

EXHIBIT F

**FRANCHISE AGREEMENT
AND ITS SCHEDULES,
INCLUDING GUARANTY
AND INDEMNIFICATION
COVENANT**



FRANCHISE AGREEMENT

for

EQ3 STORE PROGRAM

between

EQ3 FRANCHISE HOLDINGS, INC.

- and -

[FRANCHISEE]

Date: _____

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THIS FRANCHISE AGREEMENT is made this day of _____ 200__

BETWEEN:

EQ3 FRANCHISE HOLDINGS, INC.
220 Elm Street
High Point, NC 27260
("EQ3FH")

- and -

("Franchisee")

who in consideration of the promises set forth below agree as follows:

**Article 1
Nature and Scope of Agreement**

- 1.1 **The Franchisor.** Palliser Furniture, Ltd. ("PFL"), the ultimate parent of EQ3FH, has developed and owns the rights to the retail furniture concept known as the EQ3 Store Program which is designed to enable the establishment and operation of an EQ3 Store for retail sale of specified furniture products to the general public, which PFL has licensed to EQ3 Holdings, Inc. ("Holdings") the parent of EQ3FH. EQ3FH has acquired the right from Holdings to use, offer and service franchises to others to develop, establish and operate and service EQ3 Stores utilizing the EQ3 Store Program.
- 1.2 **The Trademarks.** PFL owns and will own certain trademarks and other intellectual property, including such future trademarks and other intellectual property which may be developed, for use in connection with the EQ3 Store Program, and EQ3FH has also acquired the right through Holdings to use and the right to grant licenses to franchisees to use the aforementioned trademarks and other intellectual property in connection with franchised EQ3 Stores utilizing the EQ3 Store Program.
- 1.3 **The Franchisee.** Franchisee has independently investigated the business risks involved and such other matters as Franchisee deems important, including current and potential market conditions and competitive factors and risks, has read EQ3FH's Uniform Franchise Offering Circular, and has not relied on any representations not set forth in this Agreement. Aware of the relevant facts, Franchisee wishes to acquire from EQ3FH, and EQ3FH agrees to grant to Franchisee, a license to operate an EQ3 Store as a Franchised Business, upon the terms and conditions as hereinafter set out.
- 1.4 **The EQ3 Store Program.** The EQ3 Store Program is based on particular product design, presentation and value, which includes policies, procedures and techniques, and is used by retail furniture businesses that operate EQ3 Stores under the Trademarks. The

EQ3 Store Program presently includes, but is not limited to: the Trademarks and associated marks, logos, color schemes and designs; advertising, publicity and other marketing programs; training programs and training materials; and other requirements as stated or referred to in this Agreement and from time to time in the EQ3 Operations Manual, or otherwise in writing by EQ3FH. The EQ3 Store Program will be applied to all Franchised Businesses, although EQ3FH in its business judgment may make exceptions based on local conditions, special circumstances or different contractual provisions. The EQ3 Store Program may be changed or modified from time to time by EQ3FH, in its sole discretion, and Franchisee agrees to comply with the EQ3 Store Program as it may exist from time to time (including all operational policies, procedures, programs and plans set forth in the EQ3 Operations Manual or otherwise in writing), all of which shall constitute provisions of this Agreement as if fully set forth herein.

Article 2 Interpretation

2.1 **Definitions.** Unless the context in which the following terms appear clearly require otherwise, the following terms, when used with an initial capital letter, shall have the following meanings, respectively:

“Accessories” means all non-furniture items, including both EQ3 Accessories and non-EQ3 Accessories purchased from Authorized Suppliers.

“Additional Outlets” is defined in Section 3.4.

“Advertising Fee” means the fees set out in Sections 8.3 and 11.4.

“Ad Fund” is defined in Section 8.3.

“Agreement” means this agreement and all schedules and instruments supplemental hereto and any amendment or confirmation hereof.

“Authorized Products” means those non-EQ3 Furnishings and non-EQ3 Accessories purchased from Authorized Suppliers approved by EQ3FH as product inventory for an EQ3 Store. EQ3FH shall have the right to approve specific stock keeping units (“skus”) and shall from time-to time provide Franchisee with list of approved vendors and products. Such lists may change upon EQ3FH’s discretion.

“Authorized Supplier” means those suppliers of non-EQ3 Products and services as approved by EQ3FH, from time to time, from whom Franchisee may purchase product inventory for the Franchised Business or from whom Franchisee may be required to purchase equipment and services to operate the Franchised Business pursuant to the EQ3 Operations Manual.

“Confidential Information” is defined in Section 14.2.

“Customer Services” shall mean customer service, credit facility service and after sale service developed or approved by EQ3FH for use in conjunction with the sale of EQ3 Products as currently set out in the EQ3 Operations Manual.

“EQ3 Accessories” means accessories such as linens, cutlery, lamps, rugs and other like items, designated for retail sale in an EQ3 Store by EQ3FH and purchased from EQ3FH.

“EQ3 Distributors” means retailers (other than franchisees of EQ3FH) that carry EQ3 Products in the United States with respect to an EQ3 In-Store Gallery pursuant to product placement arrangements with PFL.

“EQ3FH” means EQ3 Franchise Holdings, Inc., a Delaware corporation, the franchisor under this Agreement.

“EQ3 Furnishings” means all furniture products designated for retail sale in an EQ3 Store by EQ3FH and purchased from EQ3FH.

“EQ3 In-Store Gallery” means floor space in a retail furniture store, department store or multi-line retailer, dedicated to certain EQ3 Products pursuant to product supply arrangements with PFL.

“EQ3 Operations Manual” is a guide for the establishment and operation of EQ3 Stores prepared by EQ3FH and provided to Franchisee that sets out, including, without limitation, a marketing program, staffing particulars, operation systems and store elements, including layout, design and product mix, and includes any and all operations or instruction manual or manuals and all books, pamphlets, memoranda, directives, bulletins and other material and updates prepared by or on behalf of EQ3FH from time to time (whether in written, machine readable or any other form), setting out the standards, methods, procedures, techniques and specifications of the EQ3 Store Program.

“EQ3 Products” means EQ3 Accessories and EQ3 Furnishings designated for retail sale in an EQ3 Store;

“EQ3 Store Program” means the program used to operate an EQ3 Store and is defined in Section 1.4.

“Force Majeure” means a fire, explosion, casualty, epidemic, act of God, earthquake, flood, torrential rain, strike, walkout, picketing, stoppage of labor, lock-outs, civil disturbance, embargo, riot, act of public enemy, terrorist act, war or armed conflict (whether or not there has been an official declaration of war), hostilities, sanctions, mobilization, blockade, detention, vandalism, revolution, looting, orders of governmental authorities, or any other cause or causes beyond the reasonable control of the affected party.

“Franchised Business” means the EQ3 Store to be developed and operated by Franchisee in accordance with the EQ3 Store Program at the Premises, pursuant to this Agreement.

“Gross Revenues” means the entire amount of the actual sales price, whether for cash, credit or otherwise, of all sales of goods and services, including, without limitation, extended warranty packages, and revenue derived from delivery and installation services performed by Franchisee, all other revenue derived in respect of the Franchised Business, and all other receipts whatsoever from all business conducted upon or originating from the Premises, including the proceeds from any business interruption insurance received with respect to the Franchised Business, excluding taxes collected and paid to the appropriate taxing authority and refundable deposits until such time as they become nonrefundable and revenues collected for installation or delivery services if performed by a third party, and any Internet Sales. Each charge or sale upon installment or credit shall be treated as a sale for the full price during the reporting period in which such charge or sale is made, regardless of the time when Franchisee shall receive payment (whether full or partial) therefor.

“Guaranty and Indemnification Covenant” is attached as **Schedule I**.

“Holdings” means EQ3 Holdings, Inc., the parent of EQ3FH.

“Implementation Services” are defined in Section 5.4.

“Initial Franchise Fee” means the fee payable by Franchisee to EQ3FH upon the execution of this Agreement pursuant to Section 8.1.

“Internet” means the interactive, multimedia, global communications network and includes all linking and framing and Internet connections approved by EQ3FH.

“Opening Date” means the date that the EQ3 Store is to be completed and open to the general public as set out in **Schedule B**.

“PFL” means Palliser Furniture, Ltd., a Canadian corporation and ultimate parent of EQ3FH and owner of the Trademarks. PFL has (1) sublicensed the Trademarks to EQ3FH with respect to the operation of the franchised EQ3 Store Program in the United States, (2) retained rights to the Trademarks with respect to the supply of EQ3 Products to the EQ3 Distributors; (3) reserved the right to license the Trademarks to a Related Party for purposes of operating company owned EQ3 Stores in the United States, and (4) reserved the right to license the Trademarks to a Related Party for purposes of offering EQ3 Products for sale through the Internet and through other means anywhere in the United States.

“Premises” means the premises used for the operation of the EQ3 Store in the Territory as described in **Schedule B** hereto.

“Principal(s)” means the direct and indirect, legal and beneficial shareholders, members or owners of Franchisee as more particularly set out in **Schedule E**.

“Product Supply Agreement” means that agreement to supply EQ3 Products entered into by the parties concurrently with this Agreement.

“Related Document” means any document that Franchisee executes with Franchisor or one of its affiliates relating to the operation of Franchised Business.

“Related Party” with respect to each party to this Agreement means each person, association or entity who or which directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such party to this Agreement.

“Related Products” means goods other than EQ3 Products which Franchisee may purchase from EQ3FH or its Related Parties.

“Renewal Fee” means the renewal fee payable by Franchisee pursuant to Section 4.2(c).

“Royalty Fee” means the continuing royalty fee payable by Franchisee to EQ3FH pursuant to Section 8.2.

“Security Agreement” means that agreement pursuant to which Franchisee will grant to EQ3FH certain security interests to be entered into concurrently with this Agreement.

“Term” has the meaning set out in Section 4.1.

“Territory” shall mean the geographical area in which the Franchisee’s EQ3 Store shall be established and as described in **Schedule A**.

“Trademarks” means, collectively, those trademarks, trade names, copyrights, designs, logos, color schemes and other commercial symbols authorized by EQ3FH for use in the United States from time to time in connection with the EQ3 Store Program including, without limiting the generality of the foregoing, EQ3™.

“Transfer Fee” means the fee set out in Section 13.4(c) (vii) and **Schedule D**.

2.2 **Gender and Number.** The neuter of any pronoun shall include the feminine and/or the masculine thereof, and the singular of any noun or pronoun shall include the plural, or vice-versa, wherever the context shall require.

2.3 **Headings.** Section and paragraph headings are for convenience only, and shall not be construed as limiting or defining the meaning of any provision herein.

2.4 **Representations and Warranties.** Franchisee and each of its Principals hereby represent and warrant to EQ3FH as follows:

(a) Franchisee is acquiring this franchise for Franchisee’s own account for the operation of a Franchised Business, and not for the purpose of resale or redistribution or other speculative matter;

(b) All information provided to EQ3FH in Franchisee’s application and other documents to induce EQ3FH to grant this franchise was true, correct, complete

and accurate as of the date made, and, as of the date of this Agreement, no material change has occurred in such information;

- (c) Franchisee and the Principals have sufficient skill, business experience, aptitude and financial resources to own and operate an EQ3 Store and that they have never been convicted of a criminal offense involving fraud or misappropriation of funds or property or pled guilty or no contest to such criminal offense;
- (d) Franchisee's execution, delivery and performance of this Agreement does not violate or constitute a breach under any agreement or commitment of Franchisee;
- (e) Franchisee is duly organized and validly existing, is qualified to do business in each state where Franchisee is or will conduct business, and is duly authorized to execute and deliver this Agreement and perform Franchisee's obligations pursuant to this Agreement; and
- (f) This Agreement represents a valid, binding obligation of Franchisee and each Principal. **Schedule E** constitutes a complete list of all Principals of Franchisee as of the date of this Agreement. Each Principal has fully read this Agreement and Franchisor's Uniform Franchise Offering Circular, and each Principal represents that he/she is capable of complying with all of the terms of this Agreement and the Principal's Guaranty and Indemnification Covenant.

2.5 **Principal's Guaranty and Acknowledgment.** If Franchisee is an entity, each Principal shall execute the Guaranty and Indemnification Covenant in favor of EQ3FH and the Principal's Acknowledgment which follows the signature block of this Agreement, and deliver the executed Guaranty and Indemnification Covenant and Principal's Acknowledgment to EQ3FH concurrently with execution of this Agreement, or if such ownership interest is acquired later, prior to obtaining the interest as a Principal.

Article 3 Grant And Location

3.1 **Grant of License.** Subject to the terms and conditions of this Agreement, EQ3FH hereby grants to Franchisee a license to operate one Franchised Business using the EQ3 Store Program and the Trademarks within the Territory at and only at the Premises set forth on **Schedule B**. Franchisee hereby accepts such grant and agrees to operate a Franchised Business in accordance with the EQ3 Store Program under the Trademarks at and only at the Premises set forth on **Schedule B** and to continuously exert its best efforts to promote and enhance the operation of the Franchised Business and the goodwill associated with the Trademarks.

3.2 **Territorial Rights.** During the Term of this Agreement for as long as Franchisee is in full compliance with the terms and conditions of this Agreement, any other franchise agreements between EQ3FH and Franchisee, and all other agreements between Franchisee and EQ3FH or its Related Parties, and this Agreement has not been terminated or expired, subject to Sections 3.4 and 3.5, EQ3FH will not grant a franchise

to any person or entity other than Franchisee to operate another EQ3 Store in the Territory.

- 3.3 **Principal to Operate.** At least one Principal (or Principal designee acceptable to EQ3FH) must participate personally in the active direct management of the EQ3 Store. Franchisee shall cause such Principal (or approved designee as the case may be) to attend and complete to EQ3FH's satisfaction the initial franchisee training program. The cost for such training is included in the Initial Franchise Fee; however, Franchisee shall be responsible for all travel and related expenses related to the Principal's or its designee's attendance at the training.
- 3.4 **Additional Outlets.** Franchisee shall own and operate only one Franchised Business in the Territory. However, Franchisee may be entitled to own and operate further EQ3 Store franchises in the Territory ("Additional Outlets") on certain terms and conditions set out in **Schedule C**.
- 3.5 **Reserved Rights and Exceptions to Territorial Rights.** EQ3FH and the Related Parties reserve all rights not specifically granted to Franchisee herein. This Agreement shall not limit the right of EQ3FH or its Related Parties to use or license the EQ3 Store Program and Trademarks or to engage in or license any business activity, including, without limitation: (a) the franchising of retail furniture store businesses under the Trademarks at any location outside the Territory; (b) the operation of EQ3 Stores and other retail store businesses under the Trademarks using the EQ3 Store Program and selling EQ3 Products within or outside the Territory; (c) the operation and/or franchising of retail furniture store businesses under any other trade name, trademark or service mark now or hereafter owned by or licensed to EQ3FH or its Related Parties at any location inside or outside the Territory; (d) the sale of EQ3 Products in any channel of distribution, including catalog sales or the Internet, either directly or through any affiliate or third party; and/or (e) the operation of any business other than a retail furniture store under any name or mark, including the Trademarks, within or outside the Territory. This Agreement shall not limit the right of PFL or any of its other Related Parties to offer for sale and sell furniture and any goods and services other than EQ3 Products in any channel of distribution and under any marks, including Palliser, within and outside the Territory. Franchisee acknowledges that EQ3FH's and the Related Parties' rights to use and/or license the EQ3 Store Program pre-date this Agreement and are not limited or changed by the terms of this Agreement. Franchisee agrees that by acknowledging those rights, the parties do not intend to make EQ3FH's or the Related Parties' exercise of such rights subject to rules applicable to contractual performance or the exercise of contractual discretion under this Agreement.

The territorial rights provided to Franchisee pursuant to Section 3.2 shall be with respect to the Franchised Business only, and shall be subject to:

- (a) PFL's right to continue with current product placement arrangements with EQ3 Distributors in the Territory, if any;

- (b) PFL's and the Related Parties' right to establish new product placement arrangements with current or new EQ3 Distributors on the condition that the location of such product placement is more than five (5) miles from franchised EQ3 Stores existing on the date of establishment, and at least forty-five (45) days' notice is provided to EQ3FH who shall provide thirty (30) days' notice to Franchisee if the location is in the Territory. The five (5) mile stipulation shall be based upon distance given population densities, traffic patterns, shopping patterns, market variation and will subject to EQ3FH's discretion;
 - (c) In the event Franchisee subsequently establishes a franchised EQ3 Store within thirty five (5) miles of an existing EQ3 Distributor, the exception set out above in subparagraph (a) shall apply;
 - (d) PFL's and the Related Parties' right to establish company-owned EQ3 Stores inside or outside the Territory; and
 - (e) The rights with respect to Internet sales of EQ3 Products throughout the United States (including the Territory) reserved by PFL (or its Related Party) as provided in Section 10.3.
- 3.6 **Territorial Restrictions.** Franchisee shall offer for sale and sell EQ3 Products only at and from the Franchised Business. Franchisee shall advertise, market and promote the Franchised Business and its EQ3 Products only in the Territory.

Article 4 Term and Renewal

- 4.1 **Term.** Except as otherwise provided, this franchise shall be for a term of five (5) years from the date of this Agreement (the "Term"), unless sooner terminated pursuant to terms herein.
- 4.2 **Renewal.** Unless this Agreement has previously been terminated in accordance with its terms, this Agreement may be renewed by the Franchisee for two (2) successive additional terms of five (5) years each on the following terms and conditions:
- (a) Franchisee shall have substantially complied with all of the terms of this Agreement and any other agreements relating to the Franchised Business, whether with EQ3FH, Related Parties, Authorized Suppliers, the lessor at the Premises or third party lenders, and shall be in full compliance with all such terms at the time of renewal, which substantial compliance and full compliance shall be determined solely by EQ3FH;
 - (b) Franchisee shall have given notice of its intent to renew to EQ3FH in writing at least one hundred eighty (180) days prior to the expiration of the then current Term;
 - (c) Franchisee shall pay a renewal fee of \$3,500 for the first renewal and \$5,000 for the second renewal at the time of renewal;

- (d) Franchisee and its Principals shall, at the option of EQ3FH and as a condition of such renewal, execute EQ3FH's then current form of franchise agreement together with all ancillary documents, agreements and guarantees then required by EQ3FH (the "Related Documents") which may have business and material terms different from the terms of this Agreement and its Related Documents but which will be for the renewal term described above, and which, upon commencement of the relevant renewal term, shall supercede in all respects this Agreement;
- (e) As an alternative to Section (d), and in EQ3FH's sole discretion, Franchisee shall execute an Amendment to this Agreement and its Related Documents for the renewal term incorporating such amendments as EQ3FH deems necessary to meet the terms and conditions of the then current franchise agreement and Related Documents governing franchisees;
- (f) EQ3FH shall provide Franchisee with its then current franchise agreement and Related Documents in accordance with subparagraph (d) or its Amendment to this Agreement and Related Documents in accordance with subparagraph (e) thirty (30) days after receipt of Franchisee's notice of intent pursuant to subparagraph (b), and Franchisee shall have sixty (60) days to provide EQ3FH with an executed copy thereof. In the event the parties have not concluded an executed current franchise agreement and Related Documents or Amendment to this Agreement and Related Documents as aforementioned ninety (90) days prior to the expiration of the then current term, the Franchise and this Agreement shall expire in accordance with the then current term, without further notice; and
- (g) Franchisee shall sign a release respecting any prior claims Franchisee may then have or may in the future have against EQ3FH and its Related Parties arising from or as a result of the operation of the Franchised Business pursuant to this Agreement as at the date of such renewal, the receipt of which shall be delivered to EQ3FH contemporaneously with the executed then current franchise agreement and Related Documents or Amendment to this Agreement and Related Documents in order to give effect thereto.

If Franchisee is renewing its Franchise Agreement, the number of renewal terms Franchisee may have and its renewal fee are described in the Renewal Rider attached as **Schedule L**.

Article 5 Development and Opening

5.1 **Franchisee's Investment.** In order to properly capitalize the set up of the Franchised Business, Franchisee shall have a minimum capitalization of \$150,000, by way of shareholder or owner equity and/or shareholder or owner loans, which capitalization shall be subject to the following conditions:

- (a) the capital investment shall not be reduced below the minimum required amount as long as this Agreement is in force; and

- (b) where the capitalization is by way of shareholder or owner loans, such loans shall not be secured against the assets of the Franchised Business and shall be subordinate to all rights of EQ3FH to receive payment and/or performance from Franchisee and/or the Principals.

Franchisee shall provide EQ3FH with evidence of its capitalization by providing a certified opening balance sheet for the Franchised Business and shall execute such further documentation in support of the foregoing as EQ3FH may require. Additionally, Franchisee is required to establish a line of credit in the amount of not less than \$100,000, with a financial institution and provide EQ3FH with confirmation of such credit line, together with authorization to its financial institution that it shall provide information to EQ3FH on the status of the credit line, from time to time, at EQ3FH's request. Such capitalization requirement and credit line requirement shall not be construed as a representation by EQ3FH of the total cost to develop the EQ3 Store.

Further investment shall be required for renovations and upfitting for leasehold improvements, unless the required leasehold improvements are negotiated into the lease, as the case may be.

- 5.2 **Initial EQ3 Inventory** In order to facilitate Franchisee with set-up costs of the EQ3 Store, EQ3FH shall provide Franchisee with thirty (30) days credit (based upon credit approval) for Franchisee's initial order of EQ3 Products (the "Initial Order"). The EQ3 Store shall be stocked based on square footage of store up to \$20-\$30 per square feet, depending upon location. Franchisee shall enter into the Product Supply Agreement and Security Agreement concurrently with this Agreement.
- 5.3 **Opening.** Franchisee agrees, subject to the procedures set out in the EQ3 Operations Manual, to immediately proceed to take all actions necessary to establish the EQ3 Store and to have the same completed and open for business by the Opening Date. Franchisee shall create a grand opening event ("Grand Opening") for the EQ3 Store, at its sole cost and in accordance with the EQ3 Operations Manual, on a mutually agreeable date. EQ3FH's public relations manager will assist Franchisee in planning the Grand Opening and representatives of EQ3FH, including senior management and representatives from the area, will attend the launch.
- 5.4 **Implementation Services.** In furtherance of the foregoing, EQ3FH shall provide Franchisee with millwork, design, merchandising and on-site training services at Franchisee's EQ3 Store to develop and open its EQ3 Store (the "Implementation Services"). The Implementation Services are mandatory and shall be at the sole cost of the Franchisee. After the parties have agreed upon an acceptable location for the EQ3 Store in the Territory, EQ3FH will prepare a quotation for Implementation Services for the location listing the required goods and services and estimated costs and deliver it to Franchisee. EQ3FH shall have the discretion to request pre-payment by Franchisee of the Implementation Services; otherwise, goods included in the Implementation Services will be invoiced on shipment and payable thirty (30) days after the date of invoice. EQ3FH will invoice Franchisee for the remainder of the Implementation Services upon completion, also payable thirty (30) days after the date of invoice.

- 5.5 **Option to Terminate.** If, at the time of execution of this Agreement, the location of the Premises has not been agreed upon by the parties, and if the parties are unable to agree, upon a mutually acceptable location for the EQ3 Store in the Territory within one hundred fifty (150) days from the date of execution of this Agreement, then either EQ3FH or Franchisee, on written notice to the other party, shall have the right to terminate this Agreement (without prejudice to the continuation in force of those provisions which survive termination hereof). If such notice is provided by EQ3FH, the termination shall be effective thirty (30) days from the effective date of the notice, unless the parties agree upon the location for the EQ3 Store within such thirty (30) day period, in which event, the notice shall be null and void and of no effect. If this Agreement is terminated under this Section 5.5, then EQ3FH, Franchisee and the Principals shall each execute and deliver such releases as may be required to terminate all agreements between them (without prejudice as aforesaid) in respect of and in accordance with the rights herein granted and Franchisee shall promptly return to EQ3FH all manuals and other documents (including any copies thereof) furnished to or otherwise obtained by Franchisee in connection with the Franchise herein granted. Upon compliance with the foregoing, EQ3FH shall refund to Franchisee any amounts received by it in respect of the Initial Franchise Fee, less \$15,000, in consideration for the time, effort and expenses incurred by EQ3FH relating to third party expenses for site selection and site specific research, and with respect to its own administrative costs relating thereto. EQ3FH shall have no further liability to Franchisee or the Principals, including, without limitation, any liability for damages, consequential loss, loss of income or loss of expectation of profit or any other damages, loss or costs incurred in connection with the Franchise. The right provided herein shall expire (whether or not notice of termination has been provided) if the parties agree upon a mutually acceptable location.

Article 6 EQ3 Store Program Elements

- 6.1 **Selection and Acquisition of Location.** The exact location of Franchisee's Franchised Business shall be subject to the prior written approval of EQ3FH. EQ3FH shall provide its response to Franchisee within sixty (60) days of receipt of the location request setting out site details. The term of any lease respecting the Premises shall be consistent with the Term of this Agreement unless otherwise approved by EQ3FH in writing. The selection process and leasing arrangements shall be in accordance with the site selection obligations in **Schedule F**. The proposed lease must be provided to EQ3FH for approval and must contain the lease provisions disclosed in **Schedule F-1** as well as any other provisions reasonably required by EQ3FH, including a Landlord/Franchisor Agreement in the form of **Schedule M** attached herein; such agreement to be signed by the Franchisor, the Franchisee, any party guaranteeing the obligations of the Franchise (as tenant under the lease) and the landlord. Franchisee must provide a fully executed copy of the lease and Landlord/Franchisor Agreement to EQ3FH within thirty (30) days of its execution. Upon EQ3FH's acceptance of the lease, the location leased will be deemed the Premises and listed on **Schedule B** to this Agreement.
- 6.2 **Planning, Layout and Construction of EQ3 Store.** The exterior and interior appearance of Franchisee's Franchised Business, and the interior floor plan and décor of

the Franchised Business, shall meet and be in accordance with the standards adopted from time to time by EQ3FH and as set out in the EQ3 Operations Manual, and shall be subject to EQ3FH's prior written approval, not to be unreasonably withheld. Additionally,

- (a) The size of the Franchised Business shall be as set out in **Schedule F**;
- (b) Franchisee shall equip the Franchised Business to EQ3FH's specifications as set out in the EQ3 Operations Manual and Franchisee shall be solely responsible for the final plans and specifications for its Franchised Business satisfactory to EQ3FH; provided further, that Franchisee shall consult with EQ3FH, or its designees (including builders, architects and designers), with respect to interior and exterior appearance, interior floor planning and other matters as may be from time to time necessary in order to facilitate the design and timely construction of Franchisee's Franchised Business in accordance with EQ3FH's specifications; and
- (c) Franchisee shall be responsible to undertake all renovations involved in setting up the Franchised Business and pay for any and all improvements to the Premises as requested by and/or approved by EQ3FH, to conform to the elements and standards set out in the EQ3 Operations Manual. Franchisee acknowledges and agrees that millwork and design are part of the Implementation Services provided by EQ3FH at Franchisee's cost, pursuant to Section 5.4.

6.3 Outlet Appearance and Design. Franchisee agrees:

- (a) that it shall make no change to the interior or exterior of its Franchised Business without the prior written approval of EQ3FH, which approval shall not be unreasonably withheld;
- (b) that it shall make no change to the floor plan layout of its Franchised Business without the prior written approval of EQ3FH, which approval shall not be unreasonably withheld;
- (c) that it shall, at its sole cost and expense, diligently maintain the interior and exterior décor of its Franchised Business and modify and update the same in such a manner as may be from time to time reasonably prescribed by EQ3FH; and
- (d) that it shall purchase and display only such signs, emblems, logos, lettering and the like as may be reasonably prescribed by EQ3FH from time to time. All such consents and approvals required from EQ3FH shall be given promptly where the matter requiring its approval is consistent with the EQ3 Operations Manual.

6.4 Premises Maintenance. Franchisee agrees at all times to maintain its Premises and related parking lots in clean, attractive and safe condition and in good maintenance and repair.

- 6.5 **Product Mix and Display.** Franchisee shall sell at and from the Franchised Business only EQ3 Products and Authorized Products. The product line at the Franchised Business shall consist primarily of EQ3 Products; however, Franchisee may also be required to carry certain Authorized Products. Franchisee agrees at all times to strictly adhere to and follow the product mix and product display standards, methods and requirements from time to time established by EQ3FH and set out in the EQ3 Operations Manual.
- 6.6 **Maintenance of Inventory.** Franchisee agrees to display a full range and mix of current EQ3 Products and Authorized Products and to maintain in stock EQ3FH's required minimum inventory levels of EQ3 Products for the Franchised Business and agrees to follow EQ3FH's recommendations with respect to inventory selection, product mix and layout, as set out in the EQ3 Operations Manual.
- 6.7 **Price Point.** Because of EQ3FH's legitimate interest in its brand and the marketing of EQ3 Products, including their resale prices and other factors that affect supply, demand and consumer perception relating to those products, and in order to provide Franchisee with information relating to the marketing and sale of EQ3 Products which EQ3FH believes is relevant to sound marketing plans and decisions, EQ3FH may from time to time provide to Franchisee recommended price, promotion and other marketing information, including but not limited to its suggested retail prices. EQ3FH may exercise all rights of a manufacturer with respect to such matters, to the extent they are permitted by applicable law as of the time such rights are exercised, including rights that directly affect the price or price level at which EQ3 Products are promoted, advertised or sold.
- 6.8 **Revisions to Product Mix and Inventory.** EQ3FH and Franchisee acknowledge that the market analysis upon which product mix and inventory levels are based is not particularized to the Territory, but is a synthesis of information from varied sources. From time to time EQ3FH may, but shall not be obligated to, provide Franchisee with statistical averaging and best practices information. EQ3FH will have the right to modify Franchisee's product mix and required inventory levels from time to time on notice to Franchisee.
- 6.9 **EQ3 Store Operations.** Franchisee will give prompt, courteous and efficient service to the public. All business dealings with members of the public and advertising in connection therewith shall be governed by the highest standards of honesty, integrity, fair dealing and ethical conduct. Franchisee shall do nothing which would tend to discredit, dishonor, reflect adversely upon, or in any other manner injure the reputation of EQ3FH or the Trademarks.
- 6.10 **Personnel.** Franchisee shall at all times employ sufficient personnel appropriately trained to operate its EQ3 Store in accordance with the requirements from time to time prescribed by EQ3FH and shall require that such personnel conduct themselves and the Franchised Business operations in the manner required by Section 6.9. As part of the Implementation Services, EQ3FH shall provide initial on-site training to Franchisee's Principal (or approved designee responsible for the operation of the EQ3 Store) and

Franchisee's personnel. EQ3FH shall also provide Franchisee with resource materials respecting EQ3 Products, policies and warranties.

- 6.11 **Hardware & Software.** In accordance with approved standards for EQ3 Store Program, EQ3FH will provide Franchisee with EQ3's required hardware and version of Point of Sale ("POS") software and will arrange for the installation of the POS software and hardware network, all of which will be at Franchisee's cost and payable by Franchisee to EQ3FH upon receipt of an invoice therefor. Franchisee shall enter into a software licensing agreement with the software Authorized Supplier and Franchisee will be required to pay annual licensing fees to the Authorized Supplier in accordance with the terms thereof. Additionally, Franchisee is required to upgrade the hardware and/or software on notice from EQ3FH and purchase the then-current minimum technical support package from EQ3FH or its designee. An overview of the current technical support package is set out in **Schedule G**.
- 6.12 **Authorized Suppliers.** EQ3FH may, from time to time, negotiate arrangements with third party Authorized Suppliers for supply of Authorized Products and other goods and services for use at the Franchised Business. All external third party suppliers must be approved by EQ3FH prior to them becoming an Authorized Supplier to the EQ3 Store Program and EQ3FH will provide Franchisee with an approved list of Authorized Products and Authorized Suppliers, which may be updated from time to time, in the sole discretion of EQ3FH. Franchisee shall purchase the Authorized Products and the categories of products or services using the Trademarks only from Authorized Suppliers so designated or approved by EQ3FH or from EQ3FH. Any rebates offered by Authorized Suppliers as a result of such arrangements shall be solely for the benefit and account of EQ3FH.

EQ3FH may approve a supplier for any products or services using the Trademarks and may approve a supplier only as to certain products or services, including supplies to be used in the Franchised Business. EQ3FH may concentrate purchases with one or more Suppliers to obtain lower prices, better advertising support and/or better services for any group of Franchised Businesses. If Franchisee proposes to contract for or purchase products or services using the Trademarks from any supplier that EQ3FH has not previously approved for such products or services, Franchisee must notify EQ3FH in writing and submit to EQ3FH all information, specifications and samples that EQ3FH requests. EQ3FH will have the right to require that its representatives be permitted to inspect the proposed Supplier's facilities and that samples from the proposed Supplier be delivered to EQ3FH or its designated testing facility for evaluation and testing. EQ3FH will have sole discretion as to whether or not to approve any Supplier. Approval of a Supplier as to any products or services using the Trademarks must be made by EQ3FH in writing and may also be conditioned on requirements relating to the frequency of delivery, standards of service, including prompt attention to complaints, concentration of purchases and other criteria, and may be conditioned on the Supplier providing EQ3FH with adequate insurance protection, the Supplier's execution of reasonable indemnity and confidentiality agreements, and the Supplier's payment of reasonable license fees to EQ3FH, and may be temporary or conditional, pending EQ3FH's further evaluation of the Supplier. EQ3FH reserves the right to re-inspect, at any time, the facilities, products

and/or services of any Approved Supplier and to revoke its approval upon the Approved Supplier's failure to continue to meet any of EQ3FH's then-current criteria.

- 6.13 **Conventions.** From time to time, but no more often than twice each year, EQ3FH may organize a convention in the United States or Canada to create a forum for networking, continued education and information about the EQ3 Store Franchise system. Franchisee shall cause one of its Principals (or other approved designee) that is personally participating in the operation of the Franchised Business to attend all such conventions and Franchisee shall be responsible for such individual's travel costs, compensation and expenses to attend the conventions in such locations as EQ3FH determines, from time to time, in its sole discretion.

Article 7 Intellectual Property

- 7.1 **Trademark License.** Franchisee acknowledges EQ3FH's and its Related Parties' right, title and interest, either as owner or sublicensee of PFL, to the Trademarks. EQ3FH hereby grants Franchisee the non-exclusive right and license to use the Trademarks in connection with the Franchised Business, subject to the following terms and conditions:
- (a) Franchisee hereby acknowledges EQ3FH's or PFL's rights in and control of the Trademarks and agrees that it shall use the Trademarks only for so long as this Agreement remains in force, and only in connection with the operation of the Franchised Business and the sale of EQ3 Products in the manner and for the purposes specified by EQ3FH. Franchisee acknowledges and agrees that the Trademarks and goodwill associated with them are each very valuable and that it shall not, either during or after the term of this Agreement, do anything, or aid or assist any other party to do anything, directly or indirectly or by omission, which would infringe upon, harm, or dilute the value thereof, or to impair the right, title, and interest of EQ3FH therein, or contest EQ3FH's or Holding's rights in and control of any Trademark or in any other mark or name which incorporates all or any portion of any Trademark. All use of the Trademarks by Franchisee and any and all goodwill established by Franchisee's use of the Trademarks will be the exclusive property of EQ3FH and its Related Parties. Franchisee agrees not to contest the validity of EQ3FH's and its Related Parties' ownership of the Trademarks.
 - (b) Franchisee acknowledges and agrees that it shall have a right to use the Trademarks during the term of this Agreement, provided in all such cases (i) Franchisee shall not use the Trademarks, or any other marks or names, in such a way as is likely to lead any third person to believe that Franchisee is, or may be, an agent or representative of or have the power to bind EQ3FH; (ii) Franchisee shall use such Trademarks in all advertising and on all stationery, letterheads, invoices and other business forms only in such a manner and form as shall be approved by EQ3FH; (iii) Franchisee agrees to promptly and fully follow all directions and instructions of EQ3FH as to use of each of such Trademarks and to promptly cease and desist any particular use of any Trademark determined to be

inappropriate by EQ3FH; and (iv) Franchisee agrees to advise EQ3FH within five (5) days of the appearance of any infringement of the Trademarks or any mark which is confusingly similar to the Trademarks, any challenge to Franchisee's use of any of the Trademarks, or any claim of any third party of an interest in the Trademarks and agrees to render such reasonable assistance in connection therewith as EQ3FH may require.

- (c) Franchisee acknowledges that its failure to cease using the Trademarks, or any confusingly similar mark(s), following the termination or expiration of this Agreement will result in immediate and irreparable harm to EQ3FH, its Related Parties and the rights of all other franchisees. Franchisee agrees that in the event of such failure, EQ3FH shall be entitled to immediate injunctive relief, without bond, from a court of competent jurisdiction in addition to any other remedies to which EQ3FH or its Related Parties may be entitled. Franchisee expressly consents and agrees that in addition to any other remedies EQ3FH or its Related Parties may have, at law or under this Agreement, EQ3FH may obtain an injunction from a court of competent jurisdiction without bond to prevent the continuation of any existing default, to prevent the occurrence of any threat of default by Franchisee of this Agreement, or to restrain any infringement by Franchisee or the Principals of the Trademarks.
- (d) It is understood by the parties to this Agreement that EQ3FH may adopt new, modified or changed service marks, trade names, trademarks or indicia of origin. Franchisee agrees, at Franchisee's sole cost and expense, to adopt, use, and display any such new, modified, or changed indicia of origin within the period of time specified by EQ3FH, as if they were part of the Trademarks pursuant to this Agreement.
- (e) Franchisee shall not cause or allow the Trademarks or any of them, to be used or displayed, in whole or in part, in or as part of an Internet domain name, electronic mail or address or in connection with any Internet home page, web site or other Internet related activity without the prior written approval of EQ3FH and then only in such manner and in accordance with such procedures, standards and specification as EQ3FH may establish.

7.2 **Proceedings, Infringing Uses and Agreements.** EQ3FH is advised that PFL has applied for registration in the United States Patent and Trademark Office for certain of the Trademarks. EQ3FH is a licensed user of the Trademarks with the right to sublicense such use to Franchisee and all franchisees of EQ3FH. EQ3FH is advised that PFL shall exert reasonable efforts to secure trademark registrations for its Trademarks not so registered, but that it does not warrant or represent, and Franchisee so acknowledges, that registrations for all and any of the Trademarks will issue or that the owner has the right or exclusive right to use any such Trademarks in the Territory, and that it may be necessary to modify the Trademarks to obtain approval, provided if any such registration is denied without the possibility of further appeal, or there is a need for a change or modification in any Trademark to permit its use in any jurisdiction in the United States, then PFL and/or Holdings shall reimburse EQ3FH and Franchisee in the Territory for any and all costs

incurred in connection with the modification or abandonment of any Trademark, including reasonable costs of new signage, stationery and other items that display the trademark and promotional costs incurred in connection with the change. Otherwise, as determination of likelihood-of confusion and identification of senior users is a subjective standard, EQ3FH and its Related Parties make no representation or warranty as to validity or non-infringement of the Trademarks in the Territory. EQ3FH and its Related Parties will have sole discretion and the exclusive right to take such action as they deem appropriate and to control any litigation, U.S. Patent and Trademark Office or other proceeding or other administrative proceeding arising out of any infringement of, challenge to or claim related to the Trademarks or the validity or ownership thereof. Franchisee and its Principals must not directly or indirectly communicate with any person other than EQ3FH and its counsel in connection with any such matter. Franchisee and its Principals will execute any and all instruments and documents, render such assistance, and do all acts and things as may, in the opinion of EQ3FH's counsel, be necessary or advisable to protect and maintain the interests of EQ3FH and its Related Parties in any such litigation or administrative proceedings, or to otherwise protect and maintain the interests of EQ3FH and its Related Parties in the Trademarks.

7.3 **Obligations of Franchisee Respecting the Trademarks.**

- (a) Franchisee shall promptly execute and deliver all documents as may be required by EQ3FH in connection with Franchisee's right to use the Trademarks hereunder.
- (b) Franchisee shall register, with the consent and approval of EQ3FH, the business name "EQ3 *location*", for example "EQ3 Spokane", with the appropriate governmental authority if required by applicable law of the jurisdiction in which Franchisee has its Franchised Business. The Franchisee shall use the business name in its business operations and marketing and advertising campaigns. Upon termination of this Agreement, Franchisee hereby agrees, at its own expense, to immediately dissolve or withdraw the registered business name registration and to provide EQ3FH with confirmation of dissolution or withdrawal. Franchisee will not use nor permit any person subject to its control to use any of the Trademarks or any variations thereof as part of its corporate or firm name or for any purpose.
- (c) Although Franchisee shall use the trademark EQ3™ on store signage, both on the interior and on the exterior of the Franchised Business, as well as on purchase orders and invoices and other forms provided to the buying public, Franchisee must ensure that the Authorized Suppliers and public are aware that the Franchised Business is owned and operated by Franchisee. Where the trademark EQ3™ is used, for example, in the interior of the Franchised Business, as well as on all purchase orders, invoices, letterhead and other forms provided to the buying public, the following identifier is to be used in advising the Authorized Suppliers and public of the Franchisee's use of the trademark EQ3™ :

"EQ3™ is a trademark owned by Palliser Furniture, Ltd. and sublicensed to EQ3 Franchise Holdings, Inc. [Name of Franchisee] is An

Independently Owned and Operated Franchise and licensee of EQ3 Franchise Holdings, Inc.”

- (d) Upon termination of this Agreement for any reason whatsoever, Franchisee shall, at its expense, execute such documents and take such reasonable action as PFL, EQ3FH or Holdings may deem necessary or reasonable to evidence the fact that Franchisee has ceased using any or all of the Trademarks, including all specific color combinations, designs, symbols or slogans included in the Trademarks, and any and all domain names, electronic mail addresses and Internet web sites that display or use the Trademarks or any such specific color combinations, designs, symbols, or slogans and that Franchisee has no further rights therein. Franchisee shall refrain from doing anything by word or action which might mislead anyone into believing that Franchisee may still have some association with PFL, EQ3FH or EQ3 Products, and toward this end, Franchisee hereby irrevocably appoints a representative of EQ3FH to be Franchisee’s attorney in fact to execute any reasonable document or commit any legal act reasonably necessary to protect the Trademarks from unauthorized use by Franchisee, including cancellation of any business or trade name registrations and any agreements with respect to the Trademarks, in the event Franchisee fails to do so. Franchisee acknowledges and agrees that the unauthorized use of the Trademarks will likely constitute irreparable damage for which EQ3FH and its Related Parties may apply to obtain injunctive relief in addition to monetary damages.

- 7.4 **Third Party Beneficiaries.** Each of the Related Parties is intended to be a third party beneficiary of Article 7 and each may independently enforce the provisions thereof.

Article 8 Franchise Fees

- 8.1 **Initial Franchise Fee.** In consideration of the right to operate an EQ3 Store as granted in Section 3.1, Franchisee agrees to pay to EQ3FH an Initial Franchise Fee in the amount set forth in **Schedule D** attached hereto, less any deposit previously paid by Franchisee to EQ3FH. The Initial Franchise Fee shall be paid in full by check or bank draft upon execution of this Agreement, or in accordance with any of the terms of any promissory installment note, and shall be deemed to be fully earned upon execution of this Agreement by Franchisee and, except as provided in Section 5.5, is non-refundable in whole or in part by EQ3FH for any reason whatsoever.
- 8.2 **Royalty Fee.** During the Term, Franchisee hereby agrees, at its option, either (i) to pay to EQ3FH a continuing Royalty Fee in the amount set forth in **Schedule D**, payable monthly by the 15th day of the following month, and delivered by Franchisee to EQ3FH concurrently with the monthly records, or (ii) a fixed amount per calendar quarter in the amount set forth in **Schedule D**, payable by the 15th day of the first month following the end of the calendar quarter.
- 8.3 **Advertising Fee.** If EQ3FH implements an Advertising Fund (“Ad Fund”) as provided in Section 11.4, Franchisee hereby agrees to pay to EQ3FH an annual Advertising Fee in

the amount specified by EQ3FH from time to time under Section 11.4, not to exceed one percent (1%) of Gross Revenues, payable four (4) times a calendar year, on the 30th day of the month following the preceding three (3) months, together with the quarterly report required by Section 9.12(b). The Ad Fund shall be used as provided in Sections 11.4 and 11.5.

- 8.4 **Failure to Pay Royalty, Fees, Advertising Fees and Other Amounts.** Franchisee is prohibited from offsetting or deducting any amounts from the required Royalty Fee, Advertising Fees or any other amounts due to EQ3FH or its Related Parties and any attempt to do so shall be a breach or default of this Agreement.

Article 9 Operation of the EQ3 Store

- 9.1 **Insurance.** Franchisee shall be solely responsible for all loss or damage of any nature whatsoever arising out of or relating to the operation of Franchisee's Franchised Business, or arising out of the acts or omissions of Franchisee or any of its agents, servants, employees, contractees or customers in connection with the operation of the Franchised Business, including, without limitation, the sale of EQ3 Products or the rendering of Customer Services to the public, and for all claims for damage to property or for the injury of or the death of any person directly or indirectly resulting therefrom, and Franchisee agrees:

- (a) to obtain and at all times during the Term of this Agreement maintain in full force and effect, and to pay the premiums for, any insurance coverage which may be required under the lease of the Premises, and such other insurance as EQ3FH requires from time to time currently including, without limitation, public liability insurance in the amount of \$2,000,000 per occurrence including owned and non-owned vehicle coverage, full replacement property damage insurance, all risks coverage insurance on the fixtures, furnishings, inventory, equipment and leasehold improvements of the EQ3 Store, business interruption insurance, rental insurance and product liability insurance from a reputable North American insurance provider rated A or better in "Best's Insurance Guide", which provider shall be qualified to do business in the state(s) in which the Franchise Territory is located. The policies providing such coverage shall name EQ3FH as loss payee and additional insured on the property damage and all risks insurance and as additional insured on all other insurances, together with a notice provision that provides as follows:

"This policy shall not be cancelled or modified during the period of coverage as stated hereon, in such a manner as to affect this endorsement or policy unless thirty (30) days' prior written notice has been given to EQ3 Franchise Holdings, Inc."

and provide Certificates of Insurance and the insurance policies to evidence same. All policies must contain a cross-liability insurance clause; and

- (b) to apply all insurance proceeds paid to it under all property damage and all risks insurance referred to herein to repair, replace, restore, relocate or rebuild the leasehold improvements on the Premises so that the same will be substantially in the same or better condition as existed prior to the damages occurring, and to replace all inventory lost or damaged as a result of an occurrence. In the event damage is substantial as set out in the lease of the Premises and is subject to Franchisee's or lessor's option to terminate the lease as a result thereof, the exercise of Franchisee's option to terminate the lease, together with the relocation of the EQ3 Store, shall be subject to EQ3FH's approval.

- 9.2 **Franchisee as Independent Contractor.** Franchisee is an independent contractor and shall not be deemed an agent, partner, joint venturer or employee of EQ3FH. Franchisee shall exhibit at the Franchised Business, in such places and in such forms as may be designated by EQ3FH, a notification that Franchisee is the owner of the Franchise.
- 9.3 **EQ3FH's Right of Reasonable Access.** To insure compliance with the terms and conditions of this Agreement and the EQ3 Operations Manual, EQ3FH and its authorized representatives or agents shall have the right at all reasonable and necessary times to enter Franchisee's Franchised Business for the purpose of inspecting the same, including, but not limited to, inspecting the appearance, types, quantities and displays of products on hand, the appearance of the Premises, the nature and quality of Customer Services rendered and the general manner or method of operating the EQ3 Store. If EQ3FH ascertains that Franchisee has failed to operate its Franchised Business in accordance with any of the standards and requirements set forth in this Agreement and the EQ3 Operations Manual, or as may be requested by EQ3FH, from time to time, EQ3FH may require Franchisee, at Franchisee's expense, to employ such contractors or others necessary to assist Franchisee and Franchisee's managers in effecting full compliance with all such standards and requirements in lieu of or in addition to exercising any other right or remedy available to it under this Agreement.
- 9.4 **Wholesaling.** The EQ3 Store Program is intended to promote the retail sale of EQ3 Products to the general public and specifically the targeted market. Accordingly, Franchisee covenants and agrees that all EQ3 Products shall be marketed by it at retail to the general public through operation of Franchisee's Franchised Business in the ordinary and usual course of business, and that Franchisee shall not sell, assign, transfer or otherwise distribute EQ3 Products to any person or entity in a wholesale manner or in any other manner as would facilitate the further distribution or resale thereof in connection with the business of any person or entity acquiring the same.
- 9.5 **Business Hours.** Franchisee must have the Franchised Business open for business on such days and during such hours as to be competitive and consistent with those generally kept by competitive furniture stores located within the Franchised Business's market area. Franchisee decides what hours to maintain, and whether or not to be open on Sundays, subject to approval by the lessor and EQ3FH.
- 9.6 **Maintaining Client Lists.** Franchisee shall actively collect personal information from customers for the purposes of order fulfillment and marketing. Franchisee shall ensure

that the collection of personal information from its customers conforms to the requirements of all applicable federal and state laws, regulations and rules pertaining to the collection of personal information from its customers (hereinafter "Privacy Laws"). In furtherance thereof, Franchisee shall ensure that prior to collecting personal information from its customers, it advises the customer:

- (i) why it is collecting personal information;
- (ii) the purposes for the collection of personal information;
- (iii) how Franchisee will use the personal information; and
- (iv) that for initial service and secondary marketing purposes, Franchisee will disclose the personal information to Franchisee's successors and assigns and to EQ3FH and its Related Parties.

In addition, Franchisee shall specifically ask customers to provide their email address if they wish to receive promotional information and newsletters from EQ3FH and/or if they wish to participate in surveys, from time to time.

- 9.7 **Payment of Fees.** Franchisee shall promptly pay, as they become due, any and all sums, fees and amounts to EQ3FH and its Related Parties as specified in this Agreement, together with all applicable state and other sales taxes.
- 9.8 **Payment of Trade Accounts.** Franchisee shall promptly pay, as they become due, all obligations and trade accounts of the Franchised Business.
- 9.9 **Payment of Rent.** Franchisee shall promptly pay lease or rental payments for the Premises as such payments become due. Franchisee shall keep the lease for the Premises in good standing.
- 9.10 **Payment of Taxes, Etc.** Franchisee shall promptly pay all employer remittances, and federal, state and local taxes when due, including, without limitation, remittances for workers' compensation, unemployment insurance and withholdings, federal and state income taxes and withholdings, and social security taxes, sales, use and property taxes, and all other statutory remittances (which are capable of forming a lien or charge against the assets of Franchisee in the event of non-payment). Upon request by EQ3FH, copies of all state sales and use tax returns shall be made available to EQ3FH.
- 9.11 **Protection of Proprietary Rights.** Franchisee shall operate the Franchised Business so as to protect the integrity of the Trademarks and other proprietary rights and shall maintain a high standard of quality and reputation with respect to use of the Trademarks.
- 9.12 **Business Records and Expense Budgets and Financial Statement Reporting.** Franchisee shall maintain true and accurate accounts and records of all sales of goods and services in the operation of the Franchised Business and all costs with respect thereto, according to generally accepted accounting principles and in a form satisfactory to EQ3FH. Without limitation, Franchisee shall deliver to EQ3FH:

- (a) prior to commencement of operation of the Franchised Business, and thereafter at least sixty (60) days prior to the commencement of each new fiscal year of operations, an advertising budget setting out the estimated advertising expenditures for the upcoming year of operation, which budget shall be at least six percent (6%) of budgeted Gross Revenues, pursuant to Section 11.2;
- (b) within thirty (30) days of the end of each quarter, financial statements in the format provided in **Schedule H**; and
- (c) on or before the end of the first quarter of each year, financial statements for the preceding year, certified by a professionally accredited, independent certified public accountant, including accountant's opinion, comments and notes, if any, balance sheet and profit and loss statement, together with copies of all federal, state and local income, sales and other tax reporting and returns filed and to be filed on behalf of Franchisee.

All accounting records are to be prepared in accordance with generally accepted accounting principles ("GAAP"). All records shall be retained for at least seven (7) years.

Franchisee agrees that EQ3FH may use such data for any reasonable purpose, including preparing an earnings claim for its Offering Circular as provided in Section 9.16.

- 9.13 **Report and Returns.** Franchisee shall file all federal, state and local reports and returns as may be required by law relative to operating the Franchised Business. Franchisee shall execute the Appointment of Agent/Power of Attorney attached as **Schedule J** allowing EQ3FH to obtain release of income, sales, use and excise tax information. In addition, Franchisee shall secure and maintain in force all required licenses, permits and certificates relating to the operation of a Franchised Business, which shall be operated in full compliance with all lease requirements and all government regulations relating thereto.
- 9.14 **Audit.** Franchisee grants to EQ3FH access to all financial books, business records, reports and returns and the right to review all financial books, business records, reports and returns for verification purposes. Additionally, Franchisee grants to EQ3FH the right to perform at any time during normal business hours after reasonable notice and without undue interference with the business of the Franchised Business, an examination and audit of Franchisee's financial books and records relating to the Franchised Business together with the right to take copies by an independent auditor employed by EQ3FH. Such audit shall be at EQ3FH's expense, provided that Franchisee shall pay the cost of any audit where such audit disclosed that Franchisee has paid less than ninety-five percent (95%) of the Royalty Fees and Advertising Fees due in the audited period, or if Franchisee is unprepared for the audit on the scheduled date. Franchisee shall immediately pay the amount of any deficiency together with interest, calculated in accordance with the interest provisions set out in Section 16.3 on all overdue amounts and the audit costs, if applicable. Franchisee shall retain all records including

electronically stored data, cash register tapes and source documents for a minimum period of three (3) years. Such tapes are to be made available for audit.

- 9.15 **Access to POS System.** EQ3FH shall have direct access to all POS records of the Franchisee and shall be entitled to obtain daily sales and inventory reports for the EQ3 Store through EQ3FH's central networking system. It is a material term of this Agreement that Franchisee record all sales using the POS software system and Franchisee hereby covenants that all sales from its EQ3 Store shall be entered into and recorded using the POS software system, and that it will cooperate with EQ3FH to ensure that EQ3FH has seamless access to Franchisee's POS system. In the event there is any POS system failure, all sales will be conducted manually and Franchisee shall enter all such manual sales in the POS software system at such time as the POS software system is again in working order. In the event there is a network failure, Franchisee shall provide EQ3FH with daily printouts until the network system is in working order, at EQ3FH's request.
- 9.16 **Information.** To Assist EQ3FH to prepare its Uniform Franchise Offering Circular and to make disclosures to prospective franchisees, Franchisee shall promptly provide to EQ3FH such information on the operation of its Franchised Business as EQ3FH may request from time to time.

Article 10 **EQ3FH Product Sales and Services**

- 10.1 **Purchase of EQ3 Products.** During the term of this Agreement, Franchisee shall purchase EQ3FH Products from EQ3FH upon the terms and conditions set forth in the Product Supply Agreement, which Franchisee shall execute concurrently with this Agreement.
- 10.2 **Extended Warranty.** EQ3FH may establish a program to provide extended warranty on EQ3 upholstery products in accordance with extended warranty program particulars which will be provided to Franchisee in the EQ3 Operations Manual and, if permitted by applicable law, Franchisee shall promote and sell such extended warranty on EQ3FH's behalf. Revenues from sales of EQ3 extended warranty shall form a part of the Gross Revenues for the Franchised Business and shall be subject to a Royalty Fee pursuant to Section 8.2. In accordance with the extended warranty program particulars that will be set out in the EQ3 Operations Manual, Franchisee shall remit that portion of the extended warranty purchase price representing EQ3FH's premium to EQ3FH on a monthly basis, together with the Royalty Fees and the monthly reports then due and payable pursuant to Section 8.2.
- 10.3 **Internet Retail Sales.** Franchisee hereby acknowledges that it shall have no right to engage in Internet sales of EQ3 Products and that this is a material condition required to protect the integrity of the grant of territorial rights. The exclusive right to offer EQ3 Products for retail sale on the Internet, in the United States, including, without limitation, into the Territory through the Internet, will be controlled by and be for the benefit of EQ3FH and the Related Parties. Provided that if and when EQ3FH or one of its Related

Parties engages in retail sales online, EQ3FH in its sole discretion may centrally fill such online orders or may provide Franchisee the opportunity to fulfill orders for EQ3 Products to online purchasers and provide after sale services on its behalf in exchange for compensation to be set by EQ3FH. All rules relating to the Franchisee's participation in such Internet sales, and the Franchisee's compensation, shall be in accordance with rules established and subject to change by EQ3FH from time to time in the EQ3 Operations Manual.

Article 11 Advertising/Ad Fund

- 11.1 Participation in National Advertising Campaigns.** In addition to its annual contribution to the Ad Fund set out in Section 8.3, Franchisee agrees to participate in national advertising campaigns that EQ3FH may from time to time initiate to promote the sale of EQ3 Products within the EQ3 Store franchise system. For purposes hereof, participation shall mean actively supporting the promotional theme of such national advertising campaign by the placement of adequate, appropriate and professional advertising in Franchisee's local media announcing and promoting the theme and/or the EQ3 Products being emphasized by such campaigns through the use of such in-store materials and advertisements as shall be satisfactory to EQ3FH. Franchisee shall be responsible for all costs incurred by it in connection with participating in such campaigns, not exceeding one percent (1%) of the annual Gross Revenues of the Franchised Business, and, except for such materials, if any, as may be prepared by EQ3FH, Franchisee shall be solely and exclusively responsible for obtaining or preparing all materials and advertisements in connection with such campaigns. Funds expended by Franchisee to participate in such national advertising campaigns shall form part of Franchisee's advertising obligations pursuant to Section 11.2.
- 11.2 Franchisee Initiated Advertising.** In addition to participating in national advertising campaigns as required by Section 11.1, Franchisee shall use reasonable efforts to actively advertise and promote Franchisee's Franchised Business and the sale of EQ3 Products therefrom at all times. Franchisee agrees that all advertising and marketing by Franchisee with respect to the Franchised Business in any medium shall be conducted in a dignified manner and shall conform to the EQ3 Store Program. All advertising Franchisee proposes to use must be approved in writing by EQ3FH prior to Franchisee's use of such materials. EQ3FH may disapprove any advertising or marketing materials used or proposed to be used by Franchisee, without liability to Franchisee for any costs incurred by Franchisee in connection with the same. Franchisee acknowledges that under the EQ3 Store Program, a substantial advertising commitment is required, and agrees advertising expenditures (including participation in national advertising campaigns pursuant to Section 11.1) shall be no less than six percent (6%) of total Gross Revenues of Franchisee's EQ3 Store on a quarterly basis. Franchisee further acknowledges that during start-up periods, larger advertising commitments should be made. On or before the 15th day of the month following the end of each quarter, Franchisee shall provide EQ3FH with copies of advertisements and an accounting of monies expended in the previous three (3) months. Franchisee hereby acknowledges that this advertising commitment and required expenditure is a material term of the Franchise Agreement.

For clarity, advertising requirements of Franchisee for national advertising pursuant to Section 11.1, for locally driven advertising pursuant to Section 11.2 and as a contribution to the Ad Fund pursuant to Section 8.3, shall be minimum of seven per cent (7%) of the total Gross Revenues of Franchisee's EQ3 Store.

- 11.3 **Advertising Venues in and source of Use and Materials.** All advertising venues and materials must be approved by EQ3FH, in writing, in advance of use. Materials may be developed for sole use by the Franchised Business to advertise and promote the EQ3 Products and provided to EQ3FH prior to production for its approval. Selected venues for publication and/or distribution of the EQ3 Store advertising and promotional materials must be provided to EQ3FH, together with a webpage link, sample magazine, newspaper, newsletter issue, etc., prior to Franchisee contracting any promotional advertising space with a particular venue. Franchisee shall follow EQ3FH's instructions for use, placement and distribution of said advertising and promotional materials. Nothing contained in this paragraph shall be construed to obligate EQ3FH to advertise or promote the EQ3 Products or Franchisee's Franchised Business in the Franchised Business's market area, nor to limit in any way the form, content, manner or frequency of EQ3FH's own advertising, nor to require EQ3FH to mention Franchisee's EQ3 Store in its advertising.
- 11.4 **Establishment of Ad Fund.** EQ3FH may establish, maintain and administer an Ad Fund by giving Franchisee not less than thirty (30) days' advance written notice of its effective date and the amount of the Ad Fund contribution. EQ3FH may modify the amount of the Ad Fund contribution at any time on not less than thirty (30) days' written notice to Franchisee. If a Ad Fund is established, Franchisee shall pay the Ad Fund contribution as required by Section 8.3.
- 11.5 **Use of Ad Fund Contributions.** EQ3FH will direct all ad programs financed by the Ad Fund and have sole discretion over the creative concepts, materials and endorsements used and the geographic, market and media placement and allocation of the ad programs. Among other things, and without limitation, EQ3FH may use the Ad Fund to pay the costs of preparing and producing video, audio and written advertising materials; administering local, regional, multi-regional and national advertising programs including, without limitation, purchasing direct mail and other media advertising; employing advertising, public relations and media buying agencies to assist in these activities; supporting public relations, market research and other advertising and ad activities; and constructing and maintaining a Website used to promote the EQ3FH ad programs. EQ3FH may elect to use the Ad Fund to provide Franchisee with advertising and promotional formats and sample materials without additional charge, or to provide Franchisee with multiple copies of advertising and promotional materials at a reasonable price.

The Ad Fund is not a trust. However, the Ad Fund will be accounted for separately from EQ3FH's other funds, and will not be used to defray any of EQ3FH's general operating expenses, except for costs, salaries, travel expenses, administrative costs, overhead and other similar expenses EQ3FH may incur in activities reasonably related to the administration of the Ad Fund and its ad programs (including, without limitation,

conducting market research, preparing advertising and ad materials, general production costs and collecting and accounting for contributions to the Ad Fund). EQ3FH may spend in any fiscal year an amount greater or less than the total contributions of all Franchised Businesses to the Ad Fund in such year and EQ3FH may cause the Ad Fund to invest any surplus for future use by the Ad Fund. Franchisee authorizes EQ3FH to collect for remittance to the Ad Fund any advertising or promotional monies or credits offered by any supplier to the Ad Fund based upon Franchisee's purchases. All interest earned on monies contributed to the Ad Fund will be used to pay advertising costs of the Ad Fund before other assets of the Ad Fund are expended. EQ3FH will prepare an annual statement of monies collected and costs incurred by the Ad Fund and will furnish it to Franchisee upon written request. The Ad Fund will not be audited.

- 11.6 **Benefit of Ad Fund.** Franchisee agrees that the Ad Fund, once established, will be intended to maximize recognition of the Trademarks and patronage of all Franchised Businesses in the United States. Although EQ3FH will endeavor to utilize the Ad Fund to develop advertising and ad materials and programs, and to place advertising that will benefit all Franchised Businesses in the United States, EQ3FH undertakes no obligation to ensure that expenditures by the Ad Fund in or affecting any geographic area will be proportionate or equivalent to the contributions to the Ad Fund by franchisees operating in that geographic area or that any Franchised Businesses will benefit directly or in proportion to its contribution to the Ad Fund from the development of advertising and Ad materials or the placement of advertising. Although EQ3FH intends the Ad Fund once established to be of unlimited duration, EQ3FH will have the right to terminate and, if terminated, to reinstate, the Ad Fund at any time after all money in the Ad Fund has been expended.
- 11.7 **Franchisor Obligations.** Except as expressly provided in this Article 11, EQ3FH assumes no direct or indirect liability or obligation to Franchisee with respect to the maintenance, direction or administration of the Ad Fund.
- 11.8 **Web Site Advertising.** Franchisee shall have the right to have a page linked (together with other franchisees of EQ3 Stores) to an Internet Web Site owned and operated by an affiliate of EQ3FH, which promotes EQ3 Products, complete with product description and pricing ("EQ3 Web Site"). Pages of Franchisee's Web Site promoting EQ3 Products, and all revisions thereto, shall be subject to EQ3FH's prior written approval, with information limited to identifying information of Franchisee, its location and an area location map with directions to the user to access the EQ3 Web Site for EQ3 Product descriptions. Franchisee acknowledges that only EQ3FH shall post EQ3 Product information and advertising materials on the Internet.

Article 12

Acknowledgements and Indemnities

- 12.1 **Acknowledgements of Franchisee and Principals.** Franchisee and Principals acknowledge to EQ3FH that:
- (a) Franchisee and each Principal is aware of EQ3FH's arrangements with:

- (i) designated real estate consultants to provide real estate services to EQ3FH Stores, and undertakes to cooperate with such consultants providing real estate services;
 - (ii) designated financial institutions to issue EQ3FH Credit Cards to consumers, and undertakes to cooperate with such financial institutions; and
 - (iii) designated Authorized Suppliers for the supply of Authorized Products.
- (b) Franchisee has reviewed all applicable Privacy Laws and understands its obligations thereunder.

12.2 **Indemnification by Franchisee.** Franchisee hereby agrees that it shall be fully responsible for, and shall indemnify and reimburse EQ3FH and the Related Parties and hold them harmless against and from, any and all liability, claims, damages, including consequential damages, losses and expenses, including attorney's fees, regardless of the theory on which they are based (collectively, "Claims"), which arise in any way out of or connected with (a) a breach of Franchisee's representations and warranties or Franchisee's business or activities, including but not limited to, those arising out of the supply, distribution, sale, service, testing, transportation, storage, or use of EQ3 Products or the use of any equipment, materials, components, parts or fixtures furnished by EQ3FH hereunder, (b) the operation of Franchisee's Franchised Business, (c) the acts or omissions of Franchisee or any of its agents, servants, employees, contractees or customers in connection with the operation of the Franchised Business, including, without limitation, the sale of EQ3 Products or the rendering of Customer Services to the public, or (d) all claims for damage to property or for the injury of or the death of any person directly or indirectly resulting therefrom; and Franchisee hereby further releases EQ3FH from any such liability, claims, damages or expenses. For clarity, this indemnification does not extend to:

- (a) Claims in respect of defective EQ3 Products;
- (b) Claims arising out of misleading in-store point of purchase ("POP") materials or advertisements provided to Franchisee by EQ3FH; or
- (c) Claims arising out of any unenforceability or invalidity of the Trademarks, or relating to infringement or unfair competition arising out of Franchisee's use of the Trademarks.

12.3 **Indemnification by EQ3FH.** EQ3FH hereby agrees that it shall be fully responsible for and shall indemnify and reimburse Franchisee from, and hold it harmless and defend Franchisee against and from any and all Claims suffered or incurred by Franchisee arising out of misleading in-store POP materials and advertisements provided to Franchisee by EQ3FH.

12.4 **Survival.** The provisions of this Article shall not be affected by the expiration or any termination of this Agreement but shall continue in full force and effect.

Article 13
Termination and Assignment

13.1 **Termination by EQ3FH** - This Agreement may be terminated as provided in Section 5.5. Additionally, this Agreement may be terminated by EQ3FH for any one or more of the following events of default upon notice to Franchisee:

- (a) if, in any year of this Agreement after the first year of operation, annual Gross Revenues of the Franchised Business are less than 85% of the annual Gross Revenues of the Franchised Business for the prior year during the Term of this Agreement or any Renewal Term thereof;
- (b) if Franchisee or a Principal commits an act of bankruptcy or becomes insolvent within the meaning of the United States Bankruptcy Code (the "Bankruptcy Code"); if a petition in bankruptcy is filed by or against Franchisee or a Principal and is not discharged or disputed by a bona fide motion for dismissal within seven (7) days of such filing (and such dispute effectively postpones the granting of an order of fee relief), if a receiver, trustee or other officer with similar power is appointed by or against the Franchised Business, Franchisee or a Principal; or if Franchisee or a Principal makes a proposal or assignment for the benefit of its creditors, or otherwise takes or attempts to take the benefit of any federal or state law now or hereafter in effect for the relief of debtors, or if Franchisee becomes insolvent or cannot pay its obligations as they become due;
- (c) if Franchisee knowingly makes or fails to report a false representation to EQ3FH in any of the reports that Franchisee may be required to furnish to EQ3FH pursuant to this Agreement or pursuant to the EQ3 Operations Manual, and fails to correct such report within fifteen (15) days after the report has been submitted to EQ3FH or from receipt of notice from EQ3FH;
- (d) if Franchisee or any Principal of Franchisee is convicted of, or pleads guilty or no contest to, a crime that, in the reasonable opinion of EQ3FH, has caused, or may cause, an adverse effect upon the goodwill or interest of EQ3FH, the Trademarks or Franchised Business;
- (e) except in the case of an event of Force Majeure, if the Premises become vacant, abandoned or deserted, or if Franchisee fails to remain open for business as required by this Agreement, and remains, unopened, vacant, abandoned or deserted for twenty-four (24) hours without the prior written consent of EQ3FH;
- (f) if the lease or sublease of the Premises is terminated as a result of the breach or default of Franchisee, or if Franchisee otherwise loses the right to possession of the Premises, and Franchisee has not instituted proceedings within three (3) days thereafter to re-assert its right to possession of the Premises;
- (g) if Franchisee has failed to obtain or maintain the insurance required by this Agreement within a period of seven (7) days from receipt of notice from EQ3FH;

- (h) if Franchisee or a Principal purports to effect a Transfer (as defined in paragraph 13.4(c)(i)) without complying with the provisions of Section 13.4 hereof and fails to abort such Transfer or obtain consent within fifteen (15) days from receipt of notice from EQ3FH;
- (i) if Franchisee fails to perform service requirements as outlined in this Agreement and the EQ3 Operations Manual and fails to cure such matter to the satisfaction of EQ3FH within the specified cure period set forth respecting such service requirement or fifteen (15) days from receipt of notice thereof in those instances where a cure period is not specified;
- (j) if Franchisee or a Principal breaches any other term or covenant or fails to perform any obligation imposed by this Agreement, the EQ3 Operations Manual or by EQ3FH and fails to cure such breach or default to the satisfaction of EQ3FH within the specified cure period set forth respecting such material term, covenant or obligation or thirty (30) days from receipt of notice thereof in those instances where a cure period is not specified, or Franchisee or a Principal breaches any term or covenant or fails to perform any obligation imposed by a Related Document, including without limitation, the Product Supply Agreement and Security Agreement, or any other related agreement and fails to cure such breach or default in accordance with the terms thereof, or any such agreement on Related Document is terminated or expires in accordance with the terms thereof;
- (k) except as a result of an event of Force Majeure, if Franchisee fails to have the EQ3 Store complete and open for business on the Opening Date, unless such delay is acknowledged by a revised Opening Date and approved by EQ3FH in writing;
- (l) if Franchisee fails to pay when due any amount owing to EQ3FH, EQ3FH's Related Entities, its lessor, bank or the Authorized Suppliers, whether pursuant to this Agreement or otherwise, and continues in such default for a period of seven (7) days from receipt of notice from EQ3FH;
- (m) if Franchisee engages in any conduct that, in the reasonable opinion of EQ3FH, reflects unfavorably upon or is detrimental or harmful to the Franchise, to the Trademarks, to the good name, goodwill or reputation of EQ3FH or to the business, reputation or goodwill of its franchisees, and Franchisee fails to cease such conduct within seven (7) days from receipt of notice from EQ3FH;
- (n) if Franchisee or any of its Related Parties fails to observe or perform any other present or future obligation or agreement it has with EQ3FH or any of its Related Parties (whether or not created under this Agreement and whether or not such obligation relates to the Franchised Business or any other EQ3 Store Franchise operated by or licensed to a Related Party of the Franchisee), and fails to cure such default or commence to cure the same and diligently pursue all appropriate steps to cure same within thirty (30) days from receipt of notice from EQ3FH;

- (o) if Franchisee offers for sale from its EQ3 Store any furnishings or accessories other than EQ3 Products and Authorized Products; or
- (p) if Franchisee has received from EQ3FH during any consecutive twelve (12) month period three (3) or more notices relating to a breach or default under this Agreement or any Related Document (whether such notices relate to the same or different breaches or defaults and whether or not such breaches or defaults have been remedied by Franchisee).

13.2 Effect of Termination

- (a) In addition to the applicable terms set out in Article 7 herein with respect to the intellectual property, Franchisee hereby agrees that upon termination or expiration of this Agreement, Franchisee shall:
 - (i) immediately pay all sums or amounts due to EQ3FH and the Related Parties to the date of termination or expiration;
 - (ii) immediately pay all sums or amounts due to the Authorized Suppliers and all other business accounts;
 - (iii) immediately cease to represent itself as a Franchisee of EQ3FH and discontinue the use of the Trademarks, in any form or variation, and refrain from identifying itself in name by any of the words "EQ3FH" in any form or manner;
 - (iv) immediately make available to EQ3FH copies of all documents related to past and future operations of Franchisee that may exist, including financial statements and all data and information relating to the foregoing stored in or retrieved or generated from computer or electronic systems;
 - (v) immediately and permanently discontinue all advertising as an EQ3 Store Franchisee, including, but not limited to, the immediate removal of any signs that contain the Trademarks upon EQ3FH's direction;
 - (vi) refrain from communicating in any fashion with any EQ3 franchisee with respect to EQ3FH related business except as necessary to implement the procedures set forth herein;
 - (vii) transfer and assign the business telephone number, fax number, Internet domain name, and business Internet e-mail address for the Franchise to EQ3FH or its transferee as directed and agree to execute any documents that may be necessary, or desirable, to effect the transfer. Franchisee shall remain liable for all such charges incurred prior to any such transfer;
 - (viii) promptly return to EQ3FH or transfer as directed all Confidential Information and instructions delivered to Franchisee under this Agreement, including, but not limited to, the EQ3 Operations Manual, and

re-format all system and stand-alone hard drives to erase all Confidential Information stored in electronic format and deliver to EQ3FH an affidavit of an officer of Franchisee declaring that all system and stand-alone hard drives have been reformatted and all Confidential Information has been permanently erased;

- (ix) promptly dispose of or transfer as directed all stationery, printed matter, signs and advertising materials containing the Trademarks as directed by EQ3FH; and
 - (x) at the option of EQ3FH, surrender possession of and assign the lease for the Premises to EQ3FH on the termination date, or the date on which EQ3FH assumes responsibility for the operation of the EQ3 Store, and Franchisee shall remain liable to the lessor for all obligations under Franchisee's lease for the Premises.
- (b) Upon the termination or expiration of the Franchise, Franchisee shall remain liable to EQ3FH for all monetary obligations due EQ3FH and its Related Entities at the date of termination or expiration. Franchisee shall maintain all records and reports required pursuant to this Agreement for a period of three (3) years for the purpose of verifying that all fees have been paid to EQ3FH. Franchisee agrees to provide EQ3FH with copies of all past and current records and documents relating to its operations of the Franchised Business.
- (c) EQ3FH shall have the option, for a period of sixty (60) days following the termination or expiration of this Agreement, to be assigned the lease for the Premises and purchase all equipment, furnishings, leasehold improvements, inventory and supplies (other than items of a personal nature) owned and used by Franchisee in connection with the Franchised Business at a purchase price equal to the fair market value thereof; provided that the purchase price shall not contain any factor or increment for goodwill and other intangibles arising out of or associated with the Trademarks and provided further that EQ3FH may exclude from the assets purchased hereunder any equipment, furnishings, leasehold improvements, inventory and supplies which, in the reasonable opinion of EQ3FH, are obsolete, damaged or otherwise not in marketable or usable condition or suitable for retail sale. If the parties cannot agree upon the fair market value of such assets within a period of ten (10) business days following the exercise of such option by EQ3FH, an independent appraiser shall be designated by EQ3FH and Franchisee to do so, and such appraiser's determination shall be binding on EQ3FH and Franchisee and no appeal shall lie therefrom. If EQ3FH elects to exercise the option to purchase herein provided for, it shall be entitled to set off all amounts due from Franchisee under this Agreement or under any other agreement between Franchisee and EQ3FH whether or not relating to the Franchised Business or any other EQ3 Store operated by or licensed to a Related Party of the Franchisee and the cost of the appraisal, if any, against the purchase price for such assets. If EQ3FH exercises its option as aforesaid, the transaction of purchase and sale shall be closed on a date to be determined by EQ3FH within

ten (10) days of the date that the purchase price for such assets is finally determined. The transaction of purchase and sale shall be completed in accordance with all applicable federal, state and local laws including, without limitation, bulk sales legislation. Subject to EQ3FH's right of set off or as otherwise provided herein, Franchisee shall deliver against payment for the equipment, furnishings, inventory, supplies and improvements being purchased hereunder, a bill of sale with the usual covenants as to title together with such documents as may be necessary or desirable to complete the transaction of purchase and sale herein contemplated.

- (d) EQ3FH's option hereunder is without prejudice to its rights under any security agreement held by it or with respect to which it may have a guarantor's or surety's subrogation interest. If EQ3FH exercises its option, it may, in addition to the right of set off provided for above, pay any debts which Franchisee owes to any affiliate of EQ3FH or any trade creditor of Franchisee or any government authority and any holder of a security interest or lien with priority over the rights of EQ3FH and shall remit the balance of the purchase price then remaining, if any, to Franchisee.
- (e) Franchisee hereby authorizes EQ3FH to act as a special agent, or power of attorney, to transfer any listed telephone and fax numbers, "white" pages and "yellow" pages listings, e-mail address and Internet domain name, listing or registration relating to the Franchise and to enforce the conditional assignment attached as **Schedule K**.

13.3 **Right of Re-entry** - Forthwith upon termination or expiration of this Agreement for any reason whatsoever, in the event EQ3FH exercises its option to purchase described in Section 13.2(c), EQ3FH may enter upon, occupy and use all or any part of the Premises and any equipment and furnishings, inventory, supplies, improvements and other property located in, on or about the Premises and used in connection with the Franchised Business and EQ3FH shall not be liable for any trespass, tort or neglect in so doing or in respect of any deprivation in connection with such action. All revenues, monies, profits, benefits and advantages derived from the operation of the Franchised Business throughout such period of occupation shall be for the account of the Franchised Business, except that EQ3FH may charge reasonable costs for managing the Franchised Business and may pay and discharge all debts and liabilities incurred by it during the period of its conduct of the Franchised Business and provide statements for such period. In addition, EQ3FH shall have the option, but not the obligation, to pay the claims of any creditor of the Franchised Business and any amount so paid shall be charged to and repaid by Franchisee to EQ3FH forthwith upon demand therefor, and until so repaid shall bear interest at the rate set forth in Section 16.3. EQ3FH shall have no obligation to retain any employees of the Franchised Business nor to honor any contractual commitments previously made by Franchisee in connection therewith, and any liability with respect thereto shall be exclusively borne and paid for by Franchisee. If EQ3FH elects to retain any such employee, such employment shall be pursuant to a new employment agreement between EQ3FH and such employee and shall commence on the first business day on which EQ3FH shall carry on business from the Premises. Any claim of such employee

for unpaid salary, pay in lieu of notice, vacation pay or other benefits arising from such employment with Franchisee shall be the exclusive responsibility of and be paid solely by Franchisee, and Franchisee shall indemnify EQ3FH against all liability in respect thereof. In addition, if EQ3FH elects to exercise such option, such right shall continue throughout the period preceding and including the closing of such transaction. The occupation by EQ3FH of the Premises herein contemplated shall not be construed either as an assignment or a subletting of the Premises by Franchisee to EQ3FH or as a management of the Franchise for or on behalf of Franchisee.

13.4 Assignment, Buy Back and Transfer

- (a) **Assignment By EQ3FH** - EQ3FH may assign all of its right, title and interest in and to this Agreement, and the rights hereunder shall inure to the benefit of its successors and assigns, provided that any such successors or assigns shall agree in writing to assume all of EQ3FH's obligations hereunder.
- (b) **Buy Back by EQ3FH** - Upon mutual agreement of both EQ3FH and Franchisee, at any time after the 10th anniversary of the date of Franchisee becoming a franchisee of EQ3FH under this initial Franchise Agreement (so long as Franchisee is still a franchisee), Franchisee shall sell, and EQ3FH shall purchase, the Franchised Business, together with any other franchises owned by a Related Party of Franchisee, excluding all assets and liabilities other than those listed below, and specifically excluding any and all liabilities respecting employees, including source deductions and applicable taxes, or the continued employment of employees, for a purchase price calculated by one of the following methods, at EQ3FH's election:

Option A – Based on Gross Revenues

- (i) Assets (except such assets identified in subparagraphs (ii) – (iv) below), including the Franchise Agreement, client lists, cashflow, equipment, furniture, fixtures and leasehold improvements, for a purchase price calculated, as 6.6% of the average annual Gross Revenues during the then-current term or renewal term of this Agreement (the "Buy-Back Term"), multiplied by five (5);
PLUS
- (ii) Lease at \$1.00 USD;
PLUS
- (iii) Miscellaneous paper supplies containing any Trademarks at \$1.00 USD;
PLUS
- (iv) EQ3 Product inventory and Authorized Product inventory from Authorized Suppliers at cost;
LESS

- (v) any outstanding amounts owing to EQ3FH, to its Related Parties, to Authorized Suppliers, or to government authorities by Franchisee or a Related Party of Franchisee;

subject to adjustment for material changes in assets.

Option B - Based on Fair Market Value

- (i) Assets (except such assets as set out in (ii) to (iv) below), including the Franchise Agreement, client lists, cash flow, equipment, furniture, fixtures, and leasehold improvements, for a purchase price calculated at 125 % of the fair market value of the Franchise.

If the parties cannot agree upon the fair market value of such assets within a period of ten (10) business days following agreement of the parties to sell and purchase, an independent appraiser shall be designated by EQ3FH and Franchisee to do so, and such appraiser's determination shall be binding on EQ3FH and Franchisee and no appeal shall lie therefrom;
PLUS

- (ii) Lease at \$1.00 USD;
PLUS
- (iii) Miscellaneous paper supplies containing any Trademarks at \$1.00 USD;
PLUS
- (iv) EQ3 Product inventory and non-EQ3 Product inventory from Authorized Suppliers at cost;
LESS
- (v) any outstanding amounts owing to EQ3FH, a Related Party of EQ3FH, Authorized Suppliers or government authorities by Franchisee or a Related Party of Franchisee;

subject to adjustment for material changes in assets.

Options A and B

EQ3FH shall be entitled to set off all amounts due to EQ3FH or its Related Parties from Franchisee under this Agreement or under any other agreement between Franchisee or a Related Party of the Franchisee and EQ3FH or its Related Parties whether or not relating to the Franchised Business or any other EQ3 Store operated by or licensed to a Related Party of the Franchisee, amounts owed by Franchisee to any government authority and the cost of the appraisal, if any, against the purchase price for such assets. Set-off amounts owed to third parties shall be remitted by EQ3FH on Franchisee's behalf. Any amounts owed by EQ3FH to Franchisee or its Related Party, including, without limitation, any pro-rated amount of a Renewal Fee or Franchise Fee, shall also be set-off and

taken into the calculation of the final payment to Franchisee, if any. The transaction of purchase and sale shall be closed on a date to be determined by EQ3FH within ten (10) days of the date that the purchase price for such assets is finally determined. The transaction of purchase and sale shall be completed in accordance with all applicable laws rules and regulations including, without limitation, bulk sales legislation. Subject to EQ3FH's right of set off or as otherwise provided herein, Franchisee shall deliver against payment for the equipment, furnishings, inventory, supplies and improvements being purchased hereunder, a bill of sale with the usual covenants as to title together with such documents as may be necessary or desirable to complete the transaction of purchase and sale herein contemplated.

(c) **Transfer by Franchisee** - The franchise granted under this Agreement is personal to Franchisee. During the Term of this Agreement, Franchisee shall:

- (i) not sell, assign, transfer or otherwise dispose of (collectively "Transfer") or mortgage, charge, grant a security interest in or otherwise encumber (collectively "Encumber") all or any of Franchisee's interest hereunder or in any assets of the Franchise, including the lease for the Premises,
- (ii) nor shall any of the Principals Transfer (except to another Principal) or Encumber any of their interest in the Franchise or the Franchisee,
- (iii) nor shall Franchisee issue any further shares in Franchisee's capital (except to the Principals) or admit new shareholders,
- (iv) nor shall Franchisee amalgamate, merge, reorganize or engage in any similar proceedings,

without in each case obtaining prior written consent of EQ3FH as provided herein.

Any proposed Transfer shall be initiated by Franchisee providing EQ3FH with not less than forty-five (45) days written notice prior to the proposed Transfer date of the intention to Transfer, which notice shall include a request for procedural/administrative instructions. Any actual or purported Transfer or Encumbering (including whether by operation of law or otherwise) without EQ3FH's prior written consent shall be a breach or default of this Agreement and shall be null and void. Any proposed Transfer shall be subject to subparagraph (e) below.

In considering a request for Transfer, EQ3FH shall have the right to approve, among other things, the qualifications, apparent ability and credit standing of the proposed transferee and all of the agreements relative to the proposed sale. In addition, in considering any request for consent EQ3FH shall be entitled to require as a condition precedent to the granting of its consent that:

- (i) there shall be no existing breach or default in the performance or observance of any obligations of the Franchisee or a Related Party (whether or not under this Agreement and whether or not relating to the Franchise or any other EQ3 Store operated by or licensed to Related Party of the Franchisee) to EQ3FH or any of its Related Parties. At EQ3FH's option an audit of Franchisee's accounting records may be a requirement of the Transfer;
- (ii) Franchisee shall have settled all outstanding accounts with EQ3FH, its Related Parties and all trade creditors of Franchisee;
- (iii) Franchisee and the Principals shall have delivered to EQ3FH complete releases of EQ3FH and its Related Parties and their respective members, officers, directors, owners, employees, affiliates, successors and assigns from all obligations to Franchisee in connection with the Franchised Business, in form and terms prescribed by EQ3FH;
- (iv) one (1) designated principal of the proposed transferee responsible for the operation of the Franchise shall have satisfactorily completed EQ3FH's training program then in effect for all new franchisees;
- (v) contemporaneously with any Transfer or issue of any interest in the Franchise or the Franchisee, the shareholders of the proposed transferee shall execute a written agreement with EQ3FH undertaking to be bound by the restrictions on assignment contained in this paragraph and the covenants contained herein. In addition, EQ3FH may, in its absolute discretion, require any shareholder of the proposed transferee to execute a written agreement with EQ3FH guaranteeing full payment and performance by Franchisee of Franchisee's obligations to EQ3FH and individually undertaking to be bound, jointly and severally, by all of the terms of this Agreement;
- (vi) unless expressly waived by EQ3FH in writing, any Transfer of assets of the Franchise shall be effected in compliance with the requirements of all applicable bulk sales legislation;
- (vii) a transfer fee (herein the "Transfer Fee") in the amount set out in **Schedule D** shall be paid by Franchisee to EQ3FH to cover the administrative and legal expenses (which portion shall not be refundable, even if the Transfer is not completed) and costs of the Transfer. The Transfer Fee shall be paid at the time the Transfer process is initiated;
- (viii) the proposed transferee shall execute the then current EQ3FH franchise agreement, ancillary documents and Related Documents (which agreement may differ in form, content and terms from this Agreement);
- (ix) at the option of EQ3FH, the proposed transferee shall extend the term of the Agreement up to a full five (5) years by paying EQ3FH an amount

equal to twenty-five percent (25%) of the then current Initial Franchise Fee prorated over the number of months required to extend the term to the number of years determined by EQ3FH, in its sole discretion, provided that Royalty Fees and Advertising Fees shall be as provided in this Agreement;

- (x) Franchisee shall obtain independent legal representation in selling the Franchise;
- (xi) Franchisee understands that:
 - A. EQ3FH will advise any potential purchaser to obtain independent legal representation;
 - B. any proposed sale of the Franchised Business requires that EQ3FH be given, within ten (10) business days from its receipt, of a fully executed asset purchase agreement to determine if it desires to exercise a right of first refusal;
 - C. all agreements, including, without limitation, any consulting agreements and non-compete agreements, relative to the proposed sale must be provided to EQ3FH for its review and approval as to form and content;
 - D. the proposed transferee shall be required to have the Premises upgraded in accordance with a report provided by EQ3FH, in order that the Premises conform with operational standards regarding the layout, trade dress, furnishings, fixturing, decorating and general appearance of current EQ3 Stores then being established. Such upgrades shall be made pursuant to a design plan prepared by EQ3FH; and
 - E. a Transfer shall be processed in accordance with the then current transfer procedures of EQ3FH;
- (xii) When not in breach or default, Franchisee shall have the right to assign Franchisee's right, title and interest in and to the Agreement to a corporation, partnership limited liability company or other entity controlled by it provided that Franchisee shall remain responsible for its obligations under this Agreement and shall execute such documents regarding assignment as EQ3FH may require.
- (d) **Documentation on Transfer.** Franchisee shall provide all such documentation as may be required by EQ3FH on any transfer or assignment, including, without limitation, a general release of EQ3FH and its Related Parties of all Franchisee's rights and rights of action against EQ3FH pursuant to the Franchise Agreement or any other agreement ancillary thereto and a certificate of representations and

warranties respecting, among other things, that the client lists provided in the transfer or assignment have been acquired in accordance with the applicable Privacy Laws and all customers have consented to any such transfer or assignment at the time of collecting their personal information.

- (e) **Right of First Refusal.** If Franchisee or one or more Principals proposes to make a transfer to any individual or entity other than a corporation, partnership or other entity wholly owned by Franchisee or its Principals, EQ3FH shall have the right for a period of thirty (30) days after Franchisee or such Principal EQ3FH has submitted all information requested by EQ3FH to exercise a right of first refusal and substitute itself for the proposed transferee in the transaction. If EQ3FH declines to do so and there is any change in the terms and conditions of the proposed transaction or the proposed transferee, Franchisee shall promptly notify EQ3FH, and EQ3FH shall have the further right to exercise its right of first refusal over the revised transaction for a period of fifteen (15) days. Should EQ3FH exercise its right of first refusal, EQ3FH shall have not less than ninety (90) days to close the transaction, and EQ3FH shall have the right to substitute cash for any alternative form of consideration contemplated by the proposed transaction, if such substitution does not materially and adversely affect the tax impact of such proposed transaction to the Principal. If EQ3FH does not exercise its right of first refusal, Franchisee or the transferring Principal may make a transfer on the terms and conditions of the offer considered by EQ3FH if Franchisee and its Principal have complied with all of the provisions of Sections 13(c) and (d).

- 13.5 **Right of Set-Off.** For certainty, it is hereby acknowledged that EQ3FH's right of set-off shall include, in addition to any amounts owed by Franchisee to EQ3FH or its Related Parties, any amounts owed by Franchisee or its Related Parties to any governmental authority, secured creditor or lienholder and remit such amount on behalf of the Franchisee or Related Party (as the case may be).
- 13.6 **Death/Disability** - In the event of the death or permanent disability of Franchisee or the last of the shareholders, partners, members or owners of Franchisee to die or become so disabled, or where there is only one (1) shareholder, partner, member or owner of Franchisee then upon such person's death or disability, Franchisee or Franchisee's representative shall within one hundred twenty (120) days of the occurrence of such death or disability assign all of Franchisee's right, title and interest in and to this Agreement, the lease or sublease and the property and assets used in connection with the operation of the Franchised Business, to another person acceptable to EQ3FH. Such Transfer shall be upon all of the terms and conditions of Section 13.4 if EQ3FH considers it necessary or if requested in writing by the personal representatives or in the case of incapacity, if the Principals shall desire.

For the purposes of this paragraph, a person shall be considered disabled if, in the reasonable opinion of EQ3FH, such person is unable to operate the Franchised Business in the ordinary course of business for a period of thirty (30) days or more in any consecutive ninety (90) day period by reason of physical or mental illness or incapacity.

13.7 Association with Competitors.

- (a) During any term hereof, neither Franchisee, nor any officer, director, shareholder, member, general partner or principal of a Franchisee, shall either directly or indirectly, own, operate, advise, be employed by, or have any financial interest in any business that features the sale of comparable furniture products and accessories offered by EQ3 Stores, wherever located.
- (b) To the extent permitted by applicable law, during the two (2) year period after the expiration or termination of this Agreement, for any reason, neither Franchisee nor any Principal, nor any officer, director, shareholder, member, general partner or principal of a Franchisee, shall, either directly or indirectly, own, operate, advise, be employed by, or have any interest in any business that offers the sale of comparable furniture products and accessories offered by EQ3 Stores, within the Territory or within ten (10) miles from the location of any then existing EQ3 Store, without EQ3FH's prior written consent. In applying for such consent, Franchisee will have the burden of establishing that any such activity by it will not involve the use of benefits provided under this Agreement or constitute unfair competition with EQ3FH or other franchisees of EQ3FH.
- (c) The parties have attempted, in Sections 13.7(a) and 13.7(b) above, to limit Franchisee's right to compete only to the extent necessary to protect EQ3FH from unfair competition. The parties hereby expressly agree that if the scope or enforceability of Section 13.7(a) or 13.7(b) is disputed at any time by Franchisee, a court or arbitrator, as the case may be, may modify either or both of such provisions to the extent that it deems necessary to make such provision(s) enforceable under applicable law. In addition, EQ3FH reserves the right unilaterally to reduce the scope of either, or both, of said provisions without Franchisee's consent, at any time or times, effective immediately upon notice to Franchisee.

13.8 **Non-Solicitation.** Franchisee and Principals covenant that, during the Term and for one (1) year after the expiration or termination of this Agreement, they shall not by virtue of being an employee, proprietor, partner, shareholder, agent, principal, owner, part owner, co-venturer, officer, director, manager, operator, financier or other participant or through family relations, solicit or attempt to persuade or induce any employees to discontinue their employment at the location of any EQ3 Store in North America.

13.9 **General.** Termination or expiration of this Agreement shall not under any circumstances:

- (a) Impair, release or extinguish any debt, obligation, or liability of Franchisee to EQ3FH, or of EQ3FH to Franchisee, which may have accrued prior to such termination, including, without limitation, any such debt, liability or obligation which was the cause of termination or expiration; or

- (b) Affect any covenants, undertakings and/or agreements of Franchisee which are to be performed, in whole or in part, after termination or expiration of this Agreement.

Article 14
Non-Disclosure and Copyrights

- 14.1 **Operations Manual.** EQ3FH shall entrust to Franchisee a copy of the EQ3 Operations Manual and Franchisee shall comply with all provisions of the EQ3 Operations Manual. The EQ3 Operations Manual may be available solely through a secure Internet link from time to time during the Term of this Agreement. EQ3FH may communicate to Franchisee mandatory and suggested standards, methods, procedures and specifications applicable to the EQ3 Store Program and information relative to other obligations of Franchisee under this Agreement and to the operation of the Franchised Business. Such communications may be made through the EQ3 Operations Manual, the EQ3 Store Program or written or electronic media. For the purposes of the following provisions of this Section 14.1 (and where otherwise referred to in this Agreement), any such Operations Manual and all EQ3FH communications shall be collectively referred to as the "EQ3 Operations Manual." The EQ3 Operations Manual at all times shall remain the exclusive property of EQ3FH, and Franchisee shall return the EQ3 Operations Manual (and all copies thereof which Franchisee has made) to EQ3FH promptly upon request by EQ3FH and, in any event, upon termination or expiration of this Agreement for any reason whatsoever. Franchisee shall not at any time copy, duplicate, record or otherwise reproduce or transcribe the EQ3 Operations Manual or any of the forms supplied by EQ3FH hereunder without EQ3FH's prior written consent. If the Operations Manual is supplied electronically, Franchisee may print one copy for its personal use.
- 14.2 **Agreement Respecting Trade Secrets and Confidential Information.** Franchisee and the Principals will have access to and become acquainted with various trade secrets and confidential information consisting of the EQ3 Operations Manual, sale techniques, policies, procedures, systems, compilations of information, records and specifications that are owned or under the control of EQ3FH and that are regularly used in the operation of EQ3 Stores and information concerning the business and affairs of EQ3FH and the Related Parties, including without limitation, advertising plans, cost figures, client lists, names and addresses of suppliers and customers and contractual relationships (collectively, the "Confidential Information.") Franchisee and the Principals hereby agree that they shall not disclose any of the aforesaid Confidential Information, directly or indirectly, or use them in any way, either during the Term of this Agreement, or any time thereafter except as authorized in this Agreement. All files, records, documents, drawings, specifications, promotional and training materials, equipment and similar items, including all data and information stored in or retrieved or generated from the systems, software programs or networks relating to EQ3FH and or Franchisee shall remain the exclusive property of EQ3FH. Franchisee shall obtain an All Hands Confidentiality Agreement as specified in Section 16.1(b) executed by all persons who are given access to such Confidential Information.

- 14.3 **Copyrights.** All materials relating to the EQ3 Store Program, including the EQ3 Operations Manual and training and advertising materials, are proprietary to EQ3FH and the Related Parties. Franchisee is authorized by this Agreement to use such copyrighted materials in the performance of its activities within the Territory and shall not make any mechanical, electronic or other copies of such materials unless authorized by EQ3FH in advance in writing. Franchisee and the Principals hereby acknowledge and agree that ownership of all right, title and interest, in and to said copyrights, whether or not registered, shall be in EQ3FH or under license by EQ3FH, as the case may be, or their respective assigns. These materials are provided in confidence, shall remain so, and must be returned on termination or assignment of this Agreement. If Franchisee shall learn of any unauthorized use of EQ3FH's proprietary materials, including, without limitation, the EQ3 Operations Manual, Franchisee shall notify EQ3FH immediately.
- 14.4 **Restriction of Duplication.** In no event may any Confidential Information be duplicated by the Recipient except to the extent reasonably necessary for the purposes of this Agreement, except as may be authorized by the Disclosing Party in writing.

Article 15 Dispute Resolution

- 15.1 **Dispute Resolution Procedure.** The parties agree that any dispute, other than a claim of EQ3FH covered by Section 15.3 or a claim:
- (a) relating to the preservation and protection of the Trademarks and intellectual property and other proprietary rights under this Agreement;
 - (b) relating to maintenance of the uniformity and integrity of the franchise system under this Agreement; or
 - (c) relating to non payment of any amounts due to EQ3FH or the Related Parties set forth herein;

shall be subject to the dispute resolution procedure described in this Section.

First, all disputes shall be brought to the attention of the other party by serving a written Notice of Dispute on the other party describing the dispute. A notice of default under Article XV may precede or accompany the written Notice of Dispute. Within ten (10) business days of receipt of the Notice of Dispute, a senior executive of both parties shall meet at a mutually agreeable location to attempt to resolve the dispute.

Second, if the senior executives of both parties are unable to resolve the dispute within that time period, the dispute outlined in the Notice of Dispute must be submitted to non-binding mediation. In that event, either party may initiate a mediation proceeding by submitting a written request for mediation to the American Arbitration Association, JAMS or any other mediation service mutually agreed to by the parties according to such mediation service's procedures. Mediation shall be before a single skilled independent mediator mutually and reasonably agreed upon by the parties.

The mediation process shall begin promptly and shall be concluded within ten (10) business days after the day the request for mediation is made, unless the parties mutually otherwise agree. Any and all discussions, negotiations, findings or other statements by the mediator and/or the parties made in connection with the mediation shall be privileged and confidential and shall not be admissible into evidence in any litigation.

All mediation proceedings shall take place in High Point, North Carolina. The expenses of the mediation service shall be borne equally by both parties, and all other expenses relating to such mediation shall be borne by the party incurring them.

The commencement of any mediation procedure shall not act to prevent EQ3FH from instituting or proceeding with any action which may be the subject of the Notice of Dispute.

Third, if the parties are unable to resolve the dispute, either party may institute an action in accordance with Section 15.2.

- 15.2 **Venue.** Franchisee agrees that EQ3FH may institute any action against Franchisee arising out of or relating to this Agreement in the Superior Court of the 18th District of the State of North Carolina, or in the United States District Court for the Middle District of North Carolina, and Franchisee irrevocably submits to the jurisdiction of such court and waives any objection it may have to either the jurisdiction or venue of such court. If applicable law provides Franchisee with additional rights as to notices, opportunities to cure or otherwise than as are provided by this Agreement as to termination, renewal, transfer or otherwise, Franchisor will comply with the requirements of such laws to the extent they exceed Franchisor's obligations under this Agreement.
- 15.3 **Exceptions.** The obligation herein to participate in the dispute resolution procedure in Section 15.1 shall not be binding upon a party with respect to: claims relating to the Trademarks, patents or copyright; claims relating to any lease or sub-lease of real property between any of the parties or their related entities; requests for interim or interlocutory injunctions or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution of the actual dispute between the parties; EQ3FH's right to terminate this Agreement; disputes arising under the Security Agreement; or disputes under any of the other ancillary agreements attached hereto as schedules if such ancillary agreements provide for remedies, enforcement or dispute mechanisms as a term thereof.
- 15.4 **Injunctive or Extraordinary Remedies.** Nothing in this Agreement including specifically the provisions above, shall be construed as limiting or precluding EQ3FH from bringing any action in any court of competent jurisdiction for injunctive or other extraordinary relief, without the necessity of posting any bond, as EQ3FH deems necessary or appropriate to compel Franchisee to comply with Franchisee's obligations hereunder respecting the use or display of the Trademarks or to otherwise protect the Trademarks. Franchisee acknowledges that it is one of a number of licensed franchisees using the Trademarks and that failure on its part to comply fully with any of the terms of

this Agreement respecting use of the Trademarks will cause irreparable damage to the owner, EQ3FH or other licensed franchisees of EQ3FH. Therefore, EQ3FH shall have the immediate right to seek a preliminary interim or interlocutory order or injunction prohibiting the use or display of the Trademarks during the pendency of all proceedings, without bond. This covenant shall be independent, severable and enforceable notwithstanding any other rights or remedies which EQ3FH may have.

- 15.5 **Business Judgment.** The parties hereto recognize, and any mediator or judge is affirmatively advised, that certain provisions of this Agreement describe the right of EQ3FH to take (or refrain from taking) certain actions in the exercise of its business judgment based on its assessment of the overall best interests of the EQ3 Store Program and/or franchise network. Where such discretion has been exercised, and is supported by the business judgment of EQ3FH, neither a mediator nor a judge shall substitute his or her judgment for the judgment so exercised by Franchisor.
- 15.6 **Limitations Period.** Except for claims arising from Franchisee's non-payment or underpayment of amounts Franchisee owes EQ3FH, any and all claims arising out of or relating to this Agreement or any agreement related to this Agreement or executed concurrently herewith or the relationship of the parties hereto, shall be barred unless a judicial proceeding is commenced within two (2) years from the date the complaining party knew or should have known of the facts giving rise to such claim.
- 15.7 **No Punitive, Exemplary or Consequential Damages.** Except with respect to Franchisee's obligation to indemnify the indemnified parties pursuant to section 12.2 and claims EQ3FH brings against Franchisee for Franchisee's unauthorized use of the licensed trademarks or unauthorized use or disclosure of any confidential information, EQ3FH and Franchisee and Franchisee's respective owners waive to the fullest extent permitted by law any right to or claim for any punitive, exemplary or consequential damages against the other and agree that, in the event of a dispute between the parties, the party making a claim will be limited to equitable relief and/or to recovery of any actual damages it sustains.
- 15.8 **WAIVER OF JURY TRIAL.** THE PARTIES AGREE THAT ALL DISPUTES SUBMITTED TO A COURT SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.
- 15.9 **Survival.** The provisions of this Article 15 will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

Article 16 General

- 16.1 **Additional Documentation.** Franchisee agrees to provide such further documentation as may be required by EQ3FH, acting reasonably, including, without limitation, the following:

- (a) Franchisee shall obtain from all officers, directors, shareholders, partners or members of Franchisee, and provide to EQ3FH concurrently with the execution of this Agreement, properly executed Guaranty and Indemnification Covenants in the form attached as **Schedule I**;
- (b) Franchisee shall obtain from all officers, directors, shareholders, partners and/or members of Franchisee, and all other persons who have access to EQ3FH's Confidential Information as provided in Section 14.2, and shall provide to EQ3FH concurrently with the execution of this Agreement, properly executed All Hands Confidentiality Agreements in the form attached as **Schedule N**;
- (c) Franchisee shall provide, concurrently with the execution of this Agreement, and upon an annual basis thereafter, a list of all officers, directors, shareholders, partners or members of the corporation, partnership or limited liability company setting out their respective interests in the form set out as **Schedule E** herein. In addition, Franchisee shall advise EQ3FH of the appointment, election or termination of any person as an officer or director of the Franchisee immediately following such appointment or termination and shall provide certified copy of the director(s)/shareholder(s)/member(s)/partner(s) resolutions approving such appointment, election or termination. If after the date of execution of this Agreement part or all of the corporate shares or other securities of the Franchisee or of an associated, affiliates, or parent company of the Franchisee are transferred by sale, assignment, bequest, inheritance, operation of law or other disposition, or issued by subscription or allotment, or cancelled or redeemed, so as to result in a change in the effective voting or other control of the Franchisee by the person or persons holding control on the date of execution of this Agreement, or if other steps or actions are taken to accomplish change of control, Franchisee shall promptly notify EQ3FH in writing of change and shall seek approval of such change in ownership by EQ3FH, EQ3FH shall not unreasonably withhold approval based on its due diligence process;
- (d) Franchisee shall provide a certified copy of the resolution of the directors authorizing the acquisition of the Franchisee;
- (e) Franchisee shall provide copies of all amendments to the Franchisee's incorporation/registration documents, including amendments to registrations/filings and corporate by-laws; and
- (f) Franchisee shall provide any such documents EQ3FH may at its discretion require from time-to-time;

16.2 **Security.** To secure payment of amounts owing to EQ3FH and the Related Parties and performance of any and all obligations under this Agreement and all other agreements, Franchisee agrees to execute and deliver to EQ3FH concurrently with the execution of this Agreement a Security Agreement granting them a security interest in all inventory and other collateral purchased from them and a security interest in the assets of the Franchised Business in the form prescribed by EQ3FH. Franchisee acknowledges that a

financing statement perfecting the security interest will be filed with the appropriate governmental office(s) and that notice of the security interest will be given to holders of conflicting security interests. Franchisee hereby acknowledges receipt of a copy of the Security Agreement and waives its right to receive a copy of the financing statement filed in the office of the jurisdiction of Franchisee and/or other jurisdiction as appropriate.

- 16.3 **Overdue Amounts.** All Initial Franchise Fees, Royalty Fees, Advertising Fees and other amounts due to EQ3FH and its Related Parties shall bear interest after the due date until paid in full at an annual rate of interest equal to the lower of the prime rate of interest announced by Bank of America, Charlotte, North Carolina on such due date, plus five percent (5%), or the maximum rate of interest allowable under applicable law. The acceptance of any interest payment shall not be construed as a waiver by EQ3FH of its rights in respect of the default giving rise to such payment and shall be without prejudice to EQ3FH's right to terminate this Agreement in respect of such default, at its discretion.
- 16.4 **Standard of Reasonableness.** Whenever the consent or approval of either party is required or contemplated hereunder, the party whose consent is required agrees not to unreasonably withhold the same, unless such consent is expressly subject to such party's sole discretion pursuant to the terms of this Agreement.
- 16.5 **Notice Required By Law.** Notwithstanding anything to the contrary contained in this Agreement, in the event any valid, applicable law or regulation of a competent governmental authority having jurisdiction over this Agreement and the parties hereto shall limit EQ3FH's rights of termination hereunder or shall require longer notice periods than those set forth above, this Agreement shall be deemed amended to conform to the minimum notice periods or restrictions upon termination required by such laws and regulations. Franchisor shall not, however, be precluded from contesting the validity, enforceability or application of such laws or regulations in any action, arbitration, hearing or dispute relating to this Agreement or the termination thereof.
- 16.6 **Cumulation and Survivability of Remedies.** All rights and remedies conferred upon EQ3FH and Franchisee by this Agreement, at law and in equity, shall be cumulative of each other, and neither the exercise nor the failure to exercise any such right or remedy shall preclude the exercise of any other such right or remedy.
- 16.7 **Severability.** If any provision of this Agreement shall be deemed or held by a court of last resort to be invalid or unenforceable, either in its entirety or by virtue of its scope or application to a given circumstance, such provision shall be deemed modified to the extent necessary to render the same valid, to be not applicable to given circumstances or to be deleted from this Agreement (as the situation may require), and this Agreement shall be construed and enforced as if such provision has been included as so modified in scope or application, or had not been included herein (as the case may be), it being the stated intention of the parties that had they known of such invalidity or unenforceability at the time of entering into this Agreement, they would have nevertheless contracted upon the terms contained herein, either by excluding such provisions, or including such provisions only to the extent so permitted by law. In the event such total or partial invalidity or enforceability of any provision of this Agreement exists only with respect to

laws of a particular jurisdiction, this paragraph shall operate upon such provision only to the extent that the laws of such jurisdiction are applicable.

- 16.8 **Notice.** Any notice or demand given or made pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been given or made and shall be deemed effective, (i) when the same has been received (if hand delivered), or (ii) three (3) business days after posting (if served by registered or certified mail), provided notice posted as aforesaid shall not be deemed to be received during an interruption of United States postal services, or (iii) the next business day if delivered by facsimile, the transmission report for which shall be evidence thereof, or by overnight courier service.

Any notice to be given to EQ3FH shall be to the address set forth on page 1 of this Agreement, attention: President

Any notice to be given to Franchisee, shall be to the address set forth on page 1 of this Agreement, with a copy to: [title]

Any party may give written notice of a change of address, and after such notice has been received, any notice thereafter shall be given to such party as above provided at such changed address.

- 16.9 **Successors.** Subject to all the provisions hereof, this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto as well as their respective heirs, executors, administrators, personal representatives, estate trustees, successors, and assigns.

- 16.10 **Governing Law.** Except to the extent governed by the United States Trademark Act of 1946 or the United States Copyright Act, this Agreement and the relationship between Franchisee and EQ3FH will be governed by the substantive laws of the state of North Carolina without giving effect to its conflicts of laws principles, except that no North Carolina statute which does not, by its express terms, apply to persons or activities outside of the State of North Carolina shall apply if the Franchised Business is located outside the State of North Carolina and/or Franchisee is not a resident of the State of North Carolina. The provisions of this Section will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

- 16.11 **Counterparts.** This Agreement may be executed in counterparts, and each counterpart when so executed and delivered shall be deemed an original.

- 16.12 **Force Majeure.** Neither party shall be responsible to the other for non-performance or delay in performance occasioned by any causes beyond its control (other than lack of funds) including, without limitation, acts or omissions of the other party, acts of civil or military authority, strikes, lock-outs, embargoes, insurrections or acts of God. If any such delay occurs, any applicable time period shall be automatically extended for a period equal to the time lost, provided that the party affected makes reasonable efforts to correct the reason for such delay and gives to the other party prompt notice of any such delay; provided, however, that if the delay exceeds one hundred twenty (120) days, Franchisor shall have the right to terminate this Agreement or to require Franchisee to move to a new

location approved by Franchisor within an additional period of one hundred twenty (120) days.

- 16.13 **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon Franchisor, Franchisee and their respective heirs, legal representatives, successors and permitted assigns.
- 16.14 **Survival.** All obligations of EQ3FH and Franchisee which expressly or by their nature survive termination or expiration or Transfer of this Agreement shall continue in full force and effect subsequent to and notwithstanding such termination or expiration or transfer and until they are satisfied or by their nature expire.
- 16.15 **Right of Set-off.** Notwithstanding any other provision of this Agreement, upon the failure of Franchisee to pay EQ3FH or the Related Parties and when due any sums of money under this Agreement or any other amounts owing to EQ3FH or the Related Parties, EQ3FH may, at its election, deduct any and all such sums remaining unpaid from any monies or credit held by EQ3FH for the account of Franchisee.
- 16.16 **Not Withhold Payment.** Franchisee agrees that Franchisee will not on the grounds of the alleged non-performance by EQ3FH or its Related Parties of any obligations under this Agreement or under any other agreement between the parties, withhold payment of any amounts due to EQ3FH or the Related Parties whether on account of equipment or goods purchased by Franchisee or otherwise.
- 16.17 **Non-Waiver.** The failure of either party to exercise any right, power or option given under this Agreement, or to insist upon strict compliance with the terms and conditions of this Agreement by the other party, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach of this Agreement or default under this Agreement, nor a waiver by the first party of its right at any time thereafter to require strict compliance with all terms and conditions of this Agreement. EQ3FH's acceptance of payments due under this Agreement shall not constitute a waiver of any preceding breaches by Franchisee.
- 16.18 **Rights of EQ3FH are Cumulative.** The rights of EQ3FH under this Agreement are cumulative and no exercise or enforcement by EQ3FH of any right or remedy under this Agreement shall preclude the exercise or enforcement by EQ3FH of any other right or remedy under this Agreement or which EQ3FH is otherwise entitled by law to enforce. At the option of EQ3FH, a default by Franchisee under this Agreement shall constitute a default by Franchisee under any other agreement between the parties, and the default by Franchisee under any other agreement between the parties shall constitute a default by Franchisee under this Agreement.
- 16.19 **No Third Party Beneficiaries.** Except as otherwise expressly provided herein in Section 7.4, this Agreement is exclusively for the benefit of the parties hereto and shall not confer a benefit on, or give rise to liability to, a third party. No agreement between EQ3FH and a third party is for the benefit of Franchisee.

- 16.20 **Approvals or Consents.** Requests by Franchisee for approvals or consents shall be in writing and shall be timely made. Approvals and consents by EQ3FH shall not be effective unless in writing and duly executed by EQ3FH. Except as expressly provided to the contrary herein, EQ3FH may grant or withhold such approvals or consents, and may make any determinations permitted hereunder, in its sole discretion and shall not be required to show "reasonableness" or to comply with any other standard in connection herewith.
- 16.21 **Effect of Standards.** Franchisor's specifications of the EQ3 Store Program shall not constitute a warranty or representation, express or implied, as to quality, safety, suitability, fitness for a particular purpose or any matter. Franchisor shall not be liable to Franchisee or others on account of the specifications of the EQ3 Store Program, including the designation of EQ3 Store Program or the operation of the Franchised Business pursuant to the EQ3 Store Program.
- 16.22 **Construction.** Franchisee acknowledges that it had the opportunity to be represented by an attorney in connection with the preparation and execution of this Agreement, and to review and understand the terms hereof and to consider the advisability of entering into this Agreement. This Agreement shall be construed according to its plain meaning and neither for nor against either party hereof regardless of which party's counsel drafted the provision.
- 16.23 **Further Assurances.** The parties agree to diligently do or cause to be done all acts or things and to execute all documents and instruments necessary to implement and carry into effect this Agreement to its full extent.
- 16.24 **Entire Agreement/Amendments.** EQ3FH and Franchisee each acknowledge and warrant to each other that they wish to have all terms of this business relationship defined in this Agreement. Neither EQ3FH nor Franchisee wishes to enter into a business relationship with the other in which any terms or obligations are the subject of alleged oral statements or in which oral statements serve as the basis for creating rights or obligations different than or supplementary to the rights and obligations set forth herein. Accordingly, EQ3FH and Franchisee agree that this Agreement, together with any other documents or agreements executed by the parties contemporaneously hereto, supersede and cancel any prior and/or contemporaneous discussions (whether described as representations, inducements, promises, agreements or any other term) between EQ3FH or anyone acting on its behalf and Franchisee or anyone acting on its behalf, which might be taken to constitute agreements, representations, inducements, promises or understandings (or any equivalent to such terms) with respect to the relationship between the parties, and EQ3FH and Franchisee each agree that they have placed, and will place, no reliance on any such discussion. This Agreement, together with any other documents or agreements executed by the parties contemporaneously hereto or incorporated herein by reference, constitutes the entire agreement between the parties and contains all of the terms, conditions, rights and obligations of the parties with respect to any aspect of the relationship between the parties. No further franchise rights or offer of franchise rights have been promised to Franchisee and no such franchise rights or offer of franchise rights shall come into existence, except by means of a separate writing, executed by an officer

of EQ3FH or such other entity granting the franchise rights and specifically identified as a modification of this Agreement. No change, modification, amendment or waiver of any of the provisions hereof, including by custom, usage of trade, or course of dealing or performance, shall be effective and binding upon either party unless it is in writing, specifically identified as an amendment hereto and signed by the party to be charged.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first above written.

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____
Its: _____

By: _____
Its: _____

Principals' Acknowledgment

Each following party is mentioned in this Agreement as having certain rights and/or duties as a Principal of Franchisee. Each following party is signing this Acknowledgment, not as a party, but only to the extent necessary to indicate its, his or her acceptance of, and agreement to be bound by, the specific rights and duties of a Principal mentioned in this Agreement.

Principal:

Principal:

By: _____
Its: _____

Print name: _____

Principal:

Principal:

By: _____
Its: _____

Print name: _____

Schedule A
TERRITORY

The Territory associated with this Agreement is:

as per the attached drawing, which drawing is a part of this **Schedule A**, or

as per the attached description, which description is part of this **Schedule A**.

If the Territory above is a city, town, village, county, district or municipality, its area encompasses the whole area of its legal constitution as at the date of this Agreement.

All boundary lines shall be deemed to constitute a line of demarcation up to the middle of the specific boundary line (e.g., a boundary line designated as a street shall denote a boundary up to the middle of the street).

Dated this ____ day of _____, 200__.

EQ3FH:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____
Its: _____

Franchisee:

By: _____
Its: _____

Schedule B

PREMISES

Name of Shopping Center/Strip Mall:

Street Address:

Name and Address of Lessor:

Opening Date:

Dated:

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____

Its: _____

By: _____

Its: _____

Schedule C

ADDITIONAL OUTLETS RIDER

Pursuant to Section 3.4 of the Franchise Agreement, EQ3FH hereby grants Franchisee the right to open additional franchised EQ3 Stores within the following geographic area: _____ (the "Option Territory") and subject to Section 3.5 of the Franchise Agreement on the following terms and conditions:

1. If EQ3FH determines that one or more additional EQ3 Stores are desirable in the Option Territory, EQ3FH shall provide written notice to Franchisee.
2. Upon receipt of the notice from EQ3FH, Franchisee has the option to purchase an additional franchise and open an additional EQ3 Store within the Option Territory (the "Franchise Option") by sending EQ3FH written notice of its exercise of its Franchise Option within ten (10) business days of receipt of EQ3FH's notice and closing the purchase of the franchise by executing a franchise agreement and all related agreements and guarantees and paying the initial franchise fee within 45 days thereafter. Franchise agreements entered into pursuant to the Franchise Option during the four (4) years following the execution of this Agreement shall be on the same terms and conditions as set out in the within Franchise Agreement, except that the Territory will be specific to each franchise and the new Franchise Agreement will not contain an Additional Outlets Rider.
3. If the Principals fail to exercise the Franchise Option within ten (10) business days of receipt of EQ3FH's notice, the Franchise Option shall expire and be replaced with a right of first offer as described in paragraph 4 below ("Right of Offer").
4. Upon expiration of the Franchise Option, in the event EQ3FH wishes to have further franchised EQ3 Stores established in the Option Territory, EQ3FH shall offer the Principals in writing the Right of Offer to purchase such franchise on the same terms and conditions of the then current franchise agreement being offered to all prospective franchisees, except that the Territory will be specific to each franchise and the new Franchise Agreement will not contain an Additional Outlets Rider. The Principals shall have twenty (20) days to provide EQ3FH with a Letter of Intent with respect thereto. In the event the Principals fail to provide a Letter of Intent within the required time period, or close the purchase of the franchise within 45 days thereafter, EQ3FH shall be entitled to offer such franchise to any other person.
5. The Option Territory shall be reduced by each new franchise purchased by the Principals to the extent that each new franchise is granted an exclusive territory with respect thereto.
6. The Right of Offer shall continue to benefit Franchisee as long as Franchisee purchases each franchise offered by EQ3FH in the Option Territory during the Term of the Franchise Agreement and, in such event, EQ3FH shall offer each franchise opportunity in the Option Territory to the Principals before offering it to any other party. In the event the Principals decline a franchise opportunity in the Option Territory, the Right of Refusal shall expire.

7. In the event Franchisee exercises its Franchise Option or its Right of Offer, Franchisee may do so in its own right or may establish a new corporate or limited liability entity to hold and operate the additional franchise(s), provided that the new entity is completely owned and controlled by Franchisee, unless such requirement is waived by EQ3FH in its sole discretion.

Dated this __ day of _____, 200__.

EQ3FH:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____

Its: _____

Principals:

Principal Signature

Print Name

Principal Signature

Print Name

**Schedule D
SCHEDULE OF FEES**

The following fees are applicable to the franchise:

- A. EQ3FH ADVERTISING FEE:
[Section 8.3] Maximum 1% of annual Gross Revenues

[Paragraph 11.1 and 11.2] Minimum 6% of annual Gross Revenue
- B. INITIAL FRANCHISE FEE:
[Section 8.1] \$25,000
- C. RENEWAL FEE:
[Section 4.2(c)] \$3,500 for first renewal
\$5,000 for second renewal
- D. ROYALTY FEE: (Choose One):
[Section 8.2]
- | | |
|---|--|
| <input type="checkbox"/> 3% of Gross Revenues,
payable monthly | <input type="checkbox"/> \$2,500 per calendar quarter
for Franchisee's second store,
payable quarterly |
| <input type="checkbox"/> \$5,000 per calendar quarter
for Franchisee's first store,
payable quarterly | <input type="checkbox"/> \$1,250 per calendar quarter
for Franchisee's third and all
subsequent stores, payable
quarterly |

This is Franchisee's _____ store.

- E. TRANSFER FEE:
[Section 13.4(c)(vii)]
- | | |
|---------------------|----------|
| (i) Third Party: | \$10,000 |
| (ii) Related Party: | \$ 2,000 |
- F. TECHNICAL SUPPORT FEE:
[Section 6.11] Currently \$100/hour with a minimum of
24 annual hours, billed monthly

Dated _____

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____
Its: _____

By: _____
Its: _____

Schedule E
PRINCIPALS
OFFICER'S CERTIFICATE
OF

(the "Entity")

TO: EQ3 FRANCHISE HOLDINGS, INC. ("EQ3")

I, _____, on behalf of the Entity do hereby certify as follows:

1. I am the _____ of the Entity.
2. The following persons are the directors/members of the Entity:

3. The following persons are the officers of the Entity:

<i>name:</i>	<i>position held:</i>
_____	_____
_____	_____
_____	_____

4. The following are the shareholders/partners of the Entity (the "Principals"):

<i>name:</i>	<i>shareholdings (amount and type):</i>
_____	_____
_____	_____
_____	_____

5. The information contained in this Officer's Certificate is true and correct as of the date hereof and may be relied on by EQ3 Franchise Holdings, Inc. in its dealings with the Entity with respect to the Franchise.
6. Attached are complete and accurate copies of the Articles of Incorporation/Certificate of Incorporation and any amendments thereto, the By-laws documents of the Entity and copies of all Unanimous Shareholders Agreements, if applicable, of the Entity.
7. On an annual basis, the Entity shall submit to EQ3 a new Officer's Certificate.

DATED this _____ day of _____, 200__.

per: _____
President

Schedule F

SITE SELECTION OBLIGATIONS

WHEREAS EQ3 Franchise Holdings, Inc. ("EQ3FH") and _____ ("Franchisee") have entered into a certain franchise agreement (the "Franchise Agreement") as of the date set out below and desire to supplement its terms, EQ3FH and the Franchisee herefore agree as follows:

A. Franchisee shall work with a real estate consultant ("Consultant") designated by EQ3FH to establish consistency of the EQ3 Store image and maintain the communications necessary to integrate acquisition of sites with all of the other activities required for a successful opening.

A.1 Consultant shall have the responsibility to:

- (i) Represent EQ3FH in all EQ3 Store Program real estate matters;
- (ii) Provide local real estate expertise from within the Consultant's network or, where appropriate, by selecting qualified outside service providers;
- (iii) "Sell" lessors and developers on the desirability of the EQ3 Store Program;
- (iv) Manage and negotiate all transactions so as to deliver the best possible results for EQ3 Store Program franchisees;
- (v) Ensure that there is consistency in the selection of the real estate that helps brand EQ3™;
- (vi) Maintain control of growth through consistent application of the EQ3 Store Program real estate processes;
- (vii) In conjunction with EQ3FH, approve all EQ3FH Store locations and leases;
- (viii) Ensure that EQ3FH Store Program real estate policies are consistently applied;
- (ix) Assist EQ3FH In establishing priorities and plans for expansion;
- (x) Establish the basis for good relationships between lessors and EQ3 Store Program franchisees;
- (xi) Provide systems for coordination of store completion once the real estate leasing is finalized; and
- (xii) Ensure that EQ3FH's interests and the integrity of the EQ3™ brand are protected in the event of default by a Franchisee under the Franchise Agreement, a lease or Product Supply Agreement.

A.2 Franchisee shall work with the Consultant to apply market research data in the selection within the Territory of the most advantageous sub-markets and specific retail locations. Acquisition arrangements shall be guided and documented by the Consultant. Building shell requirements shall be in accordance with the EQ3 Operations Manual.

A.3 The size of the EQ3 Store shall be no less than 5,000 square feet of selling space, with an additional 1,500 square feet of warehouse inventory space. The preferred sizes are 7,500 and 10,000 square feet of selling space.

B. In the event an acceptable site satisfactory to both EQ3FH and Franchisee is not found within one hundred and eighty (180) days after the signing of this Agreement, the provisions of Section 5.5 of the Franchise Agreement shall apply.

C. In the event an acceptable site satisfactory to both EQ3FH and the Franchisee is found, the provisions of Sections 6.1 and 6.2 of the Franchise Agreement shall apply.

D. The cost of such services are included in the Initial Franchise Fee payable by Franchisee on execution of the Franchise Agreement.

E. Franchisee must be in a financial position to enter into a lease for the Premises and Franchisee acknowledges that a prospective lessor may require corporate guarantees from the Franchisee's parents, personal guarantees from the Franchisee's shareholders, a letter of credit or a line of credit or any combination of the foregoing, and Franchisee confirms that it will provide such collateral security as may be required by lessor in the particular circumstances.

F. In addition to any other terms required by EQ3FH to be included in the lease for the Premises, the lease or agreement to lease, must contain the following conditions, as set out in the template attached as **Schedule F-1**, among others, in order to be acceptable to EQ3FH:

- (i) Notwithstanding anything to the contrary contained in the lease, it is agreed that if the Franchise Agreement between EQ3FH and the Lessee expires or is terminated for any reason whatsoever, the Lessee's rights under the lease shall, at the option of EQ3FH, be transferred and assigned to EQ3FH or its designate. Said option may be exercised by EQ3FH giving the Lessor notice in writing acknowledging its intention to transfer the lease to EQ3FH or its designate within thirty (30) days following the expiry or termination of the said Franchise Agreement, such notice to specify, among other matters, the date of such expiry or termination. The Lessee acknowledges and agrees that the Lessor may rely upon such notice and shall not be required to enquire into the due execution thereof or the accuracy of the statements set forth therein. It is further agreed that such notice shall, without further act or formality, operate as an effective assignment of the Lessee's rights and obligations under the lease to EQ3FH or its designee as of the date of this notice. EQ3FH shall not assume any obligations under the Lease prior to the date of the notice, and the Lessee shall remain liable to the Lessor for all its obligations under the lease. If EQ3FH takes the assignment of the lease in its name, EQ3FH may thereafter part with possession of the Premises to such person as it may

designate, without penalty or liability, and the Lessor agrees to enter into a lease on the same terms and conditions with such designate;

- (ii) The Lessee agrees that the Lessor may, upon the written request of EQ3FH, disclose to EQ3FH all reports, information or other data in the Lessor's possession in respect of the Lessee's tenancy;
- (iii) The Lessor shall give written notice to EQ3FH concurrently with the giving of such notice to Lessee of any default by Lessee under the Lease, and EQ3FH shall have, after the expiry of the period during which the Lessee may cure such default, an additional fifteen (15) days to cure, at its sole option, any such default, provided that if such default arises by reason of the bankruptcy or insolvency of the Lessee or the appointment of a receiver over the Lessee's assets or part thereof, EQ3FH shall have the right to assume this lease upon payment of any arrears of rental to such date and have full access to the Premises. In the event of any such assumption, the Lessee shall cease to have any further rights under the lease.
- (iv) The Lessor acknowledges that the said Franchise Agreement contains a right on the part of EQ3FH, in the event of death or disability of the principal of the Lessee, to enter the Premises and to operate the business for the account of Lessee for a period as set out in the said Franchise Agreement. The Lessor further acknowledges that such entry by EQ3FH shall not constitute an assignment of this lease nor a subletting of the Premises.
- (v) The Lessor and Lessee agree that Lessee may not sublease or assign its interest under the Lease without the prior written approval of EQ3FH.
- (vi) The Lessor and Lessee agree that EQ3FH shall have the right to enter the Premises to make any modifications necessary to cause the Premises to conform with the standards and specifications of the EQ3™ Store Program.
- (vii) Lessor and Lessee agree that the Premises will not be used for any purpose other than the operation of an EQ3™ Store and Lessee will continuously operate and conduct the business upon the whole of the Premises during normal business hours in an up-to-date, high-class and reputable manner befitting the Shopping Center. Lessee will conduct business on or from the Premises under the name of EQ3™ and will not change the advertised name of the business conducted on the Premises without the prior written consent of the Lessor and EQ3FH.
- (viii) The Lessor and Lessee acknowledge that EQ3FH is executing this lease solely for the purposes of acknowledging the provisions contained in the foregoing paragraphs (i) to (vii) and the Lessor and Lessee acknowledge and agree that such execution by EQ3FH shall in no way be construed so as to obligate EQ3FH for the performance of any of the terms, conditions, obligations and covenants contained herein.

EQ3FH:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____

Its: _____

Franchisee:

By: _____

Its: _____

Schedule F -- Appendix 1

RIDER TO BE ATTACHED TO AN OFFER TO LEASE

- A. This Offer shall be conditional upon EQ3 Franchise Holdings Ltd.'s ("EQ3FH") approval of the Lease, pursuant to the Franchise Agreement between the Lessee and EQ3FH, and upon approval of the Lessee's lawyer. In furtherance of the foregoing, the Lessor agrees to provide the Lease at least three (3) days in advance to allow time for review and approval. This condition must be satisfied by _____.
- B. This Offer shall be conditional upon the Lease incorporating the following provisions:
- (i) Notwithstanding anything to the contrary contained in the Lease, it is agreed that if the Franchise Agreement between EQ3FH and the Lessee expires or is terminated for any reason whatsoever, the Lessee's rights under the Lease shall, at the option of EQ3FH, be transferred and assigned to EQ3FH or its designate. Said option may be exercised by EQ3FH giving the Lessor notice in writing acknowledging its intention to transfer the lease to EQ3FH or its designate within thirty (30) days following the expiration or termination of the said Franchise Agreement, such notice to specify, among other matters, the date of such expiry or termination. The Lessee acknowledges and agrees that the Lessor may rely upon such notice and shall not be required to enquire into the due execution thereof or the accuracy of the statements set forth therein. It is further agreed that such notice shall, without further act or formality, operate as an effective assignment of the Lessee's rights under the lease to EQ3FH or its designee as of the date of this notice. EQ3FH shall not assume any obligations under the Lease prior to the date of the assignment. The Lessee shall remain liable to the Lessor for all its obligations under the Lease. If EQ3FH takes the assignment of the Lease in its name, EQ3FH may thereafter part with possession of the Premises to such person as it may designate, without penalty or liability, and the Lessor agrees to enter into a lease on the same terms and conditions with such designate.
 - (ii) The Lessee agrees that the Lessor may, upon the written request of EQ3FH, disclose to EQ3FH all reports, information or other data in the Lessor's possession in respect of the Lessee's tenancy.
 - (iii) The Lessor shall give written notice to EQ3FH concurrently with the giving of such notice to Lessee of any default by Lessee under the Lease, and EQ3FH shall have, after the expiration of the period during which the Lessee may cure such default, an additional fifteen (15) days to cure, at its sole option, any such default, provided that if such default arises by reason of the bankruptcy or insolvency of the Lessee or the appointment of a receiver over the Lessee's assets or part thereof, EQ3FH shall have the right to assume this Lease upon payment of any arrears of rental to such date and have full access to the Premises. In the event of any such assumption, the Lessee shall cease to have any further rights under the Lease.

- (iv) The Lessor acknowledges that the said Franchise Agreement contains a right on the part of EQ3FH, in the event of death or disability of the principal of the Lessee, to enter the Premises and to operate the business for the account of Lessee for a period as set out in the said Franchise Agreement. The Lessor further acknowledges that such entry by EQ3FH shall not constitute an assignment of this Lease nor a subletting of the Premises.
- (v) The Lessor and Lessee agree that Lessee may not sublease or assign its interest under the Lease without the prior written approval of EQ3FH.
- (vi) The Lessor and Lessee agree that EQ3FH shall have the right to enter the Premises to make any modifications necessary to cause the Premises to conform with the standards and specifications of the EQ3™ Store Program.
- (vii) The Lessor and Lessee agree that the Premises will not be used for any purpose other than the operation of an EQ3™ Store and Lessee will continuously operate and conduct the business upon the whole of the Premises during normal business hours in an up-to-date, high-class and reputable manner befitting the Shopping Centre. Lessee will conduct business on or from the Premises under the name of EQ3™ and will not change the advertised name of the business conducted on the Premises without the prior written consent of the Lessor and EQ3FH.
- (viii) The Lessor and Lessee acknowledge that EQ3FH, if signing this Lease, is signing this Lease solely for the purposes of acknowledging the provisions contained in the foregoing paragraphs (i) to (vii) and the Lessor and Lessee acknowledge and agree that such execution by EQ3FH shall in no way be construed so as to obligate EQ3FH for the performance of any of the terms, conditions, obligations and covenants contained in the Lease and EQ3FH shall not be an obligant or guarantor under the Lease as a result. For clarity, any signing of the Lease by EQ3FH shall be identified as an acknowledgement only by having EQ3FH sign under an "acknowledged by" signature line, identifying the foregoing provisions as numbered in the Lease.

Schedule G

**HARDWARE AND SOFTWARE REQUIREMENTS
(Section 6.11)**

Franchisee acknowledges the following specific requirements:

- A. All hardware must be to approved configuration and purchased from EQ3FH (approximate purchase price = \$30,000, depending on the hardware components selected by the Franchisee).
- B. All software must be approved software configuration and purchased from EQ3FH (approximate purchase price = \$5,000).
- C. Franchisee must pay software Authorized Supplier annual licensing fees for software use and must upgrade hardware every forty-two (42) months.
- D. Franchisee is required to purchase minimum computer support contract yearly on the basis of 24 hours \$100/ hour (includes contribution to test lab).

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____
Its: _____

By: _____
Its: _____

Schedule H

FINANCIAL STATEMENT REPORTING (Section 9.12)

- A. Pursuant to Section 9.12(a), Franchisee is required to submit an advertising budget prior to commencement of the operation of the Franchise and thereafter, annually at least sixty (60) days prior to the commencement of each new fiscal year of operations.
- B. Pursuant to Section 8.2, Franchisee is required to submit monthly reports, together with payment of the Royalty Fee due and owing, and pursuant to Section 9.12(b), Franchisee is required to submit financial statements each quarter. The chart of accounts will be specific to each EQ3 Store and shall include the following:
1. Delivered Sales (product net of credit notes)
 2. Other sales (warranty, assembly, etc., excluding delivery)
 3. Gross Revenues
 4. Cost of goods sold
 5. Gross Margin
 6. Expenses
 - Advertising
 - Amortization (franchise fees, fixtures, excluding technology equipment, etc.)
 - Bank charges and credit card fees
 - Delivery (net of revenue)
 - Grand Opening expenses (if applicable)
 - Insurance
 - Interest
 - Occupancy
 - Office (telephone, fax, courier, etc.)
 - Other
 - Professional fees
 - Royalty
 - Staff
 - Supplies

- Technology (Internet cost, lease or amortization costs, maintenance fees, etc.)
 - Travel
 - Training
 - Warehouse
 - Net expenses
7. Net income before taxes and extraordinary items
 8. Taxes and extraordinary items
 9. Net income
- C. As separate financial statements are required for each location, gross warehouse expenses, including labor, facilities, etc., should be allocated to each EQ3 Store based on its pro rata share of Gross Revenues.
- D. EQ3FH may make changes to Franchisee's reporting requirements under the Agreement and as set out in this schedule to be consistent with changes in the financial reporting requirements prescribed by the certified public accounting industry from time to time, all in accordance with generally accepted accounting practices ("GAAP").
- E. Franchisee hereby acknowledges that failure to provide the Financial Statements as required hereunder shall be a material default of the Franchise Agreement.

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____
 Its: _____

By: _____
 Its: _____

Schedule I

GUARANTY AND INDEMNIFICATION COVENANT

The undersigned ("Principals"), the sole shareholders, members or owners of _____ ("Franchisee"), hereby request EQ3 Franchise Holdings, Inc., a Delaware corporation ("Company") to execute a Franchise Agreement and certain ancillary documents with Franchisee which may include, without limitation, real property lease(s) or sublease(s), equipment lease(s) or sublease(s), promissory note(s), Product Supply Agreement(s), Confidentiality Agreement(s), Security Agreement(s) and other agreements which may now or hereafter be entered into between Franchisee and Company in connection with the foregoing (the "Agreements"), all in connection with the EQ3 franchise granted to Franchisee. In consideration of Company's entering into such Agreements, Principals agree and covenant as follows:

1. Each of the Principals hereby jointly, severally, irrevocably and unconditionally guarantees (herein the "Guarantee") payment, observance and performance by Franchisee and by the Principals of all present and future obligations of any nature or kind owing by Franchisee to EQ3FH, whether direct or indirect, absolute or contingent, matured or unmatured, extended or renewed, wherever and however incurred, and whether Franchisee is bound alone or with others and whether as principal or as guarantor (such obligations being called the "Obligations").

2. No exercise or non-exercise by Company of any right hereunder, no dealing by Company with Franchisee or any other individual, corporation, partnership, limited liability company, trust or other entity (each a "Person"), and no change, impairment or suspension of any right or remedy of Company shall in any way affect any Obligations of Principals hereunder or give Principals any recourse against Franchisee.

3. Principals waive and agree not to assert or take advantage of (a) any right to require Company to proceed against Franchisee or any other Person or to proceed against or exhaust any security held by Company at any time or to pursue any other remedy in Company's power; (b) any statute of limitations in any action hereunder to collect any Obligations guaranteed hereby; (c) any defense that may arise by reason of Franchisee's incapacity, lack of authority, insolvency or bankruptcy or Company's failure to file or enforce a claim against the estate (either in bankruptcy, or other proceeding) of Franchisee, or any other or others; (d) demand, protest and notice of any kind including, without limitation, notice of the existence, creation or incurring of new or additional obligations or of any action or non-action on the part of Franchisee, Company, any endorser, creditor of Franchisee or Guarantor under this or any other instrument, or any other Person, in connection with any obligation or evidence of indebtedness held by Company or in connection with any Obligations hereby guaranteed; (e) any defense based upon an election of remedies by Company including, without limitation, an election to proceed by non-judicial rather than judicial foreclosure, which election destroys or otherwise impairs subrogation rights and/or other rights of Principals or the right of Principals to proceed against Franchisee for reimbursement or contribution, or both, which rights have not otherwise been waived hereby; (f) any duty of Company to disclose to Principals any facts that Company may now or hereafter know about Franchisee, regardless of whether Company has reason to believe that any such facts materially increase the risk beyond that which Principals

intend to assume or has reason to believe that such facts are unknown to Principals or has a reasonable opportunity to communicate such facts to Principals, it being understood and agreed that Principals are responsible to be and to keep informed of Franchisee's financial condition and of all circumstances bearing on the risk of nonpayment of any Obligations hereby guaranteed; and (g) any and all rights and defenses available to Principals under the provisions of North Carolina General Statutes 26-7 through 26-9 or any similar law of any state (regarding limitations to a Principals obligations hereunder in the event of written notice to the Franchisee and the failure of the Franchisee to take any action thereon upon service of such notice or at any time after such service) as now codified in the North Carolina General Statutes or as codified in any successor statute, or as may be now or in the future codified in any such other state.

4. Until all Obligations to Company are indefeasibly paid in full and all Franchisee's obligations to Company are fully performed, Principals shall have no right of subrogation, contribution and/or reimbursement and waive any right to enforce any remedy that Company now has or may hereafter have against Franchisee.

5. All existing or future indebtedness and obligations of Franchisee to Principals and, any right to withdraw any capital of Principals invested in Franchisee, is hereby subordinated to all Obligations hereby guaranteed. All monies received by the Principals in respect thereof shall be received in trust for the Company and immediately upon receipt the entire amount shall be paid over to the Company without in any way lessening or limiting the liability of the Principals hereunder. Principals shall not make a claim in any bankruptcy or insolvency proceeding of Franchisee that is intended to have priority over or be in the same class as a claim of the Company such bankruptcy or insolvency proceeding.

6. Principals agree that to the extent Franchisee makes a payment or payments to, or is credited for any payment or payments made for or on behalf of the Franchisee to Company, which payment or payments, or any part thereof, is subsequently adjudicated or set aside or required to be repaid to any trustee, receiver, assignee, or any other party whether under any bankruptcy, or state or federal judicial proceeding, then to the full extent thereof, the obligation or part thereof intended to be satisfied thereby, shall be revived, reinstated and continued in full force and effect as if said payment or payments had not originally been made by or on behalf of the Franchisee.

7. Principals' liabilities and all rights, powers and remedies of Company hereunder and under any other agreement now or at any time hereafter in force between Company and Principals shall be cumulative and not alternative and such rights, powers and remedies shall be additional to all rights, powers and remedies given to Company by law.

8. Principals' obligations hereunder are joint and several, and independent of Franchisee's obligations. In the event of any default hereunder or under any of the Agreements, a separate action or actions may be brought and prosecuted against Principals, or any of them, regardless of whether action is brought against Franchisee or whether Franchisee is joined in any such action or actions. Company may maintain successive actions for other defaults. Company's rights hereunder shall not be exhausted by Company's exercise of any rights or remedies or by any such action or by any number of successive actions until and unless all Obligations have been fully been indefeasibly paid and performed.

9. The Guarantee provided herein is continuing. It shall be irrevocable during the initial and any renewal term or extensions of the Agreements and until all indebtedness have been indefeasibly fully paid and the Obligations guaranteed have been fully performed. Thereafter, the Guarantee herein may be revoked only by written notice by Principals to Company after Company's receipt of such notice.

10. The Principals jointly and severally agree to indemnify the Company and the Company's Related Parties (as defined in the Franchise Agreement) and the officers, directors and shareholders of the Company and of the Company's Related Parties, against any liability, loss, damage or expense (including reasonable attorney fees), which any may sustain as a result of the failure of Franchisee to observe or perform any of its Obligations under the Agreements or herein. The indemnification and guarantee obligations set forth in this agreement are independent of each other and the indemnification obligations shall remain in full force for the applicable statute of limitations periods (and is irrevocable until then); notwithstanding that the guaranty obligations hereunder may have been terminated.

11. Neither any provision herein nor right of Company hereunder can be waived, nor can Principals, or any of them, be released from their obligations hereunder except by a writing duly executed by Company. Should any provision(s) or portion(s) of any provisions hereof be found by a court of competent jurisdiction (or other trier of a dispute hereunder) to be illegal or unenforceable, all other provisions nevertheless shall be effective. This agreement shall be governed by and construed in accordance with the law of the state of North Carolina, without giving effect to its conflicts of law principles.

12. The Principal will have access to and become acquainted with various trade secrets consisting of the Operations Manual, sale techniques, policies, procedures, systems, compilations of information, records and specifications that are owned or under the control of EQ3FH and that are regularly used in the Operational EQ3 Stores, and information concerning the business and affairs of EQ3FH and the Related Parties, including without limitation, advertising plans, cost figures, client lists, names and addresses of suppliers and customers and contractual relationships. The Principals shall not disclose any such trade secrets directly or indirectly, or use them in any way, either during or after the term of the Franchise Agreement except as authorized by the Franchise Agreement.

13. The obligation of each Principal shall be primary, joint and several.

14. The Principals agree that EQ3FH may institute any action against Principals arising out of relating to this Agreement in the Superior Court of the 18th District of the State of North Carolina and the United States District Court for the Middle District of North Carolina, and Principals hereby irrevocably submit to the jurisdiction of such courts and waive any objection any of them may have to either the jurisdiction or venue of such courts.

15. This Guaranty and Covenant of Indemnification, together with the Franchise Agreement, constitutes the entire agreement of Principals and Company with respect to the subject matter hereof and no representation, understanding, promise or condition concerning the subject matter hereof shall bind the Company unless expressed herein.

16. Principals hereby acknowledge the receipt of a true copy of this Guaranty and Covenant of Indemnification.

Executed by or on behalf of Principals on _____ [date].

Principals:

Address:

Principal's Signature

Print Name

Principal Signature

Print Name

Schedule J

APPOINTMENT OF AGENT/POWER OF ATTORNEY

For value received, _____ (“Franchisee”), together with its Principals, Guarantors, shareholders, partners, members and owners, and their respective affiliates and subsidiaries (collectively the “Attorney”), hereby nominates, constitutes and appoints EQ3 Franchise Holdings, Inc. (the “Franchisor”) by its representative as Franchisor may designate, as its true and lawful attorney in connection with the following and thereby authorizes Franchisor or its authorized agent, from time to time, throughout the term of its Franchise Agreement with Franchisor and thereafter, as applicable, to make inquiries and receive information relating to its personal and/or confidential information from federal or state governmental authorities, offices or departments. The Attorney hereby authorizes all federal and state governmental authorities, offices and departments to release to Franchisor or its authorized agent, any information that Franchisor’s attorney may request pursuant to this Power of Attorney, including, without limitation, any personal and/or confidential information relating to the Attorney. Such personal and/or confidential information may include information relating to the recording and payment of remittances made by Franchisee as employer and any and all existing or future federal or state sales tax or excise tax of Franchisee arising from the operation of the Franchisee at the location of the Franchised Business. As well, it may include all relevant information relating to the line of credit established by Franchisee with respect to the operation of the EQ3 store and shall, upon the request of Franchisor may include details, and status reports, concerning the capitalization and assets of Franchisor its lending institution.

Franchisee hereby agrees and directs that its attorney shall be fully and completely indemnified against all claims, actions and costs which may be incurred by or imposed on its attorney in connection with the exercise of this Power of Attorney undertaken by its attorney in good faith.

Franchisee declares that this Power of Attorney hereby granted in favor of Franchisor is irrevocable, is a power coupled with an interest, shall survive the insolvency or other legal incapacity of Franchisee and is enduring and will extend to and bind Franchisee’s successors and assigns.

This direction is irrevocable and shall continue in full force in effect until five (5) years following the termination of the Franchise Agreement entered into between the parties.

DATED effective as of the day of _____, 200__.

EQ3 FRANCHISE HOLDINGS, INC.

Per: _____
Authorized Representative

Per: _____
Authorized Representative

[Corporate Name of Franchisee]

Per: _____
Authorized Representative

Per: _____
Authorized Representative

If Principal is an Individual:

Witness

(Principal)

Witness

(Principal)

If Principal is a Corporation:

[Corporate Name of Principal]

Per: _____
Authorized Representative

Per: _____
Authorized Representative

If Guarantor is an Individual:

Witness

(Guarantor)

Witness

(Guarantor)

If Guarantor is a Corporation:

[Corporate Name of Guarantor]

Per: _____
Authorized Representative

Per: _____
Authorized Representative

Schedule K

**CONDITIONAL ASSIGNMENT OF TELEPHONE NUMBER,
TELEPHONE LISTINGS AND INTERNET PRESENCE**

For value received, the undersigned Franchisee assigns to its franchisor, EQ3 Franchise Holdings, Inc. ("EQ3FH"), all of its right, title and interest in and to the telephone and fax numbers, any and all telephone listings (including "White" and "Yellow" Pages), and any e-mail address, domain name or Internet presence occupied by the Franchisee and used for the purpose of conducting business as an EQ3 Store. This assignment shall become effective only upon expiration or termination of the Franchise Agreement between the Franchisee and EQ3FH. Franchisee shall be fully responsible for, and shall faithfully discharge, any and all debts and liabilities owing to any such provider or vendor of telephone, fax, e-mail, domain name or Internet service up to and including the date of such assignment.

Franchisee hereby irrevocably agrees to fully and promptly cooperate with EQ3FH to prepare and sign any and all documents which EQ3FH might deem reasonably necessary to effectuate the terms of this assignment. The undersigned, both personally and on behalf of the Franchisee, if it is a business entity, hereby irrevocably authorizes and appoints EQ3FH, or EQ3FH's assignees, and any of their authorized agents or employees, to act as special agent or attorney-in-fact for the undersigned (and the Franchisee, if it is a business entity), and each of them, to execute and sign on behalf of the Franchisee such documents as EQ3FH or its assignees, agents, or employees deem necessary or appropriate to effectuate the terms of this assignment. Franchisee understands that time is of the essence regarding all actions to be taken under this assignment.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the _____ day of _____, _____.

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____

By: _____

Its: _____

Its: _____

Schedule L

**RENEWAL RIDER
(For Franchisees Renewing Their Agreements)**

If Franchisee is renewing its franchise, the parties agree that Section 4.2 shall be amended to provide that Franchisee shall only have _____ additional renewal terms of five (5) years each, and that the renewal fee shall be \$ _____.

EQ3FH:

Franchisee:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____
Its: _____

By: _____
Its: _____

Schedule M

Franchisor/Landlord Agreement

THIS AGREEMENT dated for reference the _____ day of _____, 200____,

BETWEEN:

(the "Landlord")

-and-

(the "Tenant" and/or "Franchisee")

-and-

EQ3 FRANCHISE HOLDINGS, INC.

(the "Franchisor")

WHEREAS:

A. Franchisee and EQ3 Franchise Holdings, Inc. have or intend to enter into a franchise agreement respecting the operation of an EQ3 retail furniture store, pursuant to the terms and conditions set out therein (the "Franchise Agreement");

B. Franchisee has entered into a lease agreement with Landlord dated the ____ day of _____, 200__ (the "Lease") respecting certain premises in the _____ (the "Premises") on certain terms and conditions for the operation of the EQ3 Store;

C. Franchisee has requested Landlord to agree to recognize Franchisor as the Tenant under the Lease under certain circumstances and to grant Franchisor the right to correct defaults under the Lease under certain circumstances;

NOW THEREFORE WITNESSETH THAT in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. Recognition

Landlord and Franchisee agree that if Franchisee shall at any time be in default of the Lease or Franchisee Agreement, Franchisor shall have the option, in its sole discretion, at any time during the term of the Lease or any renewals thereof, upon five (5) days prior written notice to Landlord

and Franchisee, to notify Landlord that it desires to take assignment of the Tenant's interest under the Lease and agrees to become the Tenant pursuant to the Lease and assume all of the duties and obligations of Tenant under the Lease to the same extent as if Franchisor were initially a party thereto. Landlord shall not be required or entitled to receive proof from Franchisor of a default of the Franchise Agreement, and Franchisor's written notice of such default of the Franchise Agreement shall be sufficient for Landlord to consent to the aforesaid assignment. Franchisor shall be required to cure all defaults, monetary and otherwise, under the Lease for Franchisee prior to obtaining an assignment of the Lease. Landlord, Franchisor, and Franchisee shall execute a written Assignment of Lease in form and substance acceptable to Landlord acknowledging said assignment. Franchisee and Franchisor agree that notwithstanding any such Assignment, the said assignment shall not have the effect of releasing Franchisee and Franchisee shall remain fully liable to Landlord pursuant to the terms and conditions of the Lease.

By giving its consent pursuant to this Agreement, Landlord does not hereby acknowledge or approve of any of the terms of this Agreement or the Franchise Agreement as between Franchisor and Franchisee except for the assignment of the Lease itself and except for any amendments to the Lease agreed to by all of the parties hereunder.

2. Lease Defaults

Landlord and Franchisee agree that if at any time Franchisee is in default pursuant to the Lease, Landlord shall give to Franchisor a copy of notice of default that Landlord has given to Tenant (the "Default Notice") and Franchisor shall have the following options:

- (a) to correct the default within five (5) days following receipt of the Default Notice (or a reasonable period of time, if correcting the default would require longer than five (5) days, using reasonable diligence); or
- (b) to request an assignment of the Lease pursuant to section 1 herein; or
- (c) to notify Landlord in writing that it declines to correct the default.

Nothing contained in this agreement shall be construed to limit or impair the rights and remedies of Landlord under the Lease if a default under the Lease is not cured in the manner and within the time periods specified in the lease.

3. Consent Required for Lease Amendments/Assignment/Subletting

Franchisee and Landlord agrees not to enter into any amendments to the Lease (including any agreements having the effect of terminating or surrendering of the Lease) or any assignment or subletting of the Lease or the Premises without the prior written approval of Franchisor, such approval not to be unreasonably withheld.

4. Limitation of Liability

Landlord and Franchisee acknowledge and agree that Franchisor is executing this agreement solely for the purposes specified herein, and Landlord and Franchisee agree that the execution of this Agreement by Franchisor or the actions of Franchisor permitted herein, shall in no way be

construed so as to obligate Franchisor to perform any of the terms, conditions, obligations and covenants contained in the Lease or to pay any sums to Landlord, unless Franchisor agrees to receive an assignment of the Lease pursuant to the terms of this Agreement.

5. Notices

Any notice herein provided or permitted to be given by a party hereto to the other parties shall be in writing and shall be sufficiently given if sent by certified mail, postage prepaid, or by overnight courier service, addressed to the parties as follows:

Landlord: _____

Attention: _____

Tenant/Franchisee: _____

Attention: _____

Franchisor: EQ3 Franchise Holdings, Inc.
220 South Elm Street
High Point, North Carolina 27260

Attention: _____
Ph. No. - (336) 882-7244
Fax No. - (336) _____

With copy to: EQ3 Franchise Holdings, Inc.
55 Furniture Park
Winnipeg, Manitoba R2G 1B9
Canada
Attention: Secretary/Treasurer
Ph. No. - (204) 988-5614
Fax No. - (204) 663-1776

Any such notice given as aforesaid shall be conclusively deemed to have been given on the day on which such notice is delivered or on the third day that there is postal delivery following the day on which such notice is mailed, as the case may be. Any party may at any time give notice in writing to the other parties of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party for the giving of notices hereunder. The word "notice" in this section shall be deemed to include any request, statement or other writing in this Agreement provided or permitted to be given by the one party to the other parties.

6. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the _____ . The parties hereto attorn to the exclusive jurisdiction of the courts of _____ in respect of the interpretation of, and any relief sought under, this Agreement.

7. Severability

The invalidity or unenforceability of any provision or covenant of this Agreement shall not affect the validity or enforceability of any other provision or covenant, and any invalid provision or covenant shall be deemed to be severable.

8. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon Landlord and Franchisee and Franchisor and each of their respective successors and permitted assigns.

9. Further Assurance

The parties agree to do or cause to be done all acts or things necessary to implement and carry this Agreement into effect to its full extent.

10. Counterparts

This Agreement may be executed in any number of counterparts, and all such counterparts, taken together shall be deemed to constitute one and the same instrument. Any party delivering an executed counterpart by facsimile shall also deliver a manually executed counterpart of the Agreement.

IN WITNESS WHEREOF the parties have duly executed and delivered this Agreement.

EQ3 FRANCHISE HOLDINGS, INC.

Per: _____
Authorized Representative

LANDLORD

Per: _____
Authorized Representative

FRANCHISEE

Per: _____
Authorized Representative

Per: _____
Authorized Representative

Schedule N

EQ3 FRANCHISE HOLDINGS, INC. ALL HANDS CONFIDENTIALITY AGREEMENT

THIS ALL HANDS CONFIDENTIALITY AGREEMENT, dated _____, _____, is made by and between EQ3 FRANCHISE HOLDINGS, INC., a Delaware corporation ("Franchisor"), located at 220 South Elm Street, High Point, North Carolina 27260, and _____ ("Recipient"), located at _____, _____.

Recitals

On _____, _____, Franchisor and _____ ("Franchisee") entered into a Franchise Agreement to operate a EQ3 retail furniture store (the "Franchised Business") at _____. Recipient is either an owner of Franchisee, one of Franchisee's officers, directors, shareholders, partners or members, or Franchisee's manager or employee, or another person who has been granted access to the Franchisor's Confidential Information.

Pursuant to the Franchise Agreement, Franchisor has agreed to provide its Confidential Information (as hereinafter defined) to Franchisee to use in the operation of the Franchised Business, and to allow its disclosure to Franchisee's owners, officers, directors, shareholders, partners, members, manager, employees and other persons with a need to access that information only to the extent necessary for the operation of the Franchised Business and on the condition that all of those persons receiving the Confidential Information sign this All Hands Confidentiality Agreement.

Recipient acknowledges that that certain Confidential Information is being disclosed to Recipient only pursuant to the terms and conditions of this Agreement.

Terms and Conditions

NOW, THEREFORE, in consideration of the covenants and the promises herein contained, the parties agree as follows:

1. Recipient acknowledges and agrees that all Confidential Information it receives from Franchisor or Franchisor's franchisees is confidential and proprietary information in which Franchisor has a proprietary interest. For purposes of this Agreement, "Confidential Information" means all information regarding Franchisor and/or its franchisees that relates to the operation of the Franchised Business including, without limitation, the standards, methods, procedures and specifications of the EQ3 Store Program, including the contents of the EQ3 Operations Manual, as those terms are defined in the Franchise Agreement, and Franchisor's trade secrets. Franchisor is disclosing the Confidential Information solely on the condition that Recipient agree, and Recipient hereby agrees, that any Confidential Information Recipient receives (a) shall only be used by Recipient for purposes of performing his/her duties and obligations under the Franchise Agreement, (b) will not be used by Recipient in any other

business, manner or capacity, except the Franchised Business, (c) will have its absolute confidentiality maintained by Recipient both during and after the Term of the Franchise Agreement and any renewal term, (d) will not be copied by Recipient without authorization, and (e) will not be disclosed by Recipient to any third party without the prior written consent of Franchisor. Recipient agrees to use reasonable care to prevent the disclosure of the Confidential Information to any third party, and further agrees to limit the dissemination of the Confidential Information within its own organization to individuals whose duties justify the need to know such information, and then only provided that there is a clear understanding by such individuals of their obligation to maintain the confidential status of the Confidential Information and to restrict its use solely to the purposes specified herein.

2. Except as otherwise permitted by paragraph 1 above, Recipient acknowledges that no other right or license to use the Confidential Information is granted by this Agreement, and agrees that the amount of the Confidential Information to be disclosed to Recipient is completely within the discretion of Franchisor. Upon completion of its review of the Confidential Information (or sooner upon request), Recipient agrees to return all written or electronic materials (including all copies thereof, if any) received from Franchisor or Franchisor's franchisees.

3. Recipient shall be under no obligation under this Agreement with respect to any information (a) which is, at the time of the disclosure, available to the general public; (b) which becomes at a later date available to the general public through no fault of Recipient and then only after said date; or (c) which Recipient can demonstrate was in its possession before receipt.

4. Recipient acknowledges and agrees that Franchisor will suffer irreparable injury not capable of precise measurement in monetary damages if Recipient discloses or misuses any Confidential Information. Accordingly, in the event of a breach of this Agreement by Recipient, Recipient consents to entry of interim relief, including, without limitation, the entry of a temporary restraining order, preliminary injunction, permanent injunction, writ of attachment, appointment of a receiver, and any other equitable relief which the court deems necessary in order to prevent irreparable injury, all without the requirement that bond be posted. Recipient agrees that the award of equitable remedies to Franchisor in the event of such breach is reasonable and necessary for the protection of the business and goodwill of Franchisor.

5. Recipient hereby agrees to indemnify, hold harmless and, upon request, defend Franchisor, its affiliates, and their respective members, owners, shareholders, directors, officers, employees and agents (the "Indemnified Parties"), from and against all suits, proceedings, assessments, losses, claims, demands or actions of any nature or kind whatsoever ("Claims"), directly or indirectly arising out of, or in any manner whatsoever associated or connected with the failure of Recipient to observe and perform its duties and obligations under this Agreement, and against any and all damages, costs, expenses and fees (including, without limitation, reasonable legal expenses and fees), losses, fines or penalties incurred by or on behalf of any of the Indemnified Parties in the investigation or defense of any and all Claims.

6. This Agreement (a) shall be governed, construed and interpreted in accordance with the substantive laws of the State of North Carolina, without giving effect to its conflicts of law principles, (b) shall not be amended except pursuant to a written agreement executed by each

of the parties hereto, (c) shall be binding upon the parties hereto and their respective heirs, administrators, successors and assigns and (d) constitutes the entire agreement and understanding between Franchisor and Recipient with respect to the disclosure of Confidential Information.

7. Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them in the Franchise Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day, month and year first above written.

Recipient:

Print Name: _____

Franchisor:

EQ3 FRANCHISE HOLDINGS, INC.

By: _____

Title: _____