

EXHIBIT B
(TO OFFERING CIRCULAR)

EXHIBIT B
FRANCHISE AGREEMENT

SPICY PICKLE FRANCHISING, INC.

FRANCHISE AGREEMENT

Franchisee: _____

Date: _____

Restaurant Location: _____

SPICY PICKLE FRANCHISING, INC.
FRANCHISE AGREEMENT
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EXHIBITS

- I. Addendum to Franchise Agreement
- II. Guaranty and Assumption of Franchisee's Obligations
- III. Statement of Ownership
- IV. Authorization for Direct Payment
- V. Delivery and Catering Services Addendum
- VI. Build-Out Addendum

SPICY PICKLE FRANCHISING, INC.
FRANCHISE AGREEMENT

THIS AGREEMENT (the "Agreement") is made this ____ day of _____, 20____, by and between SPICY PICKLE FRANCHISING, INC., a Colorado corporation, located at 90 Madison Street, Suite 700, Denver, Colorado 80206 (the "Franchisor") and _____ (the "Franchisee"), who, on the basis of the following understandings and agreements, agree as follows:

1. PURPOSE

- 1.1. The Franchisor has developed methods for establishing and operating franchises for the operation of fast casual restaurants featuring culinary inspired paninis, salads, submarine style sandwiches and Neapolitan thin crust pizza, along with soups, sides, chips, beverages and a signature pickle ("SPICY PICKLE Restaurants" or "Restaurants") which use the service mark "SPICY PICKLE" and related service marks, trade names and trademarks ("Marks") and the Franchisor's proprietary methods of doing business ("Licensed Methods").
- 1.2. The Franchisor grants the right to others to develop and operate SPICY PICKLE Restaurants, under the Marks and pursuant to the Licensed Methods.
- 1.3. The Franchisee desires to establish a SPICY PICKLE Restaurant at a location identified herein or to be later identified, and the Franchisor desires to grant the Franchisee the right to operate a SPICY PICKLE Restaurant at such location under the terms and conditions which are contained in this Agreement.

2. GRANT OF FRANCHISE

2.1. Grant of Franchise

The Franchisor grants to the Franchisee, and the Franchisee accepts from the Franchisor, the right to use the Marks and Licensed Methods in connection with the establishment and operation of one SPICY PICKLE Restaurant, at the location described in Section 3.1 of this Agreement. The Franchisee agrees to use the Marks and Licensed Methods, as they may be changed, improved, and further developed by the Franchisor from time to time, only in accordance with the terms and conditions of this Agreement.

2.2. Scope of Franchise Operations

The Franchisee shall at all times comply with the Franchisee's obligations hereunder and shall continuously use best efforts to promote and operate the SPICY PICKLE Restaurant. The Franchisee shall not engage in any business other than the operation of the Restaurant. The Franchisee shall utilize the Marks and Licensed Methods to operate all aspects of the business franchised hereunder in accordance with the methods and systems developed and prescribed from time to time by the Franchisor, all of which are a part of the Licensed Methods. The Franchisee's SPICY PICKLE Restaurant shall offer all products and services as the Franchisor shall designate. The Franchisee shall be restricted from offering or selling any products and services not previously approved by the Franchisor in writing and shall further be restricted from producing or distributing the authorized products and services for non-retail or off-site sale except as specifically permitted under the terms of this Agreement.

3. FRANCHISED LOCATION AND TERRITORIAL RIGHTS

3.1. Franchised Location

The Franchisee is granted the right and franchise to own and operate a SPICY PICKLE Restaurant at the address and location which shall be set forth in Exhibit I, attached hereto (“**Franchised Location**”). If, at the time the parties execute this Agreement, the Franchised Location cannot be designated as a specific address because a location has not been selected and approved, then the Franchisee shall promptly take steps to choose and acquire a location for its SPICY PICKLE Restaurant within the “**Designated Area**,” set forth in Exhibit I. In such circumstances, the Franchisee shall select and propose to the Franchisor for the Franchisor’s prior approval a specific location for the Franchised Location which, once approved by the Franchisor, shall then be described in the rider to Exhibit I. Once the Franchisor has approved the Franchised Location, the Franchisor will be deemed to have complied with its obligation under this Agreement to assist the Franchisee in locating a site for the Franchised Location.

3.2. Protected Territory

Subject to the Franchisor’s reservation of rights described in Section 3.4 below, the Franchisor shall not establish and operate, or franchise another person or entity to establish and operate, a SPICY PICKLE Restaurant within the geographic area described in Exhibit I, attached hereto (“the **Protected Territory**”).

3.3. Limitation on Franchise Rights

The rights that are granted to the Franchisee are for the specific Franchised Location and cannot be transferred to an alternative Franchised Location, or any other location, without the prior written approval of the Franchisor, which approval shall not be unreasonably withheld. The Franchisee shall not operate another Restaurant, offer products which are part of the Licensed Methods at any site other than the Franchised Location, fill wholesale orders, sell products or services by mail order or through catalogs or the Internet, transship or reship products, or offer any other type of off-site service or sale of products, except approved delivery and catering services. The Franchisee shall execute and deliver to the Franchisor the Delivery and Catering Addendum to Franchise Agreement, in the form attached to this Agreement as Exhibit V.

3.4. Franchisor’s Reservation of Rights

The Franchisee acknowledges that its franchise rights as granted are non-exclusive and that the Franchisor, for itself and its successors and affiliates, retains the rights, among others: (1) to use, and to license others to use, the Marks and Licensed Methods in connection with the operation of SPICY PICKLE Restaurants, at any location except within the Protected Territory; (2) to use the Marks to identify services and products, promotional and marketing efforts or related items, and to identify products and services similar to those which the Franchisee will sell, but made available through alternative channels of distribution other than through SPICY PICKLE Restaurants, at any location, whether within or outside of the Protected Territory, including but not limited to, by way of wholesale distribution, events, through locations at captive audience facilities such as sports stadiums, delivery and catering through Restaurants by the Franchisor, affiliates and franchisees, Internet, mail order, catalog or retail store display; and (3) to use and license the use of other proprietary marks or methods in connection with the sale of products and services similar to those which the Franchisee will sell, whether in alternative channels of distribution or in connection with the operation of restaurants which sell paninis,

submarine sandwiches, pizza, salads, soups and related food items and beverages at any location, whether within or outside of the Protected Territory, which businesses are the same as, or similar to, or different from SPICY PICKLE Restaurants, on any terms and conditions as the Franchisor deems advisable.

4. INITIAL FRANCHISE FEE

4.1. Initial Franchise Fee

In consideration for the right to develop and operate one SPICY PICKLE Restaurant, the Franchisee shall pay to the Franchisor an initial franchise fee in an amount set forth in Exhibit I, due and payable on the date of execution of this Agreement. The Franchisee acknowledges that the initial franchise fee represents payment for the initial grant of the rights to use the Marks and Licensed Methods, that the Franchisor has earned the initial franchise fee upon receipt thereof and that the fee is under no circumstances refundable to the Franchisee after it is paid, unless otherwise specifically set forth in this Agreement.

5. DEVELOPMENT OF FRANCHISED LOCATION

5.1. Approval of Franchised Location

With the assistance of the Franchisor, the Franchisee shall locate a Franchised Location which is suitable for the operation of the SPICY PICKLE Restaurant. The Franchisee shall cooperate with the Franchisor in the assessment of a site by providing materials requested by the Franchisor, containing all information reasonably required by the Franchisor to assess a proposed Franchised Location. The Franchisor will not unreasonably withhold approval of a proposed site that meets all of the Franchisor's site selection criteria. The Franchisee acknowledges and agrees that the Franchisor's acceptance of a site and any information ~~and assistance~~ provided by the Franchisor regarding the ~~selection of a site~~ does not constitute a representation or warranty of any kind, express or implied, as to the suitability of the site for a SPICY PICKLE Restaurant. If the Franchisor must disapprove of any site, the Franchisor will grant the Franchisee an additional, reasonable period of time to obtain approval of a Franchised Location, as may be determined in the Franchisor's reasonable business judgment.

5.2. Approval of Site Acquisition or Lease

The Franchisee shall obtain the Franchisor's prior written approval before executing any lease or purchase agreement for the Franchised Location. The lease for the Franchised Location shall contain provisions: (1) providing for an initial term, or an initial term together with any renewal terms (for which rent must be specified in the lease) of at least 10 years; (2) expressing the landlord's consent to the Franchisee's use of the Marks and all required signage for the Restaurant; (3) giving the Franchisor the right to enter the premises and make any modification necessary to protect the Marks and the Licensed Methods; (4) allowing the Franchisor, or its designee, to have the option to assume the lease and the right following such assumption to assign the lease or sublet the leased premises to another SPICY PICKLE franchisee for all or any part of the lease term without further landlord consent if the Franchisee defaults under the lease or this Agreement or if this Agreement terminates or expires; (5) requiring the landlord to give the Franchisor written notice of any defaults by the Franchisee under such lease and the right to cure any such defaults; and (6) the lease shall also contain restrictive use clauses which are acceptable to the Franchisor. The Franchisee acknowledges that the Franchisor's assistance in reviewing and negotiating a lease and in approving a lease or purchase agreement for the Franchised Location does not constitute a recommendation, endorsement or guarantee by the Franchisor of the suitability or profitability of the

location, the lease or purchase agreement. The Franchisee should take all steps necessary to ascertain whether the lease or purchase agreement is acceptable to the Franchisee. The Franchisor's review and approval of the lease or purchase agreement shall be for the Franchisor's benefit only and the Franchisee should not rely on such review and approval for any purpose whatsoever. The Franchisee shall deliver a copy of the signed lease for the Franchised Location to the Franchisor within 15 days of its execution.

5.3. Construction, Conversion and Design

The Franchisee acknowledges that the improvements, layout, fixtures, design, decoration and color scheme of SPICY PICKLE Restaurants are an integral part of the Franchisor's proprietary Licensed Methods and accordingly, the Franchisee, with the assistance of the Franchisor, shall construct, convert, improve, design and decorate the Franchised Location in accordance with the Franchisor's plans and specifications and with the assistance of contractors, architects and suppliers designated by the Franchisor. At the time of execution of this Agreement, the Franchisee shall execute the Addendum to Franchise Agreement - Build-Out Program ("**Build-Out Addendum**") attached to this Agreement as Exhibit VI. The Franchisor shall ~~provide to assist~~ the Franchisee in the development, construction and build-out services ~~to assist the Franchisee in developing, constructing and equipping of~~ the Restaurant under the terms and conditions described therein. If the Franchisee improves, remodels or redecorates the Restaurant, the Franchisee shall obtain the Franchisor's written consent to any such improvements, remodeling or decoration of the premises before construction, remodeling or decorating begins, recognizing that any related costs are the Franchisee's sole responsibility. Written consent shall mean that the Franchisee has received from the Franchisor an executed construction approval form before construction, remodeling or decorating begins. In addition, if the Franchisee improves, remodels or redecorates the premises, it shall be the Franchisee's responsibility to have prepared all required blueprints and construction plans and specifications and to insure compliance with any lease and applicable laws, including without limitation, the Americans with Disabilities Act.

5.4. Signs

The Franchisee, with the assistance of the Franchisor pursuant to the terms and conditions of the Build-Out Addendum, shall purchase or otherwise obtain for use at the Franchised Location and in connection with the SPICY PICKLE Restaurant signs which comply with the standards and specifications of the Franchisor as set forth in the Operations Manual, as that term is defined in Section 8.1. Franchisee shall ensure that any signs installed by the Franchisee comply with applicable local ordinances, mall regulations, building codes and zoning regulations. Any modifications to the Franchisor's standards and specifications for signs which must be made due to local ordinances, codes or regulations shall be submitted to the Franchisor for prior written approval. The Franchisee acknowledges that the Marks, or any other name, symbol or identifying marks on any signs shall only be used in accordance with the Franchisor's standards and specifications and only with the prior written approval of the Franchisor.

5.5. Equipment and Inventory

The Franchisee shall purchase or otherwise obtain, with the assistance of the Franchisor pursuant to the terms and conditions of the Build-Out Addendum, for use at the Franchised Location and in connection with the SPICY PICKLE Restaurant equipment of a type which complies with the standards and specifications of the Franchisor. The Franchisee shall purchase for use or sale at the Franchised Location and in connection with the SPICY PICKLE Restaurant inventory of a type and in an amount which complies with the standards and specifications of the Franchisor. The Franchisee acknowledges that the type, quality, configuration, capability and/or performance of the equipment, inventory and other products and services used or offered through the SPICY PICKLE Restaurant are all standards and specifications which are a part of the Licensed Methods and therefore such equipment, inventory,

products and other items must be purchased, leased or otherwise obtained in accordance with the Franchisor's standards and specifications and only from the Franchisor, its affiliates or suppliers or other sources approved by the Franchisor.

5.6. Point-of-Sale System and Computers

The Franchisee, with the assistance of the Franchisor pursuant to the terms and conditions of the Build-Out Addendum, shall equip the Restaurant with a point-of-sale system, computer hardware, software and other designated equipment as is consistent with the standards and specifications of the Franchisor. The Franchisee shall purchase, install and utilize in its Restaurant the point-of-sale system and software which must be obtained from the Franchisor's designated suppliers. The Franchisee shall either own or obtain compatible computer hardware for operating the software, in accordance with the Franchisor's standards and specifications. The Franchisee shall be responsible for all maintenance costs associated with the computer hardware, the point-of-sale system and the computer software. If required to do so by the Franchisor, the Franchisee, at the Franchisee's sole cost, shall join an internet electronic network connection service, an intranet service and an enterprise system to facilitate communication between the Franchisor and the Franchisee and/or among SPICY PICKLE franchisees, to facilitate access to operating information and to facilitate the provision of additional services to customers. The Franchisor reserves the right to require on 30 days notice that the Franchisee purchase, install and implement computer software updates and revisions for use in the operation of the SPICY PICKLE Restaurant. The Franchisor also reserves the right to require the Franchisee to provide the Franchisor with reasonable access to information and data regarding the SPICY PICKLE Restaurant by computer modem, high-speed Internet connection or by other means.

5.7. Permits and Licenses

The Franchisee, with the assistance of the Franchisor pursuant to the terms and conditions of the Build-Out Addendum, agrees to obtain all such permits and certifications as may be required for the lawful construction and operation of the SPICY PICKLE Restaurant, together with all certifications from government authorities having jurisdiction over the site, that all requirements for construction and operation have been met, including without limitation, zoning, access, sign, health, safety requirements; building and other required construction permits, licenses to do business and fictitious name registrations, sales tax permits, health and sanitation permits and ratings and fire clearances. The Franchisor reserves the right to require that the Franchisee obtain a license to serve beer and wine at the Franchised Location. The Franchisee, with the assistance of the Franchisor pursuant to the terms and conditions of the Build-Out Addendum, agrees to obtain all customary contractors' sworn statements and partial and final lien waivers for construction; remodeling, decorating and installation of equipment at the Franchised Location. The Franchisee shall keep copies of all health department, fire department, building department and other similar state and local agency and entity certifications, licenses, and reports of inspections on file and available for review by the Franchisor.

5.8. Commencement of Operations

Unless otherwise agreed to in writing by the Franchisor and the Franchisee, the Franchisee has one year from the date of this Agreement within which to: (1) locate an acceptable site for the Franchised Location and get delivery and possession of the premises if not yet constructed; (2) secure all necessary financing for the Restaurant; (23) complete the initial training program described in Section 6.1 of this Agreement; (34) with the assistance of the Franchisor, select, purchase or lease and build-out the Franchised Location; (45) with the assistance of the Franchisor, purchase or lease and have installed such décor, furniture, equipment, fixtures, signs, point-of-sale system and software as meets the standards and specifications of the Franchisor; (56) purchase an opening inventory of products and supplies; (67) obtain

a liquor license, if applicable; (8) obtain and provide evidence of insurance as described in Section 22.1 below; and (79) commence operation of the SPICY PICKLE Restaurant. The Franchisor will extend the time in which the Franchisee has to commence operations for a reasonable period of time in the event factors beyond the Franchisee's reasonable control prevent the Franchisee from meeting this development schedule, so long as the Franchisee has made reasonable and continuing efforts to comply with such development obligations and the Franchisee requests, in writing, an extension of time in which to have its SPICY PICKLE Restaurant established before such development period lapses. The Franchisee shall obtain the Franchisor's approval prior to opening the Restaurant for business.

6. TRAINING

6.1. Initial Training Program

The Franchisee and, if the Franchisee is not an individual, the person designated by the Franchisee to assume primary responsibility for the management of SPICY PICKLE Restaurant ("the **Principal Manager**"), are required to attend the initial training program which is offered by the Franchisor at one of the Franchisor's designated training facilities. Two individuals are eligible to participate in the Franchisor's initial training program without charge of a tuition or fee. The Franchisee shall be responsible for any and all traveling expenses, living expenses and wages incurred by the Franchisee and its employees in connection with attendance at the training program. Training participants will not receive any compensation from the Franchisor while attending the Franchisor's training. At least one individual must successfully complete the initial training program prior to the Franchisee's commencement of operation of its SPICY PICKLE Restaurant.

6.2. Length of Training

The initial training program shall consist of a total of up to ~~three~~four weeks of classroom instruction and on-the-job training at a location designated by the Franchisor. The Franchisor reserves the right to waive a portion of the training program or alter the training schedule, if in the Franchisor's sole discretion, the Franchisee or the Principal Manager has sufficient prior experience or training.

6.3. Additional Training

From time to time, the Franchisor may present seminars, conventions or continuing development programs or conduct meetings for the benefit of the Franchisee. The Franchisee or its Principal Manager shall be required to attend any ongoing mandatory seminars, conventions, programs or meetings as may be offered by the Franchisor. The Franchisor shall give the Franchisee at least 30 days prior written notice of any ongoing seminar, convention or program that is deemed mandatory. The Franchisor shall not require that the Franchisee attend any national convention or ongoing training more often than once a year. The Franchisor shall have the right to require the Franchisee, its Principal Manager and designated employees to attend a local or regional meeting up to two times per year. All mandatory training will be offered without charge of a tuition or fee; provided, however, the Franchisee will be responsible for all traveling and living expenses which are associated with attendance at the same.

7. DEVELOPMENT ASSISTANCE

7.1. Franchisor's Development Assistance

The Franchisor shall provide the Franchisee with assistance in the initial establishment of the SPICY PICKLE Restaurant as follows:

a. Assist Work with the Franchisee in locating a site for a Franchised Location by working with real estate brokers and others who are familiar with the market where the Franchised Location will be located and by providing such real estate brokers and others, specifications for space requirements, build out and the demographics and character of the surrounding market area. Assist the Franchisee to obtain information about the site, which may include: demographic, traffic flow, pedestrian traffic, ingress and egress and information regarding other factors that are part of the site selection process. The Franchisee acknowledges that the Franchisor does not control the time it takes to receive responses from landlords to the letter of intent to lease space or to generate and negotiate leases.

b. Directives regarding products, inventory, equipment, computer hardware and software, displays and uniforms.

c. The Franchisor will review, comment, negotiate and approve the lease for the Franchised Location before the Franchisee executes the lease.

d. Information regarding the selection of suppliers of equipment, items and materials used, food and beverage products and merchandise offered for sale in connection with the SPICY PICKLE Restaurant. The Franchisor shall make available to the Franchisee a list of approved suppliers, if any, of such equipment, items, materials, food and beverage products, merchandise and, if available, a description of any regional or central purchase and supply agreements offered by such approved suppliers for the benefit of SPICY PICKLE franchisees.

e. Provision of the initial training program to be conducted at the Franchisor's designated training facilities or at another location designated by the Franchisor, as described in Article 6 above.

f. Provision of an operations manual in accordance with Section 8.1 below.

g. If this Agreement is for the first SPICY PICKLE Restaurant to be opened by the Franchisee, the Principal Manager or their respective affiliates, agents, representatives, successors and assigns, the Franchisor will make available to the Franchisee at or around the commencement of operations of the Franchisee's SPICY PICKLE Restaurant, depending on availability of personnel, a representative to be present for ~~approximately 12~~ up to 11 days to assist the Franchisee in the opening and initial operation of the SPICY PICKLE Restaurant and prior to opening the Restaurant, assistance training employees for the Restaurant. The representative will assist the Franchisee's employees in the opening and initial operation of the Restaurant at a time scheduled by the Franchisor, unless in the Franchisor's determination, the Franchisee or the Principal Manager have had sufficient prior training or experience.

h. Assistance in determining the Franchisee's initial grand opening promotion and advertising campaign.

i. Provision of the Build-Out Services in accordance with the terms and conditions of the Build-Out Addendum.

8. OPERATIONS MANUAL

8.1. Operations Manual

The Franchisor shall provide to the Franchisee, either electronically or in such other manner as the Franchisor shall determine, one or more manuals, technical bulletins, or other written materials (collectively referred to as "**Operations Manual**") covering certain standards, specifications and operating and marketing procedures that the Franchisor requires the Franchisee to utilize in operating its SPICY PICKLE Restaurant. The Franchisee shall comply with the Operations Manual as an essential aspect of its obligations under this Agreement and failure by the Franchisee to substantially comply with the Operations Manual may be considered by the Franchisor to be a breach of this Agreement.

8.2. Confidentiality of Operations Manual Contents

The Franchisee shall use the Marks and Licensed Methods only as specified in the Operations Manual. The Operations Manual is the sole property of the Franchisor and shall be used by the Franchisee only during the term of this Agreement and in strict accordance with the terms and conditions hereof. The Franchisee shall not duplicate the Operations Manual nor disclose its contents to persons other than its employees or officers who have signed a confidentiality and noncompetition agreement in a form approved by the Franchisor. The Franchisee shall return the Operations Manual to the Franchisor upon the expiration, termination or assignment of this Agreement.

8.3. Changes to Operations Manual

The Franchisor reserves the right to revise the Operations Manual from time to time as it deems necessary to update or change operating and marketing techniques or standards and specifications. The Franchisee, upon receipt of any updated information, shall update its copy of the Operations Manual as instructed by the Franchisor and shall conform its operations to the updated provisions within 30 days of receipt of each update. The Franchisee acknowledges that a master copy of the Operations Manual maintained by the Franchisor at its principal office shall be controlling in the event of a dispute relative to the content of any Operations Manual.

9. OPERATING ASSISTANCE

9.1. Franchisor's Services

The Franchisor shall, during the Franchisee's operation of the SPICY PICKLE Restaurant, make available to the Franchisee the following services:

a. The Franchisor shall give the Franchisee access to advertising and promotional materials as may be developed by the Franchisor, the cost of which may be passed on to the Franchisee or charged to the Advertising Fund (defined in Section 13.2 below), at the Franchisor's option.

b. Upon the reasonable request of the Franchisee, consultation by telephone, facsimile or electronic mail regarding the continued operation and management of a SPICY

PICKLE Restaurant and advice regarding product quality control, menu items, customer relations, product purchase, supply and sale and similar advice.

c. Provision of seminars or programs, at a frequency to be determined by the Franchisor, on new methods, marketing techniques, equipment and products.

d. Updates of information and programs regarding the franchised business, the SPICY PICKLE concept and the Licensed Methods, at a frequency to be determined by the Franchisor, including, without limitation, information about improvements to existing menu items or new menu items, products or merchandise which may be developed and made available to SPICY PICKLE franchisees as a part of the Licensed Methods.

e. The Franchisor shall make the initial training program available to replacement or additional Principal Managers during the term of this Agreement. The Franchisor reserves the right to charge a tuition or fee in an amount payable in advance, commensurate with the then current published prices of the Franchisor for such training. The Franchisee shall be responsible for all travel and living expenses incurred by its personnel during the training program. The availability of the training programs shall be subject to space considerations and prior commitments to new SPICY PICKLE franchisees.

9.2. Additional Franchisor Services

Although not obligated to do so, the Franchisor may make its employees or designated agents available to the Franchisee for on-site advice and assistance in connection with the on-going operation of the SPICY PICKLE Restaurant governed by this Agreement. In the event that the Franchisee requests such additional assistance and the Franchisor agrees to provide the same, the Franchisor reserves the right to charge the Franchisee for all travel, lodging, living expenses, telephone charges and other identifiable expenses associated with such assistance, plus a fee based on the time spent by each employee on behalf of the Franchisee, which fee will be charged in accordance with the then current daily or hourly rates being charged by Franchisor for assistance.

10. FRANCHISEE'S OPERATIONAL COVENANTS

10.1. Business Operations

The Franchisee acknowledges that it is solely responsible for the successful operation of its SPICY PICKLE Restaurant and that the continued successful operation thereof is, in part, dependent upon the Franchisee's compliance with this Agreement and the Operations Manual. In addition to all other obligations contained in this Agreement and in the Operations Manual, the Franchisee shall comply with the following operational obligations.

a. Quality of Operations. The Franchisee shall maintain clean, efficient and high quality SPICY PICKLE Restaurant operations and shall operate the business in accordance with the Operations Manual and in such a manner as not to detract from or adversely reflect upon the name and reputation of the Franchisor and the goodwill associated with the Spicy Pickle Franchising, Inc. name and the Marks.

b. Compliance with Laws and Good Business Practices. The Franchisee shall conduct itself and operate its SPICY PICKLE Restaurant in compliance with all applicable laws, regulations and other ordinances, including, without limitation, health department regulations,

liquor licensing and food handler's licensing laws and other ordinances in such a manner so as to promote a good public image in the business community. In connection therewith, the Franchisee will be solely and fully responsible for obtaining any and all licenses to carry on business at the SPICY PICKLE Restaurant, including, without limitation, the liquor licenses as may be necessary to offer beer and wine. The Franchisee shall immediately forward to the Franchisor copies of all health and sanitation department, fire department, building department, liquor licensing authorities and other state or local entity or agency warnings, notices of deficiency or non-compliance, reports of inspections and other documents indicating that the Franchisee has not met or maintained the highest governmental standards as and when such reports, notices and documents become available. The Franchisee shall be solely responsible for any penalties or fines assessed for failure to abide by such laws and regulations.

c. Management. The Franchisee acknowledges that proper management of the SPICY PICKLE Restaurant is important and shall insure that the Franchisee and, if applicable, the designated Principal Manager who has completed the Franchisor's initial training program is responsible for the management of the SPICY PICKLE Restaurant. In the event the Franchisee or the managing partner, a shareholder or other owner of the Franchisee participates in the day-to-day operation of the Restaurant, the Franchisor reserves the right to require that the Franchisee designate a Principal Manager, if the Franchisor, in its reasonable discretion, determines that additional qualified personnel are necessary to manage the Restaurant.

d. Approved Products and Services. The Franchisee shall offer only products and services through its Restaurant which meet or exceed the minimum standards and specifications established by the Franchisor more fully described in the Operations Manual. The Franchisee shall offer all types of products and services as from time to time may be prescribed by the Franchisor and shall refrain from offering any other types of products or services, or operating or engaging in any other type of business or profession, from or through the SPICY PICKLE Restaurant that are not authorized by the Franchisor, including, without limitation, filling "wholesale orders," defined below, or any off-premises services except catering and delivery services in accordance with the Delivery and Catering Services Addendum attached hereto, Internet, catalog or mail order sales, without the prior written consent of the Franchisor. "Wholesale Orders" are defined as those orders or sales where the principal purpose of the purchase is for resale, not use, or any sale other than those sold over the counter at a price other than that price charged to the general public; provided, however, that volume discounted sales made on the premises at the Franchised Location to a single purchaser, not for resale, shall not be considered a "wholesale order."

e. Payment of Obligations. The Franchisee shall pay on a timely basis all amounts due and owing to the Franchisor pursuant to any separate agreements between the Franchisee and the Franchisor and all amounts due and owing by the Franchisee to all third parties, including affiliates of the Franchisor, national vendors and taxing authorities, with whom the Franchisee does business at or through the Restaurant. In connection with any amounts due and owing by the Franchisee to third parties, the Franchisee expressly acknowledges that a default by the Franchisee with respect to such indebtedness may be considered a default hereunder and the Franchisor may avail itself of all remedies provided for herein in the event of default.

f. Other Agreements. The Franchisee shall comply with all agreements with third parties related to the SPICY PICKLE Restaurant including, in particular, all provisions of any premises lease or equipment lease.

g. Employees. The Franchisee shall be exclusively responsible for the conduct and control of its employees and employment practices, including hiring, firing, training, and compensation of its employees. The Franchisee shall not solicit, employ, divert or attempt to employ any employee of the Franchisor, Franchisor's affiliates or other franchisees of Franchisor. The Franchisee shall be fully responsible for all of its employees' compliance with the operational standards which are part of the Licensed Methods. The Franchisee must conduct its employee training in compliance with the Operations Manual. Any employee who does not satisfactorily complete the training shall not work in any capacity in the Franchisee's SPICY PICKLE Restaurant. The Franchisee and all employees of the Franchisee shall present a professional appearance, as described in the Operations Manual, and shall render competent and courteous service to customers of the SPICY PICKLE Restaurant while working at the Franchised Location. All Principal Managers, employees of the Franchisee, the Franchisee and its owners, shall at all times wear the clothing or uniform as may be specified by the Franchisor from time to time while working at the Franchised Location. The Franchisor has the right, in its sole and absolute discretion, to change or modify such dress code guidelines. Nothing in this Agreement shall be deemed to make the Franchisee's employees, representatives or agents (i) subject to the control of the Franchisor or (ii) employees of the Franchisor.

h. Remodeling and Upgrading. The Franchisee shall renovate, refurbish, remodel or replace, at its own expense, the real and personal property and equipment used in the operation of the SPICY PICKLE Restaurant, when reasonably required by the Franchisor in order to comply with the image, standards of operation and performance capability established by the Franchisor from time to time. If the Franchisor changes its image or standards of operation, it shall give the Franchisee a reasonable period of time within which to comply with such changes.

i. Ownership of Restaurant. The Franchisee shall at all times during the term of this Agreement own and control the SPICY PICKLE Restaurant authorized hereunder. Upon request of the Franchisor, the Franchisee shall promptly provide satisfactory proof of such ownership to the Franchisor. The Franchisee represents that the Statement of Ownership, attached hereto as Exhibit III and by this reference incorporated herein, is true, complete, accurate and not misleading, and, in accordance with the information contained in the Statement of Ownership, the controlling ownership of the SPICY PICKLE Restaurant is held by the Franchisee. The Franchisee shall promptly provide the Franchisor with a written notification if the information contained in the Statement of Ownership changes at any time during the term of this Agreement and shall comply with the applicable transfer provisions contained in Article 17 herein. In addition, if the Franchisee is an entity, all of the owners of the Franchisee shall sign the Guaranty and Assumption of Franchisee's Obligations attached hereto as Exhibit II.

j. Hours of Operation. The Franchisee shall at all times during the term of this Agreement keep its SPICY PICKLE Restaurant open during the business hours as may be designated by the Franchisor from time to time in the Operations Manual, except as such designated business hours are superseded by mall requirements, as applicable, and shall maintain sufficient supplies of menu items, food and ingredients, paper goods and branded products and merchandise and employ adequate personnel at all times so as to operate the Restaurant at its maximum capacity and efficiency.

11. PURCHASES OF PRODUCTS

11.1. Inventory

Prior to commencement of operation of the SPICY PICKLE Restaurant, the Franchisee shall purchase and stock the Restaurant with products in such mix and quantities as the Franchisor may determine and prescribe based on the size of and demand at the Restaurant. The Franchisee shall, during the term of the Franchise Agreement, maintain product inventory levels and product inventory mix sufficient to meet customer demands and in compliance with the Franchisor's standards and specifications as may be described in the Operations Manual from time to time.

11.2. Limitations on Supply Obligations

Delivery of products as may be purchased from the Franchisor and its affiliates is subject to and conditioned upon availability. Nothing in this Agreement shall be construed by the Franchisee to be a promise or guarantee as to the continued availability of a particular product sold by the Franchisor or its affiliated companies, nor shall any provision herein imply or establish an obligation on the part of the Franchisor and its affiliates to sell products to the Franchisee if the Franchisee is in arrears on any payment to the Franchisor and its affiliates or is otherwise in default under this Agreement.

11.3. No Product Warranties

The products purchased by the Franchisee from the Franchisor or its affiliated companies shall be subject only to manufacturers' warranties. THE FRANCHISOR AND ITS AFFILIATED COMPANIES MAKE NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE PRODUCT PURCHASED BY THE FRANCHISEE.

11.4. Changes in Product

It is understood that the Franchisor and its affiliates shall have the right, at any time and without notice, to add items to, or withdraw items from, the list of product; to add to or delete from the list of approved suppliers of product; to revise any product; and to change the prices, discounts, or terms of sale of any product, provided, however, no such changes in prices, discounts or terms shall affect accepted orders pending with the Franchisor and its affiliates at the time of change.

12. ROYALTIES

12.1. Weekly Royalty

The Franchisee shall pay to the Franchisor a weekly royalty ("Royalty") equal to 5% of the total amount of its "GrossNet Sales" (defined in Section 12.2 below), generated from or through its SPICY PICKLE Restaurant.

12.2. GrossNet Sales

"GrossNet Sales" shall mean and include the aggregate amount of all sales of products, services or merchandise of every kind or nature sold from, at or in connection with or arising out of the operation or conduct of business at the Restaurant or, if the Franchisee is an entity, arising out of the operation or conduct of any business by such entity, including sales made at or away from the Restaurant, whether for

cash or credit, and any revenues from vending machines and from sales of promotional items such as caps, T-shirts, jackets, and similar items, less returns for which refunds are made, provided that the refund shall not exceed the sales price but excluding all: (i) federal, state or municipal sales or service taxes collected from customers and paid to the appropriate taxing authority; (ii) discounts; and (iii) other exclusions as may be authorized in writing by the Franchisor.

12.3. Royalty Payments

Royalty payments shall be made weekly and sent to the Franchisor postmarked or, if required by the Franchisor, by electronic funds transfer on the day of the week the Franchisor shall designate from time to time ("**Due Date**") based on GrossNet Sales for the immediately preceding week. On the earlier to occur of the date that the Franchisee opens its bank account or the date that the Franchisee opens the Restaurant, the Franchisee shall execute an Authorization For Direct Payment Automatic Bill Payment in the form attached to this Agreement as Exhibit IV (the "**Authorization Agreement**") to allow the electronic transfer of funds from the Franchisee's bank account to the Franchisor's bank account of Royalties, Advertising Contributions and any other amounts owed by the Franchisee to the Franchisor arising from or relating to this Agreement. The Franchisor reserves the right to update the information in the Authorization Agreement on a periodic basis and/or upon any change or transfer of the Franchisee's banking relationship. The Franchisee agrees to provide at least 15 days prior written notice to the Franchisor of any banking change which may alter the Franchisor's ability to access, by electronic funds transfer, the payment of Royalties, Advertising Contributions and any other amounts arising from or relating to the Agreement that is owed by the Franchisee to the Franchisor. No later than the Due Date of each week, the Franchisee shall report to the Franchisor by electronic means or in written form, as may be reasonably directed by the Franchisor, with such information and pursuant to such standard transmittal procedures regarding the Franchisee's GrossNet Sales and such additional information as may be requested by the Franchisor. The Franchisor shall have the right to verify such Royalty payments from time to time as it deems necessary, in any reasonable manner. In the event that the Franchisee fails to have sufficient funds in the account or otherwise fails to pay any Royalties as of the Due Date, the Franchisee shall, in addition to such Royalties, owe a \$25.00 late fee to be automatically assessed and debited or paid along with the late debit or payment of Royalties. In addition, the Franchisor shall have the right to charge interest on any payments made after the Due Date at the highest applicable legal rate for open account business credit, not to exceed 1½% per month. The Franchisee acknowledges that this Section 12.3 shall not constitute the Franchisor's or its affiliates' agreement to accept such payments after they are due or a commitment to extend credit to or otherwise finance operation of the Restaurant. In no event shall the Franchisee be required to pay a late payment and/or interest at a rate greater than the maximum interest rate permitted by applicable law.

12.4. Application of Payments

Notwithstanding any designation by the Franchisee, the Franchisor shall have sole discretion to apply any payments by the Franchisee, and any credits received by the Franchisor on the Franchisee's behalf from third party vendors, to any of Franchisee's past due indebtedness to Franchisor for Royalties, Advertising Contributions, purchases from the Franchisor or its affiliates, interest or any other indebtedness. The Franchisee acknowledges that the Franchisor has the right to set-off any amounts the Franchisee may owe to the Franchisor against any amounts the Franchisor might owe to the Franchisee.

13. ADVERTISING

13.1. Approval of Advertising

The Franchisee shall obtain the Franchisor's prior written approval of all written advertising or other marketing or promotional programs regarding the SPICY PICKLE Restaurant, including, without limitation, "Yellow Pages" and other directory listing advertising, newspaper ads, flyers, brochures, magazines, coupons, direct mail pieces, specialty and novelty items and radio, television and Internet advertising. The Franchisee shall also obtain the Franchisor's prior written approval before using any promotional materials as may be provided by vendors. The proposed written advertising or a description of the marketing or promotional program shall be submitted to the Franchisor at least 30 days prior to publication, broadcast or use. The Franchisee acknowledges that advertising and promoting the SPICY PICKLE Restaurant in accordance with the Franchisor's standards and specifications is an essential aspect of the Licensed Methods, and the Franchisee agrees to comply with all advertising standards and specifications. The Franchisee shall display all required promotional materials, signs, point of purchase displays and other marketing materials in its SPICY PICKLE Restaurant and in the manner prescribed by the Franchisor.

13.2. Advertising Contribution

The Franchisee shall contribute to an advertising fund established by the Franchisor ("Advertising Fund") a fee of up to 2% of the total amount of the Franchisee's GrossNet Sales ("Advertising Contribution") in the percentage established by the Franchisor from time to time. The Advertising Contribution shall be paid to the Franchisor in addition to Royalties and in addition to any amounts spent on local or regional advertising, and the following terms and conditions shall apply:

a. The Advertising Contribution shall be payable concurrently with, and in the same manner as, the payment of the Royalties as described in Section 12.3.

b. The Franchisor may change the amount of the Advertising Contribution (but not to exceed 2% of the Franchisee's GrossNet Sales) by providing the Franchisee with at least 30 days prior written notice.

c. The Franchisor shall have the right to verify Advertising Contribution payments from time to time as it deems necessary, in any reasonable manner.

d. The Advertising Contributions will be subject to the same late charges and interest as the Royalties, in an amount and manner set forth in Section 12.3 above.

e. Upon the request of the Franchisee, the Franchisor will make available to the Franchisee, no later than 120 days after the end of each fiscal year, an unaudited financial statement which indicates how the Advertising Fund has been spent.

f. The Franchisor shall direct all advertising and marketing programs financed by the Advertising Fund, with sole discretion over the creative concepts, materials and endorsements used therein, geographic, market and media placement and allocation, and the administration thereof. The Franchisee agrees that the Advertising Fund may be used to pay the costs of preparing and producing video, audio and written advertising materials, and Electronic Advertising (as defined in Section 13.6); agency costs and commissions; sponsoring radio programs; administering multi-regional advertising programs, including, without limitation, purchasing and placing direct mail and other media advertising and employing advertising agencies and in-house staff to assist therewith; intranet access; administering and providing

access to gift card and similar customer loyalty programs; and supporting public relations, market research and other advertising and marketing activities.

g. The Advertising Fund shall be accounted for separately from the Franchisor's other funds and shall not be used to defray any of the Franchisor's general operating expenses, except for such reasonable administrative costs, salaries and overhead as the Franchisor may incur in activities related to the administration of the Advertising Fund and its marketing programs, including, without limitation, conducting market research, incurring related accounting and legal expenses, preparing material and collecting and accounting for Advertising Fund contributions. The Franchisor may spend in any fiscal year an amount greater or less than the aggregate contribution of all SPICY PICKLE Restaurants to the Advertising Fund in that year and the Advertising Fund may borrow from the Franchisor or other lenders to cover deficits or cause the Advertising Fund to invest any surplus for future use. All interest earned on monies contributed to the Advertising Fund will be first used to pay costs. The Advertising Fund may be incorporated or operated through an entity separate from the Franchisor at such time as the Franchisor deems appropriate, and such successor entity shall have all rights and duties of the Franchisor pursuant to this Section 13.2.

h. The Franchisee understands and acknowledges that the Advertising Fund is intended to maximize recognition of the Marks and patronage of SPICY PICKLE Restaurants. Although the Franchisor will endeavor to utilize the Advertising Fund to develop advertising and marketing materials and programs and to place advertising that will benefit all SPICY PICKLE Restaurants, the Franchisor undertakes no obligation to ensure that expenditures by the Advertising Fund in or affecting any geographic area are proportionate or equivalent to the contributions by SPICY PICKLE Restaurants operating in that geographic area or that any SPICY PICKLE Restaurant will benefit directly or in proportion to its contribution from the development of advertising and marketing materials or the placement of advertising. The Advertising Fund is not a trust fund, and the Franchisor does not owe the Franchisee a fiduciary duty with respect to the maintenance, direction or administration of the Advertising Fund. Except as expressly provided in this Section 13.2, the Franchisor assumes no direct or indirect liability or obligation to the Franchisee with respect to the maintenance, direction or administration of the Advertising Fund.

i. The Franchisor reserves the right to terminate the Advertising Fund, upon 30 days' written notice to the Franchisee. All unspent monies on the date of termination shall be distributed to the Franchisor's franchisees in proportion to their respective contributions to the Advertising Fund during the preceding 12 month period. The Franchisor shall have the right to reinstate the Advertising Fund upon the same terms and conditions set forth herein upon 30 days' prior written notice to the Franchisee.

13.3. Local Advertising

The Franchisee shall spend a minimum of 1% of the total amount of its quarterly GrossNet Sales on local advertising to create public awareness of the Franchisee's SPICY PICKLE Restaurant. ~~The Franchisee will submit to the Franchisor~~Franchisor reserves the right to require, upon ten days prior written notice to the Franchisee, that the Franchisee submit an accounting of the amounts spent on advertising within 15 days following the end of each calendar quarter. The Franchisor has the right, at any time, to require such accounting for all calendar quarters during the term of this Agreement. If the Franchisee's lease requires it to advertise locally, the Franchisor may, in its sole discretion, count such expenditures toward the Franchisee's local advertising expenditure required by this Section 13.3. The

Franchisee shall obtain the Franchisor's prior written approval of all written advertising and promotional materials before publication.

13.4. Regional Advertising Programs

The Franchisor reserves the right, upon 30 days prior written notice to the Franchisee, to create a regional advertising association ("Co-op") for the benefit of SPICY PICKLE franchisees located within a particular geographic area. If a Co-op is established for the area where the Franchisee is located, the Franchisee will be required to participate in the Co-op for the purpose of selecting and participating in regional marketing and promotion programs for SPICY PICKLE Restaurants. The Franchisee will be required to remain a member of and be bound by the decisions of the majority of the members of the Co-op regarding expenditures, assessments and dues of the Co-op, to the extent that they are approved by the Franchisor. The Franchisor may, in its sole discretion, allocate all or a portion of the Advertising Contribution to the Co-op. The Franchisor may require the Franchisee to allocate all or a portion of the local advertising spending requirement under Section 13.3 as a required advertising contribution to the Co-op. Each Co-op has the right, by majority vote, to require its members to pay additional monthly dues to the Co-op. The failure of the Franchisee to participate in the Co-op or pay any dues required by the Co-op, may, at the option of the Franchisor, be deemed to be a breach of this Agreement. The Franchisor has the right, in its sole discretion, to determine the composition of all geographic territories and market areas for the implementation of such regional advertising and promotion campaigns and to require that the Franchisee participate in such regional advertising programs as and when they may be established by the Franchisor. If a regional advertising program is implemented on behalf of a particular region by the Franchisor, the Franchisor, to the extent reasonably calculable, will only use contributions from SPICY PICKLE franchisees within such region for the particular regional advertising program. The Franchisor reserves the right to seek reimbursement from the Co-op for reasonable administrative costs, salaries and overhead as the Franchisor may incur in activities related to the implementation and administration of the Co-op and marketing programs. The Franchisor also reserves the right to establish an advertising cooperative for a particular region to enable the cooperative to self-administer the regional advertising program; provided that the Franchisor shall have the right to review and approve the governing documents of such a self-administering cooperative.

13.5. Grand Opening Promotion

The Franchisee shall conduct a grand opening advertising and promotional program for the SPICY PICKLE Restaurant at a time to be mutually agreed upon by the Franchisor and the Franchisee at or around the time that the Restaurant opens. All of the Franchisee's grand opening advertising and promotional materials shall be subject to the Franchisor's prior written approval.

13.6. Electronic Advertising

The Franchisee shall not develop, create, distribute, disseminate or use any Internet advertising or website, or any multimedia, telecommunication, mass electronic mail, facsimile or audio/visual advertising, promotional or marketing materials, directly or indirectly related to the SPICY PICKLE Restaurant, the Marks or the Licensed Methods ("Electronic Advertising"), without the Franchisor's prior written consent which may be withheld in the Franchisor's sole discretion. The Franchisor shall retain the exclusive right to develop and control the content of all Electronic Advertising for the SPICY PICKLE Restaurants. The Franchisor reserves the right, upon 30 days' prior written notice, to require the Franchisee to participate in any Electronic Advertising of SPICY PICKLE Restaurants sponsored by the Franchisor. If the Franchisor permits the Franchisee to develop any Electronic Advertising, the Franchisee shall do so in strict compliance with the Franchisor's policies and rules regarding the creation, maintenance, use and content of such Electronic Advertising as set forth in this Agreement or the

Operations Manual. Any amounts that the Franchisee spends to participate in Electronic Advertising shall be credited toward the Franchisee's local advertising obligations.

14. QUALITY CONTROL

14.1. Compliance with Operations Manual

The Franchisee shall maintain and operate the SPICY PICKLE Restaurant in compliance with this Agreement and the standards and specifications contained in the Operations Manual, as the same may be modified from time to time by the Franchisor.

14.2. Standards and Specifications

The Franchisor will make available to the Franchisee standards and specifications for products and services offered at or through the SPICY PICKLE Restaurant and for the Franchised Location, equipment, furniture, fixtures, inventory policies, menus, food, paper products, employee attire, supplies, forms, advertising material and other items used in connection with the Restaurant. The Franchisor reserves the right to change standards and specifications for services and products offered at or through the SPICY PICKLE Restaurant and for the Franchised Location, equipment, furniture, fixtures, inventory policies, menus, food, paper products, employee attire, supplies, forms, advertising material and other items used in connection with the Restaurant, upon 30 days prior written notice to the Franchisee. The Franchisee shall, throughout the term of this Agreement, remain in compliance and strictly adhere to all of the Franchisor's current standards and specifications for the SPICY PICKLE Restaurant as prescribed from time to time.

14.3. Inspections

The Franchisor shall have the right to examine the Franchised Location, including the inventory, products, equipment, furniture, fixtures, materials, supplies or services used or sold there, to ensure compliance with all standards and specifications set by the Franchisor. The Franchisor shall conduct such inspections during regular business hours and the Franchisee may be present at such inspections. The Franchisor, however, reserves the right to conduct the inspections without prior notice to the Franchisee.

14.4. Restrictions on Products and Services

The Franchisee is prohibited from offering or selling any products or services not authorized by the Franchisor as being a part of the Licensed Methods. If the Franchisee proposes to offer, conduct or utilize any products, services, materials, forms, items, supplies or services for use in connection with or sale through the SPICY PICKLE Restaurant which are not previously approved by the Franchisor as meeting its specifications, the Franchisee shall first notify the Franchisor in writing requesting approval. The Franchisor may, in its sole discretion, for any reason whatsoever, elect to withhold such approval; however, in order to make such determination, the Franchisor may require submission of specifications, information, or samples of such products, services, materials, forms, items or supplies. The Franchisee shall pay and/or reimburse the Franchisor for the reasonable costs of investigation in determining whether such products, services, materials, forms, items or supplies meet the Franchisor's specifications. The Franchisor will advise the Franchisee within a reasonable time whether such products, services, materials, forms, items or supplies meet the Franchisor's specifications.

14.5. Approved Suppliers

The Franchisee shall purchase all products, equipment, materials, supplies and services required for the operation of the SPICY PICKLE Restaurant from the Franchisor, from the Franchisor's affiliates, from suppliers designated or approved by the Franchisor or, if there is no designated or approved supplier for a particular product, piece of equipment, supply, material or service, from such other suppliers who meet all of the Franchisor's specifications and standards as to quality, composition, finish, appearance and service, and who shall adequately demonstrate their capacity and facilities to supply the Franchisee's needs in the quantities, at the times, and with the reliability requisite to an efficient operation of the SPICY PICKLE Restaurant. The Franchisor reserves the right to designate from time to time, a single supplier for any products, equipment, materials, supplies or services and to require the Franchisee to use such a designated supplier exclusively, which exclusive designated supplier may be the Franchisor or its affiliates. The Franchisor and its affiliates may receive payments from suppliers on account of such suppliers dealings with the Franchisee and other franchisees and may use all such amounts without restriction and for any purpose Franchisor and its affiliates deem appropriate (unless the Franchisor and its affiliates agree otherwise with the supplier).

14.6. Request to Approve Supplier

In the event the Franchisee desires to purchase or use products, equipment, supplies, materials or services from suppliers other than those previously approved by the Franchisor, the Franchisee shall, prior to purchasing from or otherwise utilizing any supplier give the Franchisor a written request to approve the supplier. In the event the Franchisor rejects the Franchisee's requested new supplier, the Franchisor must, within 30 days of the receipt of the Franchisee's request to approve the supplier notify the Franchisee in writing of its rejection. The Franchisor may continue from time to time to inspect any suppliers' facilities and products to assure compliance with the Franchisor's standards and specifications. Permission for such inspection shall be a condition of the continued approval of such supplier. The Franchisor will not unreasonably withhold approval of the supplier; however, in order to make such determination, the Franchisor may require that samples from a proposed new supplier be delivered to the Franchisor for testing prior to approval and use. The Franchisor may, in its sole discretion, deny approval of a supplier, if the approval of an additional supplier for a particular item increases the cost to purchase such item for franchisees. A charge not to exceed the reasonable cost of investigation may be made by the Franchisor and shall be paid by the Franchisee.

14.7. Shopping Service

The Franchisor reserves the right to use third party shopping services from time to time to evaluate the operation and quality of the Franchisee's SPICY PICKLE Restaurant, including such things as food quality, inventory availability, customer service, cleanliness, merchandising and proper use of computers and registers. The Franchisor may use such shopping services to inspect the Franchisee's SPICY PICKLE Restaurant at any time at the Franchisor's expense, without prior notification to the Franchisee. The Franchisor may make the results of any such service evaluation available to the Franchisee, in the Franchisor's sole discretion.

15. MARKS, TRADE NAMES AND PROPRIETARY INTERESTS

15.1. Marks

The Franchisee acknowledges that the Franchisor has the sole right to own, license and control the Franchisee's use of the "SPICY PICKLE" service mark and other of the Marks, and that such Marks

shall remain under the sole and exclusive ownership and control of the Franchisor. The Franchisee shall display the Marks prominently at the Restaurant and on packaging and serving materials and in connection with forms, advertising and marketing, all in a manner as the Franchisor shall reasonably prescribe. The Franchisee acknowledges that it has not acquired any right, title or interest in such Marks except for the right to use such marks in the operation of its SPICY PICKLE Restaurant as it is governed by this Agreement. Except as permitted in the Operations Manual, the Franchisee shall not use any of the Marks as part of an electronic mail address, or on any sites on the Internet and the Franchisee shall not use or register any of the Marks as part of a domain name on the Internet.

15.2. No Use of Other Marks

No service marks other than "SPICY PICKLE" or such other Marks as may be specified by the Franchisor shall be used in the identification, marketing, promotion or operation of the SPICY PICKLE Restaurant.

15.3. Licensed Methods

The Franchisee acknowledges that the Franchisor owns and controls the distinctive plan for the establishment, operation and promotion of the SPICY PICKLE Restaurant and all related licensed methods of doing business, previously defined as the "Licensed Methods", which include, but are not limited to, the Franchisor's standards and specifications for the franchised site, premises, leasehold improvements, interior finish, equipment, supplies, materials, inventory type and control, technical equipment standards, order fulfillment methods, customer relations, marketing techniques, written promotional materials, advertising, accounting systems, recipes, menu items and food preparation methods, all of which constitute confidential trade secrets of the Franchisor. The Franchisee acknowledges that the Franchisor has valuable rights in and to such trade secrets. The Franchisee further acknowledges that it has not acquired any right, title or interest in the Licensed Methods except for the right to use the Licensed Methods in the operation of the SPICY PICKLE Restaurant as it is governed by this Agreement and that it is obligated to maintain the confidentiality of the Licensed Methods in accordance with Section 21.3 below.

15.4. Mark Infringement

The Franchisee shall notify the Franchisor in writing of any possible infringement or illegal use by others of a trademark the same as or confusingly similar to the Marks which may come to its attention. The Franchisee acknowledges that the Franchisor shall have the right, in its sole discretion, to determine whether any action will be taken on account of any possible infringement or illegal use. The Franchisor may commence or prosecute such action in the Franchisor's own name and may join the Franchisee as a party to the action if the Franchisor determines it to be reasonably necessary for the continued protection and quality control of the Marks and Licensed Methods. The Franchisor shall bear the reasonable cost of any such action, including attorneys' fees. The Franchisee must fully cooperate with the Franchisor in any such litigation.

15.5. Franchisee's Business Name and Domain Name

The Franchisee acknowledges that the Franchisor has a prior and superior claim to the "SPICY PICKLE" trade name. The Franchisee shall not use the words "SPICY PICKLE" in the legal name of its company, partnership or any other business entity used in conducting the business provided for in this Agreement. The Franchisee also agrees not to register or attempt to register a trade name or Internet domain name with corresponding email addresses using the words "SPICY PICKLE" in the Franchisee's name or that of any other person or business entity, without prior written consent of the Franchisor. The

Franchisee shall not identify itself as being "Spicy Pickle Franchising, Inc." or as being associated with the Franchisor in any manner other than as a franchisee or licensee or as being associated with any affiliate of the Franchisor. The Franchisee shall, in all advertising and promotion and promotional materials, display its business name only in obvious conjunction with the phrase "SPICY PICKLE Licensee" or "SPICY PICKLE Franchisee" or with such other words and in such other phrases to identify itself as an independent owner of the SPICY PICKLE Restaurant, as may from time to time be prescribed in the Operations Manual.

15.6. Change of Marks and Licensed Methods

The Franchisor may in its sole discretion, discontinue, change, modify or alter the Marks and the Licensed Methods by among other things, adopting or developing new trademarks, trade names, service marks, copyrighted materials, new products or recipes, new equipment, new signage or new operational techniques ("Alterations"). If the Franchisor shall make any Alterations to the Marks or Licensed Methods, the Franchisee shall, within a reasonable time after receipt of written notice of such Alteration from the Franchisor, take such action, at the Franchisee's sole expense, as may be necessary to comply with such required Alteration. The Franchisee shall not unilaterally change, alter or modify the Marks or Licensed Methods in any way without the Franchisor's prior written consent which may be withheld in the Franchisor's sole discretion. The Franchisee's approved changes or improvements to the Licensed Methods or the Marks shall inure to the exclusive benefit of the Franchisor.

15.7. Creative Ownership

All copyrightable works created by the Franchisee or any of its owners, officers or employees in connection with the Restaurant shall be the sole property of the Franchisor. The Franchisee assigns all proprietary rights, including copyrights, in these works to the Franchisor without additional consideration. The Franchisee hereby assigns and will execute such additional assignments or documentation to effectuate the assignment of all intellectual property, inventions, copyrights and trade secrets developed in part or in whole in relation to the Restaurant, during the term of this Agreement, as the Franchisor may deem necessary in order to enable it, at its expense, to apply for, prosecute and obtain copyrights, patents or other proprietary rights in the United States and in foreign countries or in order to transfer to the Franchisor all right, title, and interest in said property. The Franchisee shall promptly disclose to the Franchisor all inventions, discoveries, improvements, creations, patents, copyrights, trademarks and confidential information relating to the Restaurants and the Licensed Methods which it or any of its owners, officers or employees has made or may make solely, jointly or commonly with others and shall promptly create a written record of the same.

15.8. Alterations for Protection of Marks

The Franchisor may, in its sole discretion but with reasonable notice to the Franchisee, enter into the Franchised Location to make any Alterations required for the protection of the Marks and Licensed Methods, including but not limited to the signs, furniture, fixtures, trade dress or décor of the Restaurant, if the Franchisee refuses to make any Alterations required by the Operations Manual or under the terms of this Agreement. If the Franchisor elects to make such Alteration on the Franchisee's behalf, the Franchisor reserves the right to charge the Franchisee for all expenses incurred by the Franchisor in connection with such Alteration including the Franchisor's travel, lodging, living expenses, telephone charges and other identifiable expenses (such as construction and materials), plus a fee based on the time spent by each of Franchisor's employees or agents on behalf of the Franchisee.

16. REPORTS, RECORDS AND FINANCIAL STATEMENTS

16.1. Franchisee Reports

The Franchisee shall establish and maintain, at its own expense, bookkeeping, accounting and data processing systems which conform to the specifications that the Franchisor may prescribe from time to time. Each transaction of the Restaurant shall be processed in the manner prescribed by the Franchisor. The Franchisor shall have the right of access to all data with respect to the Restaurant. The Franchisor reserves the right to require the Franchisee to provide the Franchisor with access to the Franchisee's data by installing a modem or joining and paying for an electronic network connection service which meets the Franchisor's standards and specifications. The Franchisee shall supply to the Franchisor such types of reports in a manner and form as the Franchisor may from time to time reasonably require, including:

a. by a designated day of each week a report on the Restaurant's GrossNet Sales for the previous week;

b. monthly financial statements, prepared in accordance with Generally Accepted Accounting Principles ("GAAP"), consistently applied, using the forms and chart of accounts as prescribed by the Franchisor, which shall include a profit and loss statement and balance sheet for the SPICY PICKLE Restaurant, mailed or otherwise forwarded to the Franchisor by no later than the 15th day following the end of the month, based on operating results of the previous month, which shall be submitted in a form approved by the Franchisor;

c. within 15 days after the end of each calendar quarter, a report on the Franchisee's local advertising expenditures, as further described in Section 13.3 of this Agreement and in the Franchisor's recommended format;

d. within 90 days after the end of the Franchisee's fiscal year, a balance sheet and profit and loss statement prepared in accordance with GAAP, consistently applied, for the Restaurant for such year;

e. within 10 days after such returns are filed, exact copies of federal and state income, sales and any other tax returns and such other forms, records, books and other information as the Franchisor may periodically require; and

f. any other data, information and supporting records reasonably requested by the Franchisor from time to time, including without limitation, daily, weekly or monthly reports of inventory and sales by category.

16.2. Financial Records Use and Access

The Franchisor reserves the right to disclose data derived from all financial and accounting reports received from the Franchisee, without identifying the Franchisee, except to the extent identification of the Franchisee is required by law. The Franchisee consents to the Franchisor obtaining financial and account information regarding the Restaurant and its operations from third parties with whom the Franchisee does business, as and when deemed necessary by the Franchisor.

16.3. Verification

Each report and financial statement to be submitted to the Franchisor pursuant to this Agreement shall be signed manually or electronically, as the case may be, and verified by the Franchisee.

16.4. Books and Records

The Franchisee shall maintain all books and records for its SPICY PICKLE Restaurant in a manner as reasonably prescribed by the Franchisor, shall prepare all annual balance sheets and profit and loss statements in accordance with GAAP, consistently applied, and shall preserve these records for at least five years after the fiscal year to which they relate.

16.5. Audit of Books and Records

The Franchisee shall permit the Franchisor to inspect and audit the books and records of the SPICY PICKLE Restaurant at any reasonable time, at the Franchisor's expense. If any audit discloses a deficiency in amounts for payments owed to the Franchisor pursuant to this Agreement, then such amounts shall become immediately payable to the Franchisor by the Franchisee, with interest from the date such payments were due at the lesser of 1½% per month or the maximum rate allowed by law. If the Franchisee (1) fails to furnish required reports or supporting records on a timely basis for two or more consecutive reporting periods; (2) fails to have the books and records available for an audit after receiving reasonable, advance notice from the Franchisor; (3) otherwise fails to cooperate with the Franchisor's requested audit, or (4) understates its GrossNet Sales for the period of any audit by greater than 3%, then the Franchisee shall reimburse the Franchisor for the cost of such audit or inspection, including, without limitation, the charges of attorneys and any independent accountants and the travel expenses, room and board and compensation of the Franchisor's employees.

17. TRANSFER

17.1. Transfer by Franchisee

The franchise granted herein is personal to the Franchisee and, except as stated below, the Franchisor shall not allow or permit any transfer, assignment, subfranchise or conveyance of this Agreement or any interest hereunder. As used in this Agreement, the term "transfer" shall mean and include the voluntary, involuntary, direct or indirect assignment, sale, gift, or other disposition by the Franchisee (or any of its owners) of any interest in: (1) this Agreement; (2) the ownership of the Franchisee; or (3) the Restaurant or any assets of the Restaurant. An assignment, sale, gift or other disposition shall include a transfer resulting from a divorce, insolvency, corporate or partnership dissolution proceeding, merger or otherwise by operation of law or, in the event of the death of the Franchisee, or an owner of the Franchisee by will, declaration of or transfer in trust or under the laws of intestate succession.

17.2. Pre-Conditions to Franchisee's Transfer

The Franchisee shall not transfer its rights under this Agreement or any interest in it, or any part or portion of any business entity that owns it or all or a substantial portion of the assets of the SPICY PICKLE Restaurant, unless the Franchisee obtains the Franchisor's written consent and complies with the following requirements:

- a. Payment of all amounts due and owing pursuant to this Agreement by the Franchisee to the Franchisor or its affiliates or to third parties holding a security interest in any asset of the franchised business;