.]

3. Utilities. Utility deposits will become the property of the Buyer. The Buyer will be responsible for all service transfers. The Seller will assist the Buyer in obtaining such transfers.

4. Real Estate Leases. The Seller will assign the third-party real estate leases with respect to the Restaurants (the "Real Property Leases") to the Buyer. The Seller will assist in securing these real property lease assignments to Buyer, as well as all estoppel certificates required by the Buyer's lender, from Lessors and Sub-Lessors for all appropriate restaurant locations. Buyer will assist the Seller in obtaining such assignments and estoppel certificates. Any applicable assignment fees payable to the Lessors shall be shared equally by Buyer and Seller.

5. Liens and Encumbrances. At Closing, the Purchased Assets will be conveyed to Buyer free and clear of any liens or encumbrances [except as may be expressly agreed to by Buyer] and the Seller will provide adequate assurances that Seller has paid in full or in due course all of its obligations to Papa John's Franchising, LLC and its affiliates ("Franchisor"), the Papa John's Marketing Fund, Inc., any Papa Johns advertising cooperative to which Seller is required to contribute in relation to the Restaurants, other trade payables, taxes and other obligations that might result in a claim upon the Restaurants, the Purchased Assets or the Papa Johns franchise pursuant to which the Restaurants are operated.

6. Exclusivity. Seller represents to Buyer that no agreement has been reached and remains effective with any party and will not, through [date], negotiate with any other party for the sale to such party of the Purchased Assets or any stock or other equity interest in Seller.

7. Due Diligence. The Seller will permit Buyer to conduct its due diligence investigation of the Restaurants and Development Rights typical of a transaction of this kind for a period of 30 days from the date of execution of this LOI (the "Due Diligence Period"). Seller will cooperate with the Buyer in making all of its records, financial information, leases, and personnel information available to the Buyer for due diligence purposes. All inquiries by Buyer with Seller's

clients, lenders, vendors, key employees, and others will be done in a confidential and in a discreet manner in accordance with the Seller's desires and consultation.

[8. Earnest Money Deposit. Buyer is tendering to Seller upon execution of this LOI an earnest-money deposit of \$ _____, which shall be refunded in the event Buyer declines to proceed with the Transaction following the Due Diligence Period. When Buyer has completed its due diligence, if Buyer elects to proceed with the Transaction, Buyer shall execute and deliver to Seller the definitive Purchase Agreement together with an additional earnest-money deposit of \$ _____. Following the expiration of the Due Diligence Period, the aggregate \$ _____ deposit shall be refunded to Buyer only in the event the Transaction does not close due to Seller's failure to satisfy any applicable conditions to Closing as provided in the Purchase Agreement.]

9. Closing and Closing Date. The Transaction will be conducted by courier exchange of documents or in such other manner as Buyer and Seller agree. The Closing will occur within 30 days from the date of execution of the Purchase Agreement, assuming all of the appropriate conditions to the Purchase Agreement have been fulfilled or waived (the "Closing Date").

10. Closing Conditions. In addition to normal representations and warranties as negotiated between the Buyer and Seller regarding the status of the Restaurants, title to assets, etc. and documentation transferring title to Buyer, legal opinions, estoppels, the following matters shall be prerequisites to the consummation of the Transaction:

- a. The Restaurants must be fully operational at Closing;
- b. Representations and warranties of the Seller and Buyer being true and correct;
- c. The assignment of the third-party leases for each Restaurant, upon such terms and conditions, including landlord consents, non-disturbance and attornment agreements and other acceptable terms as required by the Lender;
- d. Buyer will have the opportunity to hire the key personnel involved in the day- to-day operation of the Restaurants owned by the Seller;
- e. The receipt of timely profit and loss statements relating to the operation of the Restaurants year to date for the current fiscal year;
- f. No material adverse change in the Restaurants or Development Rights;
- g. Buyer will assume the Papa Johns Franchise Agreement (the "Franchise Agreement") for each of the Restaurants or will execute a new standard Papa Johns franchise agreement for each of the Restaurants; and
- h. Buyer and Seller will comply with all conditions to transfer set forth in the Papa Johns Franchise Agreements for the Restaurants and in the Authorization to Transfer issued by Franchisor to evidence its consent to the transfer of the Restaurants to Buyer.

11. Access to Information. During the period from the execution of the Purchase Agreement to the Closing, Seller will provide to Buyer's representatives reasonable access to the Restaurant sites with the proper notice and reasonable consent of the Seller, contracts, books and records relating to their operations, leases, financing, vendors and payables, and any other reasonable material.

12. Normal Conduct. From the date of execution of this LOI, Seller will operate each Restaurant and maintain the Purchased Assets in the usual and normal course of business; ensure that no material adverse change in the condition of the Purchased Assets occurs; not dispose of any material Purchased Assets; and keep all trade payables current.

13. Expenses, Brokerage Fees and Other Payments. Each party shall bear its own expenses in connection with this Transaction, except as otherwise agreed to in the Purchase Agreement.

14. Good Faith. Each of the parties hereto agree to proceed in good faith to negotiate and, if agreed to, execute and deliver the Purchase Agreement and consummate the transactions contemplated herein.

15. Cooperation. Each of the parties agrees to cooperate in obtaining all necessary approvals to the transaction contemplated herein.

16. Intention of the Parties. This LOI does not purport to include all of the essential terms and conditions of the contemplated transaction and the parties shall not be obligated to complete this transaction unless a definitive Purchase Agreement is executed.

17. Confidentiality. Neither party will make any public disclosure regarding the existence of this LOI for this Transaction. The parties hereto will each maintain the confidentiality of all the information received from other parties and use such information only for the purpose contemplated by this letter and for no other purpose. If the Transaction is not consummated for any reason, the parties will promptly return to each other all documents and other written information received from the other party and will not retain any copies or summaries thereof. This Paragraph shall survive the termination of this LOI.

18. Representations and Warranties by Buyer and Seller. The definitive acquisition agreement shall contain representations and warranties by the Buyer and Seller typical in transactions of this type, some of which will survive the date of closing.

19. Expiration Date for Acceptance of LOI. The offer described in this LOI is open for acceptance by the Seller until the expiration date of [date].

20. Special Provisions.

a. Right of first refusal. Buyer acknowledges that under the Franchise Agreement, Franchisor has a right of first refusal to acquire the Restaurants on substantially the same terms and conditions as set forth herein. If Franchisor exercises its right of first refusal,

Seller shall have no obligation to sell or transfer the Restaurants or the Purchased Assets to Buyer and Seller, Franchisor and any assignee of Franchisor shall have no obligation or liability to Buyer in connection therewith.

[b. *other specific terms or provisions.*

c. *other specific terms or provisions]*

If the terms and conditions of this LOI are acceptable, please initial each page and execute this LOI and return a signed copy of this letter to _____ .

Sincerely,

By: _____

Title: _____

("Seller")

Accepted and agreed:

[BUYER]

By: _____

Title: _____

Date: _____

copy: