

EXHIBIT E
DEVELOPMENT AGREEMENT



**PACIUGO FRANCHISING LP
DEVELOPMENT AGREEMENT**

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EXHIBITS

- Exhibit A Designated Area
- Exhibit B Development Schedule
- Exhibit C State Addenda

PACIUGO FRANCHISING LP DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement"), dated and effective as of the Effective Date specified on the signature page of this Agreement (the "Effective Date") is between PACIUGO FRANCHISING LP, a Texas limited partnership ("we" or "us"), as franchisor, and the person or entity identified on the signature page of this Agreement ("you"), as developer. In consideration of the following mutual promises, the parties agree as follows:

SECTION 1: GRANT

1.1 Grant of Development Options. By virtue of a license from Paciugo Properties LLP, we have the right to use and to license to our franchisees a proprietary and distinctive system relating to the establishment and operation of outlets engaged in the retail sale of gelato, and other food items, beverage items, and other products, and in gelato catering services (the "System"). We also have the right to use and to license to our franchisees certain service marks, trademarks, trade names, trade dress, logos, slogans and commercial symbols used to identify the outlets or particular products and services offered (collectively, the "Marks"). Subject to all of the terms and conditions of this Agreement, we grant to you and you accept the options to obtain a franchise (the "Franchise") to establish and operate the number of Paciugo gelato shops ("Unit" or "Franchised Business") described on *Exhibit B* within the territory described on *Exhibit A* (the "Designated Territory").

1.2 Development Schedule. You will develop, open and operate the Units in strict accordance with the requirements of the development schedule set forth in *Exhibit B* (the "Development Schedule").

1.3 Term. This Agreement and all rights granted to you under this Agreement will expire on the date that your last Unit is scheduled to be opened under the Development Schedule, unless terminated sooner by either party in accordance with the provisions of this Agreement.

1.4 Franchise Agreement. You will establish and operate each Unit under a separate franchise agreement (the "Franchise Agreement") that you will sign, using our then-current form of franchise agreement. You acknowledge and agree that our then-current form of franchise agreement may be substantially different from our current form franchise agreement. This Agreement is not a Franchise Agreement, and it does not grant you any right to use Marks. You have no rights under this Agreement to sub-franchise others to operate a Unit or use the System or the Marks.

1.5 Territorial Protection. If you are in compliance with the Development Schedule, we and our affiliates will not own or operate or grant anyone else the rights to own and operate a Unit in the Designated Territory before the expiration of the Development Schedule, except as otherwise provided in this Agreement. Other than as set forth

above, the territorial rights in the Designated Area under this Agreement are non-exclusive. We (on behalf of our affiliates and us) reserve all rights to use the Marks and System, in the following manner, on any terms and conditions we deem advisable, and without granting you any rights, accommodation or compensation: (1) to own, acquire, establish and/or operate, and license others to establish and operate, businesses using the Marks and System outside the Designated Area (even if there may be some impact to your business or development opportunities within the Designated Area); (2) to own, acquire, establish and/or operate, and license others to establish and operate, businesses under other proprietary marks or other systems, at any location within or outside the Designated Area (even if these businesses are in competition with you); (3) to sell or distribute, at retail or wholesale or otherwise, directly or indirectly, or license others to sell or distribute, any products which bear any proprietary marks, including the Marks, outside the Designated Area; (4) to wholesale products, to own, acquire, establish and/or operate, and license others to establish and operate, businesses using any proprietary marks or systems (including the Marks and System) at any airport, train station, other transportation facility, arena, ballpark, stadium, racetrack, other sports facility, theater, auditorium, concert hall, theme park, amusement park, cruise ship, casino, or other entertainment facility, or within any grocery store, within or outside the Designated Area; and (5) to acquire, or be acquired by, any competing system, including a competing system that has one or more units within your Designated Area.

SECTION 2: DEVELOPMENT FEE

2.1 Development Fee. As consideration for the rights and options granted under this Agreement, you will pay us a fee of \$5,000 (the "Development Fee") for each Unit for which you are granted an option. The Development Fee is consideration for this Agreement and not consideration for any Franchise Agreement. The Development Fee is fully earned by us upon execution of this Agreement, and is non-refundable.

2.2 Franchise Fees. Notwithstanding the provisions of Section 1.4 of this Agreement, the initial franchise fee for each Unit for which you are granted options under this Agreement will be \$30,000. We will credit \$5,000 of the Development Fee against the initial franchise fee you must pay to us upon the execution of each individual Franchise Agreement.

SECTION 3: EXERCISING DEVELOPMENT OPTIONS

3.1 Compliance With Development Schedule. You will be bound by and strictly follow the Development Schedule. Time is of the essence. By the relevant dates described in the Development Schedule ("Option Periods"), you will exercise options and enter into Franchise Agreements with us pursuant to this Agreement for the Units described under the Development Schedule.

3.2 Notice of Intent / Site Selection. You will exercise each option granted under this Agreement for development of a Unit by giving us written notice of your intention to exercise each option at least 30 days before the date set forth in the Development Schedule by which you must sign a Franchise Agreement for the particular Unit. At the same time, you will submit to us the information relating to one or more proposed sites for the relevant Unit as required by our site selection criteria that we will provide to you. All proposed sites must be located within the Designated Territory.

3.3 Approval. After receipt of your notice of intention to exercise each option, we have the right to review and determine whether you meet our then-current standards for franchisees. You agree to cooperate with us and furnish us with any information we may request to make this determination. We will sign a Franchise Agreement with you only if (a) we approve you as meeting our then-current standards for franchisees, (b) you are in compliance with all requirements and obligations of this Agreement, and (c) you are in compliance with all of your respective obligations under individual Franchise Agreements and all other agreements between you and us (or any of our affiliates).

3.4 Execution of Franchise Agreement. Upon our approval under Section 3.3 of this Agreement, you will sign a separate Franchise Agreement for the relevant Unit, and you will pay us the balance of the initial franchise fee due before the applicable deadline in the Development Schedule. Following execution of each Franchise Agreement, the terms and conditions of the relevant Franchise Agreement will control the establishment and operation of the relevant Unit.

3.5 Continuous Operations. You will at all times after the expiration of each of the Option Periods continuously maintain in operation pursuant to each Franchise Agreement at least the number of applicable Units described in the Development Schedule, provided however that this obligation does not apply to facilities that are transferred in accordance with the provisions of the Franchise Agreement, or are closed due to force majeure.

SECTION 4: MARKS / TRADE SECRETS / CONFIDENTIAL INFORMATION

4.1 No Rights To Use Under This Agreement. You acknowledge and agree that this Agreement does not grant you any right to use the Marks, or our trade secrets, or other Confidential Information (as defined below). Your rights to use the Marks, trade secrets and other Confidential Information are granted only under the individual Franchise Agreements.

4.2 Trade Secrets. You and your owners, officers, directors, partners, members and managers acknowledge and agree that your and their entire knowledge of the operation of a gelato business, including the knowledge or know-how regarding the recipes, specifications, standards, manufacturing procedures and operating procedures of the services and activities, is derived from information disclosed (or to be disclosed) to you by us. You and your owners, officers, directors, partners, members and managers also

acknowledge and agree that certain of this information is proprietary, confidential and constitute our trade secrets. The term "trade secrets" refers to the whole or any portion of know-how, knowledge, methods, specifications, processes, procedures and/or improvements regarding the business that is valuable and secret in the sense that it is not generally known to our competitors.

4.3 Confidentiality. You and your owners, officers, directors, partners, members and managers jointly and severally, agree that at all times during and after the term of this Agreement, you will maintain the absolute confidentiality of all Confidential Information (as defined below) and will not at any time, without our prior written consent, copy, duplicate, record or otherwise reproduce any of these materials or information, in whole or in part, nor otherwise make the same available to any unauthorized person., or use any of this information in any other business or in any manner not specifically authorized or approved in advance in writing by us. You and your owners, officers, directors, partners, members and managers will divulge Confidential Information only to those employees as must have access to it in order to perform obligations under this Agreement and the individual Franchise Agreements. All information, knowledge and know-how of ours, including, without limitation, the Manuals, specifications and standards concerning the operation of Units, other trade secrets, and other materials and information which we designate as confidential (collectively, "Confidential Information"), will be deemed confidential for purposes of this Agreement, except information which you can demonstrate lawfully came to your attention prior to disclosure by us, or which, at or after the time of disclosure by us to you, had lawfully become a part of the public domain, through publication or communication by others.

4.4 Equitable Relief. Due to the special and unique nature of our Confidential Information, you and your owners, officers, directors, partners, members and managers jointly and severally, acknowledge and agree that we will be entitled to immediate equitable remedies, including restraining orders and injunctive relief in order to safeguard our Confidential Information. You and your owners, officers, directors, partners, members and managers further acknowledge and agree that money damages alone would be an insufficient remedy with which to compensate us for any breach of the terms of Section 4. Furthermore, you agree that all of your employees having access to our Confidential Information and any of your owners, officers, directors, partners, members, managers and other employees we designate will be required to sign confidentiality agreements acceptable to us.

SECTION 5: OTHER OBLIGATIONS

5.1 Compliance With Agreements. You will comply with all terms and conditions set forth in this Agreement, and with the terms and conditions of your respective Franchise Agreements and all other agreements between you and us (or any of our affiliates).

5.2 Compliance With Laws. You will comply with all applicable requirements of federal, state and local laws, rules and regulations.

5.3 Publicity. You will secure our prior written approval of any press releases, news releases and any other publicity relating to this Agreement or the rights and options granted under this Agreement.

SECTION 6: DEFAULT AND TERMINATION

6.1 Automatic Termination. You will be deemed in default under this Agreement, and all rights granted herein will automatically terminate without notice if: (a) you become insolvent, commit any affirmative action of insolvency or file any action or petition of insolvency; (b) a receiver (permanent or temporary) of your property is appointed by a court of competent authority; (c) you make a general assignment for the benefit of your creditors; (d) a final judgment against you remains unsatisfied of record for 30 days or longer (unless supersedeas bond is filed); or (e) execution is levied against your business or property.

6.2 Other Events of Default. You acknowledge and agree that the options and territorial protection granted to you in this Agreement have been granted in reliance on your representations and warranties, and on the conditions set forth in this Agreement, including the condition that you strictly comply with the Development Schedule. You will be deemed in default under this Agreement if you: (a) fail to exercise any option or enter into a Franchise Agreement with us pursuant to this Agreement for any Unit within any Option Period set forth on the Development Schedule, (b) fail to comply with any other material terms or conditions of this Agreement, (c) make or attempt to make a transfer or assignment in violation of this Agreement, or (d) fail to comply with the material terms and conditions of any individual Franchise Agreement or of any other agreement between you and us (or any of our affiliates).

6.3 Our Remedies. Upon any event of default under Section 6.2 of this Agreement, we, in our discretion, may do any one or more of the following: (a) terminate this Agreement and all rights granted hereunder without affording you any opportunity to cure the default, effective immediately upon receipt by you of written notice from us; (b) reduce the number of Units (without any reduction of the Development Fee) which are subject to options granted to you pursuant to this Agreement; (c) terminate or reduce in any manner, in our discretion, the territorial protection granted to you in Section 1; and (d) exercise any other rights and remedies which we may have.

6.4 Effect of Termination. Upon termination of the Agreement, all remaining options granted you to establish Units under this Agreement will automatically be revoked and will be null and void. You will not be entitled to any refund. You will have no right to establish or operate any business for which a Franchise Agreement has not been signed by us. We will be entitled to establish, or to franchise others to establish, Units in the Designated Territory except as may be otherwise provided under any

Franchise Agreement which has been signed between us and you and which has not been terminated. No default under this Agreement will constitute a default under any individual Franchise Agreement, except to the extent that any act or omission constituting a default independently constitutes a default under any Franchise Agreement. Notwithstanding the above, you must comply with the terms and conditions of each Franchise Agreement. None of our contractual rights or remedies under this Agreement is exclusive of any other right or remedy provided or permitted by law or equity.

6.5 Rights And Duties Upon Termination Or Expiration. Upon termination or expiration, this Agreement and all rights granted to you under this Agreement will automatically terminate, and: (a) you will immediately cease to operate your business under this Agreement, and will not thereafter, directly or indirectly, represent to the public or hold yourself out as a present or former developer of ours; (b) except as permitted under the terms of any individual Franchise Agreement in effect, you will immediately and permanently cease to use, by advertising or in any other manner whatsoever, any Confidential Information, and any methods, procedures and techniques associated with the System, the Marks or any trade name, trademark or service mark confusingly similar thereto, and any distinctive form, slogans, signs, symbols, logos or devices associated with the Marks or System; (c) you will promptly pay all sums owing to us and our affiliates, and, in the event of termination for any default by you, these sums will include all damages, costs, and expenses, including reasonable attorneys' fees, incurred by us as a result of the default; and (d) you will pay to us all damages, costs and expenses, including reasonable attorneys' fees, incurred by us subsequent to the termination or expiration of the rights herein granted in obtaining injunctive or other relief for the enforcement of any provisions of this Agreement.

6.6 Survival of Certain Obligations. All of our obligations and your obligations which expressly or by their nature survive the expiration or termination of this Agreement will continue in full force and effect after expiration or termination until they are satisfied or by their nature expire.

6.7 Our Purchase Option. If this Agreement is terminated for any reason and you have not opened all of the Units provided for in the Development Schedule, we will have the option to purchase from you all of the assets used or obtained in connection with any of the Units which have been developed prior to the termination. Assets will include, without limitation, leasehold improvements, equipment, furniture, fixtures, signs and inventory for the Units. We will have the unrestricted right to assign this option to purchase. We or our assignee will be entitled to all customary warranties and representations given by the seller of a business including, without limitation, representations and warranties as to (a) ownership, condition and title to assets; (b) liens and encumbrances relating to the assets; and (c) validity of contracts and liabilities, inuring to us or affecting the assets, contingent or otherwise. The purchase price for the assets of the Units will be the fair market value, determined as of the date of termination of this Agreement in a manner consistent with reasonable depreciation of leasehold improvements owned by you and the equipment, furniture, fixtures, signs and

inventory provided that the purchase price will not contain any factor or increment for any trademark, service mark or other commercial symbol used in connection with the operation of the Units, or any goodwill or "going concern" value for the Units and further provided that we may exclude from the assets purchased any equipment, furniture, fixtures, signs and inventory that do not, as determined by us in our sole discretion, meet the quality standards for Units. If you and we are unable to agree on the fair market value of the assets, the fair market value will be determined by an independent appraiser selected by us and you. If you and we are unable to agree on a single appraiser, each party will each select one appraiser, who will select a third appraiser, and the fees and costs of the appraiser or appraisers will be borne equally by you and us. Except as provided above, nothing contained herein will restrict the manner in which the appraisers so selected value the leasehold improvements, equipment, furniture, fixtures, signs and inventory. The purchase price will be paid in cash at the closing of the purchase, which will take place no later than ninety 90 days after receipt by you of notice of exercise of this option to purchase, at which time you will deliver instruments transferring to us or our assignee: (1) good and merchantable title to the assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to us or our assignee), with all sales and other transfer taxes paid by you; and (2) all licenses and permits of the Units that may be assigned or transferred. If you cannot deliver clear title to all of the purchased assets as aforesaid, or in the event there will be other unresolved issues, the closing of the sale will be accomplished through an escrow. Further, you and we will, prior to closing, comply with all applicable legal requirements, including the bulk sales provisions of the Uniform Commercial Code of the state in which the Units are located. We will have the right to set off against and reduce the purchase price by any amounts owed by you to us, and the amount of any encumbrances or liens against the assets or any obligations assumed by us. You and each holder of an interest in you will indemnify us against all liabilities not so assumed. You will maintain in force all insurance policies required pursuant to this Agreement, until the closing on the sale.

SECTION 7: YOUR ORGANIZATION AND OPERATIONS

7.1 Organizational Documents. If you are a corporation, partnership, limited liability company or other entity, and if we request, you will furnish us with your Articles of Incorporation, Articles of Organization, Operating Agreement, Bylaws and other governing documents (and any amendments or modifications thereof), minutes and resolutions and all agreements or other documents, records and information pertaining to your existence and operation.

7.2 Business Activities. If you are a corporation, partnership, limited liability company or other entity, you will confine your business activities exclusively to the establishment, management and operation of Units pursuant to agreements with us.

7.3 Beneficial Owners. If you are a corporation, partnership, limited liability company or other entity, you will, at the same time you sign this Agreement, and at any

other times we may request, disclose the name and address of each person or entity holding a beneficial interest in you, and you will not issue any additional securities, nor allow the "Transfer" (as defined below) of any of your outstanding securities, except as provided in Section 8 of this Agreement. You will cause all persons or entities owning any interest in you to sign an Owner Agreement in the form we provide.

SECTION 8: TRANSFERABILITY

8.1 Our Right to Transfer. We have the right to transfer all or any part of our rights or obligations under this Agreement to any person or legal entity.

8.2 Your Right to Transfer. We entered into this Agreement with specific reliance upon your personal experience, skills and managerial and financial qualifications (and, if you are an entity, upon those of your owners). Consequently, this Agreement, and your rights and obligations under it, are and will remain personal to you. Any proposed Transfer by you or by any of your owners (regardless of the form of Transfer) will be subject to the same terms and conditions contained in the first individual Franchise Agreement. As used herein, the term "Transfer" will mean any sale, assignment, gift, pledge, mortgage or any other encumbrance, transfer by bankruptcy, transfer by judicial order, merger, consolidation, share exchange, transfer by operation of law or otherwise, whether direct or indirect, voluntary or involuntary, of this Agreement or any interest in it, or any rights or obligations arising under it, or of any material portion of your assets, or of any interest in you.

SECTION 9: COVENANTS

9.1 Definition. Unless otherwise specified, the term "you" as used in this Section 9 will include, collectively and individually, all subsidiary entities of yours, all officers, directors, members, limited liability managers and holders of a beneficial interest of the securities or other ownership interests in you, and of any corporation or other entity directly or indirectly controlling you, if you are a corporation, and the general partner and limited partners if you are a partnership, and any member if you are a limited liability company.

9.2 In-Term Non-Competition. You promise that, during the term of this Agreement except as otherwise approved in writing by us, you will not, either directly or indirectly, for yourself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation or company: (a) divert or attempt to divert any business or customers of the Units to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks or the System; (b) employ or seek to employ any person who is at that time employed by us or by any affiliate or franchisee of ours, or otherwise directly or indirectly induce or seek to induce the person to leave his or her employment; or (c) own, maintain, engage in, have any interest in, be employed in any

managerial capacity in or provide consulting services to any business which sells or offers gellato or any other food products the same as or similar to the type sold in the System.

9.3 Post-Term Non-Competition. You specifically acknowledge that you will receive valuable training and Confidential Information, including proprietary trade secrets such as information regarding the promotional, operational, sales, and marketing methods and techniques of ours and the System. Accordingly, you promise that, except with our prior written approval, you will not, for a period of 2 years after termination of this Agreement, regardless of the cause of termination, or within 2 years of any Transfer: (a) engage in, assist, acquire, advise, consult with, be employed by, own or become associated in any way with any business whose methods of operation, trade dress, or business concept is the same as or similar to that of the System or the Marks, or which sells primarily gelato; (b) engage in, assist, acquire, advise, consult with, be employed by, own or become associated in any way with any business which sells ice cream and which is located within a radius of 25 miles from your former Unit location, or the location of any Units of any of our affiliates or other franchisees; (c) solicit or otherwise induce our employees or the employees of any of our affiliates or other franchisee to leave their employment; and (d) divert or attempt to divert any customer of ours or any of our affiliates or franchisees to any competitor.

9.4 Construction of Covenants. Each of the foregoing covenants will be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section 9 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which we are a party, you will be bound by any lesser covenant subsumed within the terms of the relevant covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section 9. You understand and acknowledge that we have the right, in our sole discretion, to reduce the scope of any covenant set forth in Section 9 in this Agreement, or any portion thereof, without your consent, effective immediately upon receipt by you of written notice thereof, and you agree that you will comply forthwith with any covenant as so modified.

9.5 Additional Agreements. We have the right to require all of your owners, officers, directors, partners, members and managers, and any personnel performing managerial or supervisory functions, and all personnel receiving special training from us to sign similar covenants in a form satisfactory to us.

SECTION 10: INDEPENDENT CONTRACTOR AND INDEMNIFICATION

10.1 Independent Contractors. It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them, that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee or servant of the other for any purpose whatsoever. Each party to this Agreement is an independent contractor, and neither will

be responsible for the debts or liabilities incurred by the other. You will hold yourself out to the public as an independent contractor operating pursuant to this Agreement. You agree to take any actions as we may require in this regard. You acknowledge and agree that nothing in this Agreement authorizes you to make any contract, agreement, warranty or representation on our behalf, or to incur any debt or other obligation in our name.

10.2 Indemnification. You acknowledge and agree that we assume no liability for, and will not be deemed liable by reason of, any act or omission of yours in your conduct of the business under this Agreement, or any claim or judgment arising therefrom. You agree to indemnify, defend, and hold us and our affiliates harmless from and against any claims, losses, damages and liabilities, however caused, arising directly or indirectly from, as a result of, or in connection with, the development, use and operation of your Units, as well as the costs, including attorneys' fees, of defending against them (hereinafter "Franchise Claims"). Franchise Claims include, but are not limited to, those arising from any death, personal injury or property damage (whether caused wholly or in part through our active or passive negligence), latent or other defects in any Unit, or your employment practices. In the event a Franchise Claim is made against us, we reserve the right in our sole discretion to select our own legal counsel to represent our interests, at your cost.

SECTION 11: MISCELLANEOUS

11.1 Franchise Agreements. For each Unit established pursuant to this Agreement, a separate Franchise Agreement will be signed. You understand and agree that Franchise Agreements will be construed and exist independently of this Agreement. The continued existence of each Franchise Agreement will be determined by the provisions of the relevant Franchise Agreement. Except as specified in this Agreement, the establishment and operation of each business will be in accordance with the provisions of the applicable Franchise Agreement.

11.2 Choice of Law / Forum. This Agreement takes effect upon its acceptance and execution by us in Texas, and will be interpreted and construed under the laws of the state of Texas, without regard to conflicts of law rules; however, this provision is not intended to subject this Agreement to any franchise or similar law, rule or regulation of the State of Texas to which it would not otherwise be subject. Any dispute under this Agreement which cannot be resolved amicably through informal negotiation will be submitted to binding arbitration in the city in which we then have our principal place of business, or other mutually agreeable location, before a single arbitrator who is familiar with legal disputes of the type at issue. The arbitrator will have authority to assess actual damages sustained by reason of any breach or wrongful termination of this Agreement, but will have no authority to assess punitive damages or to amend or modify the terms of this Agreement. Notwithstanding the foregoing, if necessary to protect our interests in our System, Marks or goodwill, an action may be brought in any state or federal court within the jurisdiction in which we then have our principal place of

business, or in any other state court or federal district court with proper jurisdiction. The parties consent to the exercise of personal jurisdiction over them by these courts, and to the propriety of venue in these courts for the purpose of this Section, and the parties waive any objections that they would otherwise have in this regard.

11.3 Partial Invalidity. If all or any part of a provision of this Agreement violates applicable law, that provision or part will not be given effect. If all or any part of a provision of this Agreement is declared invalid or unenforceable, for any reason, or is not given effect by reason of the prior sentence, the remainder of the Agreement will not be affected, and the parties will modify the invalid or unenforceable provision to the extent required to be valid and enforceable. However, if in our judgment this result substantially impairs the value of this Agreement to us, then we may at any time terminate this Agreement by written notice to you, without penalty or compensation owed by either party.

11.4 Waivers, Modifications and Approvals. Whenever this Agreement requires our prior approval or consent, you will make a timely written request to us for our consent, and we may withhold, condition or withdraw our consent in our sole discretion. If we allow you to deviate from this Agreement, we may insist on strict compliance at any time after written notice. Our silence or inaction will not be or establish a waiver; consent, course of dealing, implied modification or estoppel. To be effective, any modifications, waivers, approvals and consents of or under this Agreement by us must be designated as such, in writing, and signed by our authorized representative.

11.5 Notices. All notices, reports and other information and documents permitted or required to be delivered under this Agreement will be in writing and delivered to: us at 9761 Clifford Drive, Suite 170, Dallas, Texas 75220, or to you at the address listed on the signature page of this Agreement. Either party may modify its address from time to time by written notice to the other party. Notices will be effective if in writing and delivered to the appropriate party by first class, prepaid certified or registered mail, return receipt requested. Notices will be effective on the date delivered or date of first attempted delivery, if delivery is refused.

11.6 Remedies. Remedies specified in this Agreement are cumulative and the exercise of any remedy under this Agreement does not exclude any remedies available at law or in equity. The non-prevailing party will pay all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party to enforce this Agreement or collect amounts owed under this Agreement.

11.7 Force Majeure. Despite anything in this Agreement to the contrary, neither party will be in default under the Agreement by reason of its delay in performance of, or failure to perform, any of its obligations under this Agreement, if this delay or failure is caused by strikes or other labor disturbance; acts of God, or the public enemy, riots or other civil disturbances, fire, or flood; interference by civil or military authorities; compliance with governmental laws, rules, or regulations which were not in effect and could not be reasonably anticipated as of the date of this Agreement; delays in

transportation, failure of delivery by suppliers, or inability to secure necessary governmental priorities for materials; or, any other fault beyond its control or without its fault or negligence. In this case, the time required for performance of the relevant obligation will be the duration of the unavoidable delay.

11.8 Miscellaneous. Except as expressly provided in this Agreement, there are no third party beneficiaries. No agreement between us and anyone else is for your benefit. The section headings in this Agreement are for convenience of reference only. All references in this Agreement to Sections or Exhibits refer to the relevant sections and exhibits, respectively, of this Agreement. This Agreement, together with the exhibits and any addenda attached, is the entire agreement, and supersedes all prior representations, agreements and understandings (oral or written) of the parties. This Agreement may be signed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Except as expressly provided in this Agreement, this Agreement is binding on and will inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. Time is of the essence.

11.9 State Addenda. The laws of certain states may supersede some of the provisions of this Agreement, and certain states require us to supplement or modify the provisions of this Agreement. If applicable, these supplements and modifications are contained in State Addenda attached as *Exhibit C*. When you sign this Agreement, you will also properly sign the addenda if appropriate. If multiple state addenda are made part of this Agreement, these state addenda will be construed and applied as narrowly as possible, consistent with applicable state law, in order to avoid potential conflicts between them.

SECTION 12: ACKNOWLEDGMENTS

12.1 Accurate Information. You represent that all information in any applications, financial statements and submissions you provided to us is true, complete and accurate in all respects. You acknowledge that we are relying upon the truthfulness, completeness and accuracy of that information in our decision to enter into this Agreement with you.

Your initials: _____

12.2 Proper Disclosure. You acknowledge that we or our agent have provided you with our current franchise offering circular not later than the earlier of: (a) the first personal meeting held to discuss the sale of the Franchise, or (b) 10 business days before the execution of this Agreement, or (c) 10 business days before any payment of any consideration in connection with this transaction. You acknowledge that we have provided you with a copy of this Agreement and all related documents, fully completed, at least 5 business days before you sign this Agreement.

Your initials: _____

12.3 Consultation and Understanding. You represent and acknowledge that: (a) you have read and understood this Agreement and our franchise offering circular; (b) we have fully and adequately explained the provisions of each document to your satisfaction; (c) we have advised you to consult with your own attorneys, accountants, or other advisers about the potential benefits and risks of entering into this Agreement; (d) you have had ample opportunity to consult with advisors of your own choosing; and (e) our attorneys have not advised or represented you with respect to any matters.

Your initials: _____

12.4 Independent Investigation of Risks. You represent that you have conducted an independent investigation of the development opportunities contemplated by this Agreement, and you acknowledge that, like any other business, an investment in these development opportunities involves unavoidable business risks. You acknowledge that the success of the development opportunities is primarily dependent upon your business abilities and efforts.

Your initials: _____

12.5 No Warranty or Guarantee. You acknowledge that you have not received or relied upon any warranty or guarantee, express or implied, as to the potential revenues, income, profits, volume or success of the business venture contemplated by this Agreement. You acknowledge that you have read this Agreement and our franchise offering circular, and that you have no knowledge of any representation by us or any of our officers, directors, shareholders, employees or agents that are contrary to the statements made in our franchise offering circular or contrary to the terms of this Agreement. We expressly disclaim the making of any warranty, guarantee or representations of this type.

Your initials: _____

12.6 Reasonable Covenants. The covenants not to compete in this agreement are fair and reasonable and will not impose any undue hardship on you or your owners, since you and your owners have other considerable skills, experience and education which afford you and your owners the opportunity to derive income from other endeavors.

Your initials: _____

12.7 No Other Agreements. You acknowledge that this Agreement, the documents referred to in this Agreement, the attachments hereto, and other agreements signed concurrently with this Agreement, if any, constitute the entire, full and complete Agreement between us and you concerning the subject matter covered in this Agreement. This Agreement terminates and supersedes any prior agreement between the parties concerning the same subject matter, and any oral or written representations which are inconsistent with the terms of this Agreement or our franchise offering circular.

Your initials: _____

12.8 No Business Opportunity Representations. You acknowledge that neither we nor any of our officers, directors, shareholders, employees or agents have made any representation that: (a) we may purchase any or all products made, produced, fabricated or modified by you; (b) we guarantee that you will derive income from the Franchised Business which will exceed the initial franchise fee; (c) we guarantee that we will refund all or part of the initial franchise fee if you are not satisfied with the Franchise; or (d) we will provide a sales program or marketing program which will enable you to derive income from the Franchised Business which exceeds the initial franchise fee.

Your initials: _____

IN WITNESS WHEREOF, the parties have signed and delivered this Agreement as of the date first stated above.

YOU, as Developer:

Entity Name (if any): _____

Entity Type: _____

State of Formation: _____

Your Address for Notices:

By: _____

Print Name: _____

Title: _____

Date Signed: _____

Signatures of your owners, officers, directors, partners, members and managers signifying agreement to be bound by this Agreement:

By: _____

Name: _____

By: _____

Name: _____

By: _____

Name: _____

PACIUGO FRANCHISING LP

as Franchisor:

By: _____
Name: _____
Title: _____

Effective Date: _____

EXHIBIT A
DESCRIPTION OF DESIGNATED TERRITORY

The Designated Territory will consist of the geographic area within the following boundaries:

EXHIBIT B
DEVELOPMENT SCHEDULE

Unit Number	Date by Which Franchise Agreement Must be Signed and Site Approval Request Must be Submitted to Us	Date by Which the Unit Must be Opened for Business and Continuously Operating in the Territory	Cumulative number of Units Required to be Open for Business and Continuously Operating in the Designated Territory as of the Date in Preceding Column
1			1
2			2
3			3
4			4
5			5
6			6

For purposes of determining compliance with the above Development Schedule, only the Units actually open for business and continuously operating in the Designated Territory as of a given date will be counted toward the number of Units required to be open for business and continuously operating.

EXHIBIT C
STATE ADDENDA

ARKANSAS

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of Arkansas:

1. Any provision of the Agreement that would require you, at the time you enter into the Agreement, to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by the Arkansas Franchise Practices Act is void to the extent that the provision violates this law.

CALIFORNIA

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of California:

1. Any condition, stipulation or provision in the Agreement which would result in your waiver of compliance with any provision of the California Franchise Relations Act is void to the extent that the contractual provision violates this act.
2. To the extent that Section 11.2 of the Agreement would otherwise violate California law, this section is amended by providing that all litigation by or between you and us, involving a Unit in the State of California, which arises directly or indirectly from the Agreement will be commenced and maintained in the state courts of California or the United States District Court for California, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements.

HAWAII

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of Hawaii:

1. Any provision of the Agreement that requires you, at the time you enter into the Agreement, to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by Hawaii Franchise Investment Law is deleted from the Agreement.

ILLINOIS

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Illinois:

1. To the extent that Section 11.2 of the Agreement would otherwise violate Illinois law, these sections are amended by providing that all litigation by or between you and us, arising directly or indirectly from the franchise relationship, will be commenced and maintained in the state courts of Illinois or, at our election, the United States District Court for Illinois, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements.
2. The Illinois Franchise Disclosure Act, as amended, applies to this transaction and supersedes any conflicting provisions of the Agreement or Texas law.
3. Any provision in the Agreement that would require you to waive any right granted by the Illinois Franchise Disclosure Act is deleted from Agreement.

INDIANA

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Indiana:

1. The laws of the State of Indiana supersede any provisions of the offering circular, the Agreement, or Texas law, if these provisions are in conflict with Indiana law.
2. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the franchise without good cause or in bad faith, good cause being defined therein as including any material breach of the Agreement, will supersede the provisions of Section 6 of the Agreement to the extent Section 6 may be inconsistent with this prohibition.
3. Any provision in the Agreement which would require you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Indiana Deceptive Franchise Practices Law is void to the extent that the provision violates this law.
4. Section 9.3 of the Agreement will be modified to the extent necessary to comply with Indiana Code 23-2-2.7-1 (9).
5. The following provision will be added to the Agreement as Section 11.9:

11.9 No Limitation on Litigation. Notwithstanding the foregoing provisions of this Agreement, any provision in the Agreement which limits in any manner whatsoever litigation brought for breach of the Agreement will be void to the extent that the contractual provision violates the Indiana Deceptive Franchise Practices Law.

IOWA

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of Iowa:

1. Any provision in the Agreement which would result in your waiver of any rights under Iowa Business Opportunity Promotions Law prior to or at the time of execution of the Agreement is void to the extent that the provision violates this law.

MARYLAND

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Maryland:

1. Any provision in the Agreement that would require you, as part of the Agreement or as a condition of the sale, renewal or assignment of the franchise, to assent to a release which would relieve any person from liability imposed under the provisions of the Maryland Franchise Law is void to the extent that the provision violates this law.

2. Any provision in the Agreement (including Section 11.2) which operates to waive your right to file a lawsuit alleging a cause of action arising under the Maryland Franchise Law in any court of competent jurisdiction in the State of Maryland is void to the extent that the provision violates this law. Subject to any arbitration agreement in this Agreement, claims arising under the Maryland Franchise Law may be brought in any court of competent jurisdiction in Maryland.

MINNESOTA

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Minnesota:

1. Any provision in the Agreement which would require you to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22 will be void to the extent that the contractual provision violates this law.

2. Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the offering circular or Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction. Any provision in the Agreement which would require you to waive your rights to any procedure, forum or remedies provided for by the laws of the State of Minnesota is deleted from any Agreement relating to franchises offered and sold in the State of Minnesota; provided, however, that this paragraph will not affect the obligation in the Agreement relating to exclusive mediation.

3. The following language will appear as Section 11.9 of the Agreement.

11.9 No Abrogation. Pursuant to Minnesota Statutes, Section 80C.21, Section 11.2 of this Agreement will not in any way abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C.

4. With respect to franchises governed by Minnesota law, we will comply with Minnesota Statute Section 80C.14, Subds. 3, 4, and 5 which require, except in certain specified cases, that you be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the Agreement.

5. We will protect your rights under this Agreement to use the Marks, or indemnify you from any loss, costs or expenses arising out of any third-party claim, suit or demand regarding your use of the Marks, if your use of the Marks is in compliance with the provisions of the Agreement and the System standards.

MISSOURI

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of Missouri:

1. Termination provisions contained in the Agreement will afford you 90 days written notice in advance of any termination, except that 90 days notice is not required for termination as a result of your criminal misconduct, fraud, abandonment, bankruptcy, insolvency, or giving a "no account" or "insufficient funds" check to us.

NEBRASKA

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Nebraska:

1. No release language set forth in the Agreement will relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Nebraska.

2. No language set forth in the Agreement will operate to restrict the sale of any equity or debenture issue or the transfer of any securities of any franchise or in any way prevent or attempt to prevent the transfer, sale or issuance of shares of stock or debentures to employees, personnel of the franchisee, or heirs of the principal owner, so long as basic financial requirements of the franchisor are complied with and any such sale, transfer or issuance does not have the effect of accomplishing a sale of the franchise.

NEW JERSEY

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of New Jersey:

1. No release language set forth in the Agreement will relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of New Jersey.

2. No language set forth in the Agreement will operate to restrict the sale of any equity or debenture issue or the transfer of any securities of a franchise or in any way prevent or attempt to prevent the transfer, sale or issuance of shares of stock or debentures to employees, personnel of the franchise, or heir of the principal owner, so long as basic financial requirements of the franchisor are complied with and any such sale, transfer or issuance does not have the effect of accomplishing a sale of the franchise.

3. Any term or condition which may directly or indirectly violate the New Jersey Franchise Practices Act is deleted from the Agreement.

NEW YORK

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of New York:

1. No release language set forth in the Agreement will relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of New York.

2. Section 8.1 is amended by the addition of the following sentence immediately after the first sentence of that section:

However, no assignment will be made by us except to an assignee who, in our good faith judgment, is willing and able to assume our obligations under this Agreement (to the extent assigned).

NORTH DAKOTA

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of North Dakota:

1. Covenants not to compete upon termination or expiration of the Agreement are subject to Section 9-08-06, N.D.C.C., and may be generally unenforceable in the State of North Dakota.

2. To the extent that Section 11.2 of the Agreement would otherwise violate North Dakota law, this section is amended by providing that all litigation by or between you and us, involving a franchised business operating in the State of North Dakota, will be commenced and maintained, at our election, in the state courts of North Dakota or the United States District Court for North Dakota, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements.

3. North Dakota law applies to this transaction and supersedes any conflicting provisions of the Agreement or Texas law.

RHODE ISLAND

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of Rhode Island:

1. To the extent that Section 11.2 of the Agreement would otherwise violate Rhode Island law, these sections are amended by providing that all litigation by or between you and us, involving a Unit operating in the State of Rhode Island, will be commenced and maintained, at our election, in the state courts of Rhode Island or the United States District Court for Rhode Island, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements.

WASHINGTON

Notwithstanding anything to the contrary set forth in the Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Washington.

1. The State of Washington has a statute, RCW 19.100.180, which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise
2. In any arbitration involving a franchise purchased in Washington, the arbitration site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.
3. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
4. A release or waiver of rights signed by a franchisee will not include rights under the Washington Franchise Investment Protection Act except when signed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as the right to a jury trial may not be enforceable.
5. Transfer fees are collectable to the extent they reflect the franchisor's reasonable estimated or actual cost in effecting a transfer.

WISCONSIN

Notwithstanding anything to the contrary set forth in the Agreement, the following provision will supersede and apply to all franchises offered and sold in the State of Wisconsin:

1. The Wisconsin Fair Dealership Law, Chapter 135, Stats. supersedes any provisions of the Agreement that are inconsistent with that law.

YOU, as Developer

Entity name (if any):

By: _____

Print Name: _____

Title: _____

DATED: _____

PACIUGO FRANCHISING, LP

By: _____

Name: _____

Title: _____