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**SPICY PICKLE FRANCHISING, INC.**

**INFORMATION FOR PROSPECTIVE FRANCHISEES**

**REQUIRED BY FEDERAL TRADE COMMISSION**

\* \* \* \* \*

TO PROTECT YOU, WE'VE REQUIRED YOUR FRANCHISOR TO GIVE YOU THIS INFORMATION. WE HAVEN'T CHECKED IT, AND DON'T KNOW IF IT'S CORRECT. IT SHOULD HELP YOU MAKE UP YOUR MIND. STUDY IT CAREFULLY. WHILE IT INCLUDES SOME INFORMATION ABOUT YOUR CONTRACT, DON'T RELY ON IT ALONE TO UNDERSTAND YOUR CONTRACT. READ ALL OF YOUR CONTRACT CAREFULLY. BUYING A FRANCHISE IS A COMPLICATED INVESTMENT. TAKE YOUR TIME TO DECIDE. IF POSSIBLE, SHOW YOUR CONTRACT AND THIS INFORMATION TO AN ADVISOR, LIKE A LAWYER OR AN ACCOUNTANT. IF YOU FIND ANYTHING YOU THINK MAY BE WRONG OR ANYTHING IMPORTANT THAT'S BEEN LEFT OUT, YOU SHOULD LET US KNOW ABOUT IT. IT MAY BE AGAINST THE LAW.

THERE MAY ALSO BE LAWS ON FRANCHISING IN YOUR STATE. ASK YOUR STATE AGENCIES ABOUT THEM.

**FEDERAL TRADE COMMISSION**  
**WASHINGTON, D.C. 20580**

**The Date of Issuance of this Offering Circular is:**

**March 22, 2007**

**April 1, 2006, as amended September 25, 2006**

## FRANCHISE OFFERING CIRCULAR



**Spicy Pickle Franchising, Inc.**  
(a Colorado corporation)  
90 Madison Street, Suite 700  
Denver, Colorado 80206  
Phone: (303) 297-1902  
Facsimile: (303) 297-1903  
Toll Free: (800) 711-1902  
Website: [www.spicypickle.com](http://www.spicypickle.com)

Spicy Pickle Franchising, Inc. is offering franchises for the operation of fast casual restaurants featuring culinary inspired panini, salads, submarine style sandwiches, Neapolitan thin crust pizza, along with soups, sides, chips, soft drinks and our signature pickle. In addition, franchisees pay us our out-of-pocket costs to assist in the Restaurant build-out. Customers can also create made-to-order sandwiches featuring proprietary condiments and a large and unusual variety of toppings. The initial franchise fee for a SPICY PICKLE franchise is ~~\$30,000~~ \$35,000. We also offer qualified persons the right to develop multiple SPICY PICKLE Restaurants within a specific geographic area under a Development Agreement. If you execute a Development Agreement you pay \$10,000 towards each additional SPICY PICKLE Restaurant to be developed in addition to payment of the initial franchise fee for the first franchise. The total initial franchise fee for the second and subsequent Restaurants developed under a Development Agreement is discounted to \$20,000 per Restaurant. The total estimated initial investment, including the initial franchise fee and ~~Build-Out Program cost, and our out-of-pocket costs to assist you in the build-out of your Restaurant,~~ for the purchase of ~~a single~~ the first franchise ranges from ~~\$291,000~~ \$383,680 to ~~\$347,000~~ \$402,880.

### Risk Factors:

1. **THE FRANCHISE AGREEMENT PERMITS YOU TO SUE US ONLY IN COLORADO. OUT OF STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT. IT MAY ALSO COST MORE TO LITIGATE WITH US IN COLORADO THAN IN YOUR HOME STATE.**
2. **THE FRANCHISE AGREEMENT STATES THAT COLORADO LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.**
3. **SOME STATE FRANCHISE LAWS PROVIDE THAT CONSENT TO JURISDICTION AND CHOICE OF LAW PROVISIONS ARE VOID OR SUPERSEDED. YOU MIGHT WANT TO INVESTIGATE WHETHER YOU ARE PROTECTED BY A STATE FRANCHISE LAW. YOU SHOULD REVIEW ANY ADDENDA OR RIDERS ATTACHED TO THIS OFFERING CIRCULAR FOR DISCLOSURES REGARDING STATE FRANCHISE LAWS.**
4. **THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.**

Information comparing franchisors is available. Call the state administrators listed in Exhibit A or your public library for sources of information.

Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this Offering Circular. If you learn that anything in this Offering Circular is untrue, contact the Federal Trade Commission and the state authority listed in Exhibit A.

The effective dates of this Offering Circular in the states with franchise registration laws are in Exhibit J.

Issuance date: March 22, 2007 ~~Effective date: April 1, 2006, as amended September 25, 2006~~

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## EXHIBITS

- Exhibit A List of State Agencies/Agents for Service of Process
- Exhibit B Franchise Agreement
- Exhibit I Addendum to Franchise Agreement
  - Exhibit II Owner's Guaranty and Assumption
  - Exhibit III Statement of Ownership
  - Exhibit IV Authorization For Direct Payment
  - Exhibit V Delivery and Catering Services Addendum
  - Exhibit VI Build-Out Addendum
- Exhibit C Development Agreement
- Exhibit D List of Restaurants
- Exhibit E Franchisees Who Have Left the System
- Exhibit F Financial Statements
- Exhibit G Operations Manual Table of Contents
- Exhibit H Nondisclosure and Noncompetition Agreement
- Exhibit I Closing Acknowledgement
- Exhibit J State Addenda and Riders to the Franchise Offering Circular, Franchise Agreement, Development Agreement and Other Agreements
- Exhibit        K        Receipt of Offering Circular

## ITEM 1

### **THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES**

#### **The Franchisor.**

The name of the franchisor is Spicy Pickle Franchising, Inc. For ease of reference, Spicy Pickle Franchising, Inc. will be referred to as “we”, “us” or “SPF” in this Offering Circular. We will refer to the person who buys the franchise as “you” throughout this Offering Circular. If the franchisee is a corporation, partnership or limited liability company, certain provisions of the Franchise Agreement will also apply to the owners and will be noted. Our principal offices are located at 90 Madison Street, Suite 700, Denver, Colorado 80206. We presently do business only under our corporate name. We were formed on January 14, 2003 as a Colorado limited liability company and on September 8, 2006, we converted to a Colorado corporation. Our agents for service of process are listed on Exhibit A.

Spicy Pickle, LLC (“SPL”), a Colorado limited liability company formed on March 8, 1999, may be considered our predecessor. As of the date of this Offering Circular, we have no affiliates. We reserve the right to create an affiliate company that will sell bread to franchisees in Colorado. SPL, through its founders Kevin Morrison and Tony Walker, created the SPICY PICKLE Restaurant concept and until January 1, 2005, its primary business was operating SPICY PICKLE Restaurants. Between November of 2004 and January of 2005, SPL sold its three original SPICY PICKLE Restaurants, two to franchisees, and one to us for operation as a company restaurant.

#### **Our Business.**

We currently offer franchises for the operation of friendly neighborhood, fast casual restaurants featuring culinary inspired panini, salads, submarine style sandwiches, Neapolitan thin crust pizza known as Pizzetti, along with soups, sides, chips and soft drinks, and our signature pickle that is served with every sandwich and is available for purchase separately (“SPICY PICKLE Restaurants” or “Restaurants”). Customers can also create made-to-order sandwiches featuring proprietary condiments and a large and unusual variety of toppings. The Restaurants feature over ~~1,700~~100,000 varieties of custom sandwiches, prepared using top-quality ingredients. SPICY PICKLE Restaurants operate under our distinctive business format, systems, methods, procedures, designs, layouts and specifications (“Licensed Methods”) and under our service mark “SPICY PICKLE” and related logos, trademarks, service marks and commercial symbols (“Marks”).

#### **The Franchise.**

Our Franchise Agreement (“Franchise Agreement”), attached as Exhibit B to this Offering Circular, is signed for each SPICY PICKLE franchise purchased. As a franchisee, you will receive the right to use our Marks and Licensed Methods to operate your SPICY PICKLE Restaurant, at a location approved by us (“Franchised Location”).

A SPICY PICKLE Restaurant is typically located in a neighborhood or commercial shopping center or other suitable facility that we will approve before development of the facility. The Restaurants are usually ~~less than~~approximately 1,600 to 2,000 square feet, in leased or owned restaurant space. The SPICY PICKLE Restaurants have a friendly, casual, urban décor, use a standardized menu board and provide counter-service for ordering. Featured combinations and made-to-order sandwiches are prepared using premium quality ingredients including its meats, cheeses and breads. The SPICY PICKLE Restaurants are customarily designed to seat approximately 30 to 50 people inside, with additional outdoor seating capability also recommended.

You execute a Build-Out Program Addendum to the Franchise Agreement. Under the terms and conditions of the Build-Out Program, we assist you to develop, construct and equip, at your cost, your SPICY PICKLE Restaurant. See Items 5, 7 and 8.

You must execute our Delivery and Catering Services Addendum to the Franchise Agreement (“**Delivery and Catering Services Addendum**”), which grants you the right to offer box lunch delivery and catering services for certain menu items in accordance with the terms of the Franchise Agreement, the Delivery and Catering Services Addendum and our standards and specifications.

If you qualify, you may obtain from us the right to develop multiple SPICY PICKLE Restaurants within a designated geographic area under our Development Agreement (“**Development Agreement**”), which is attached as Exhibit C to this Offering Circular. The Development Agreement designates a “**Development Area**” reserved for your development of Restaurants. The Development Agreement states the number of SPICY PICKLE Restaurants and the schedule for your development of those Restaurants. A separate Franchise Agreement will be executed for each Restaurant developed under the Development Agreement. The scope and term of any Development Agreement and the number of Restaurants to be developed is dependent on both your development plans and our determination, in our judgment, of your financial capability and qualifications to develop multiple operations within the Development Area.

#### **Regulations.**

You must comply with all local, state and federal health and sanitation laws and regulations, food handler licensing requirements and, if applicable, all liquor licensing laws. You are responsible for complying with these applicable laws, rules and regulations, as well as with all local, state and federal laws of a more general nature, which affect the operation of your business. You should consult with your attorney on this subject, especially regarding state and local laws, rules and regulations that may affect the operation of your SPICY PICKLE Restaurant at your particular location. You are responsible for complying with employment, worker’s compensation, insurance, corporate, taxing and licensing laws and similar laws and regulations.

#### **Market and Competition.**

The market for restaurant services and, in particular, fast casual dining featuring sandwiches, pizza, salads and soups, is well established and highly competitive. ~~The popularity of this market segment, however, has also significantly increased the competition.~~ The restaurant business is highly competitive as to price, service and food quality. You will compete with national as well as regional restaurant chains, operating under well known and recognizable service marks as well as with independent, sandwich and pizza shops and other businesses which offer similar types of food and beverages. You may even experience competition from other SPICY PICKLE Restaurants outside of your Protected Territory and from SPF, as we may sell at wholesale SPICY PICKLE branded food specialty ingredients or products, through trade shows, Internet websites, mail order catalog or through grocery stores or other food specialty stores selling food for off-site premises consumption. We also operate SPICY PICKLE Restaurants and reserve the right to develop SPICY PICKLE Restaurant locations in certain non-traditional venues. See Item 12.

### **Our Prior Business Experience.**

We, in combination with certain of the principals in our company, have over ~~six~~seven years experience in operating SPICY PICKLE Restaurants. From August 1999 until January 2005, through SPL, Tony Walker and Kevin Morrison operated three SPICY PICKLE Restaurants all in the Denver, Colorado metropolitan area. The original SPICY PICKLE Restaurant was opened by Tony Walker and Kevin Morrison in August, 1999, in Denver, Colorado, and was sold to a franchisee in November 2004. The second SPICY PICKLE Restaurant opened by them and operated through SPL was sold to a franchisee in January 2005. See Item 20.

Since our purchase of one of SPL's original three Restaurants in January 2005, and until that location closed at the end of the lease term in November, 2006, we have operated a restaurant of the type to be operated by you. We have offered franchises for SPICY PICKLE Restaurants since March 2003. Neither SPF nor SPL have offered franchises in any other lines of business.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **President, Chief Executive Officer and Director: Marc N. Geman**

Mr. Geman has been our President, Chief Executive Officer and a Director since September 8, 2006. From January 2003 until our conversion to a corporation, he was a Manager and a Member of the Board of Managers of SPF. Mr. Geman was President of Bayview Technology Group, LLC ("BTG") from 2001 until its sale in 2003 to USA Technologies, Inc. ("USA"). He then served as a consultant to USA through 2004. Bayview and USA manufacture and distribute energy-saving devices for refrigerated cabinets. From 1995 to 1998, he was President of Pretzelmaker Holdings, Inc., a national franchisor of soft pretzel stores that was sold to Mrs. Fields Cookies, Inc. in November 1998. Mr. Geman was a founder and CEO of Portfolio Management Consultants, Inc., a licensed broker-dealer/investment advisory firm managing assets for high net worth individuals from 1990 to 1995. Since 1973, Mr. Geman has been a licensed attorney in the State courts of New York and Colorado, as well as the Supreme Court of the United States.

#### **Chief Culinary Officer and Director of Baking: Kevin T. Morrison**

Mr. Morrison has been our Chief Culinary Officer and a Director since September 8, 2006. From January 2003 until our conversion to a corporation, he was a Manager and a Member of the Board of Managers of SPF. ~~He has also served as was a~~ Co-Manager of SPL, ~~a position that he has held since co-founding the concept and opening which opened~~ the first SPICY PICKLE Restaurant in 1999, in Denver, Colorado. He and his partner, Anthony Walker, developed the first three SPICY PICKLE Restaurants, the last of which was sold in January 2005. From 1995 until August 2000, Mr. Morrison owned and operated a wholesale food distribution business, Red Tomato Specialty Produce, in Denver, Colorado. Prior to that Mr. Morrison worked as a line cook and chef at Café Borgia and ~~Vinici Vinici~~ in Chicago, Illinois, at Angelo's in Aspen Colorado, and finally at the Barolo Grill in Denver, Colorado.

#### **Chief Operating Officer and Director: Anthony (Tony) S. Walker**

Mr. Walker has been our Chief Operating Officer and a Director since September 8, 2006. From January 2003 until our conversion to a corporation, he was a Manager and a Member of the Board of

Managers of SPF. Together with Mr. Morrison, he ~~is~~ was a Co-Manager of SPL, SPF's predecessor company that in August 1999 started operating SPICY PICKLE Restaurants in Denver, Colorado. The last of SPL's Restaurants was sold in January 2005. From 1990 until 1993, he worked in regional operations at the Sfuzzi restaurant chain, then started his own computer company which he sold to his partner in 1996. From 1996 until 1999, Mr. Walker was a chef at the Barolo Grill, a fine dining restaurant in Denver, Colorado.

**Chief Financial Officer: Arnold Tinter**

Mr. Tinter has been our Chief Financial Officer since September 2006. Since 1992, he has been President of Corporate Finance Group, LLC, a consulting firm located in Denver, Colorado. From May 2001 to October 2004, Mr. Tinter was the Chief Financial Officer and, for a period of approximately four months, Chief Executive Officer of Bayview Technology Group, LLC, a manufacturer and distributor of energy saving devices located in Denver, Colorado.

**Vice President of Operations—Western Division: Michael I. Cooper**

~~Mr. Cooper has been our Vice President of Operations—Western Division since July 2006. From November 2005 to May 2006, he was a self-employed consultant to the food service industry. From May 1991 to May 2005, Mr. Cooper was Director of Operations for Stockade Cos., LLC, a food service business located in Hutchinson, Kansas.~~

**Vice President of Operations—Eastern Division: Mark A. Maximovich**

Mr. Maximovich has been our Vice President of Operations – Eastern Division since September 2006. From February 2003 to June 2006, he was Vice President of Operations for Quizno's, a submarine sandwich franchisor headquartered in Denver, Colorado. From January 1999 to January 2003, Mr. Maximovich was Vice President of Operations for Mrs. Fields Famous Brands, Inc., a quick service snack franchisor headquartered in Salt Lake City, Utah.

**Director of Real Estate: Brian S. Cerise**

Mr. Cerise has been our Director of Real Estate since October 2006. From January 2006 to July 2006, he was an Account Executive for Sebring Capital LLP, a mortgage business located in Carrollton, Texas. From May 2005 to December 2006, Mr. Cerise was Managing Broker for MorningStar Mortgage, a mortgage and real estate business located in Englewood, Colorado. From March 2004 to May 2005, he was an Account Executive for Stonecreek Funding, Inc., a mortgage business located in Denver, Colorado. From August 2001 to December 2003, Mr. Cerise was a Branch Manager for Enterprise Rent-a-Car in Englewood, Colorado.

**Director of Operations: Chris A. Bue**

Since August 2003, Mr. Bue has been Training Manager, Manager of Operations and Director of Operations for SPE. He was a Manager of a SPICY PICKLE Restaurant operated by Spicy Pickle, LLC and an Area Manager for SPL from August 2001 to July 2003.

**Director of Marketing: Penny S. Nau**

Ms. Nau has been our Director of Marketing since September 2006. From October 2000 to March 2006, she was a Regional Marketing Manager for Culver Franchising Systems, Inc., a fast-casual restaurant chain located in Prairie du Sac, Wisconsin.



**Director of Sales: Robert W. Feldman**

Mr. Feldman has been our Director of Sales since December 2005. From February 2003 to July 2005, he held a sales position with Patterson Dental Supply located in Denver, Colorado. From October 2002 to February 2003, Mr. Feldman was Vice President of Sales for Cavitat Medical Technologies, Inc., a dental equipment manufacturer located in Denver, Colorado.

**Director of Training: Lisa A. Brown**

Ms. Brown has been our Director of Training first as a consultant and then as an employee since August 2004. From June 2004 to December 2005, she operated Exceptional Training Solutions, a restaurant consulting firm located in Denver, Colorado. From August 1999 to June 2004, Ms. Brown was Director of Training for Pencom International, Inc., a restaurant consulting business located in Denver, Colorado.

**Director: L. Kelly Jones**

Mr. Jones has been a Director since September 2006. Since July 1980, he has been President of and an attorney with Jones and Cannon, P.C., a law firm located in Arlington, Texas.

**Director: Presley O. Reed**

Dr. Reed has been a Director since September 2006. Since 1981, he has been Chairman and Chief Medical Officer of Reed Group Ltd., a workplace absence management business located in Westminster, Colorado.

**Director: Raymond J. BonAnno**

Mr. BonAnno has been a Director since September 2006. He was President and Chief Executive Officer from June 1990 to October 1996 and has been Chairman of the Board of Directors and Chief Executive Officer since October 1996 of Fleet Car-Lease, Inc., a new and used vehicle transport business located in Commerce City, Colorado.

**ITEM 3**

**LITIGATION**

In the matter of Marc N. Geman, Administrative Procedure File No. 3-9032. Marc Geman was named as a respondent in an administrative proceeding number 3-9032, filed by the SEC in June 1996, alleging that Mr. Geman, as CEO of Portfolio Management Consultants, Inc. ("PMC"), failed to obtain "best execution" in connection with the clients' purchase and sale of certain securities. In August 1997, the administrative law judge issued a decision that Mr. Geman, as CEO, failed to file required reports and keep required records, but did not violate the "duty of best execution" rules. A \$200,000 fine was imposed and Mr. Geman was barred from participating in the brokerage and investment advisement business for a period of three years. The decision was upheld by the SEC in 2001.

Other than this one action, no litigation is required to be disclosed in this Offering Circular.

#### ITEM 4

### BANKRUPTCY

No person previously identified in Items 1 or 2 of this Offering Circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

#### ITEM 5

### INITIAL FRANCHISE FEE

#### Franchise Agreement

Except as described below in this Item, a non-refundable initial franchise fee of ~~\$30,000~~\$35,000 is payable to us in full when you sign the Franchise Agreement for your SPICY PICKLE Restaurant.

#### Development Agreement

If you qualify and choose to purchase more than one franchise, you execute a Development Agreement together with the Franchise Agreement for the first SPICY PICKLE Restaurant to be developed. On execution of the Development Agreement and Franchise Agreement, you pay the ~~\$30,000~~\$35,000 initial franchise fee for the first SPICY PICKLE Restaurant, plus a \$10,000 development fee for each additional Restaurant to be developed under the Development Agreement. The total initial franchise fee for the second and each subsequent SPICY PICKLE Restaurant developed under the Development Agreement is discounted to ~~\$15,000~~\$20,000 per Restaurant. We apply the \$10,000 development fee paid for the second and subsequent SPICY PICKLE Restaurants to be developed toward the initial franchise fees for each additional Restaurant. The balance of each ~~\$15,000~~\$20,000 discounted initial franchise fee for the second and subsequent Restaurants to be developed under the Development Agreement is due on execution of the Franchise Agreement for that Restaurant, but not later than the date set forth in the Development Agreement which corresponds to the deadline for developing that SPICY PICKLE Restaurant. These fees are non-refundable under all circumstances.

#### Build-Out Program

~~————You pay us to develop, construct and equip your SPICY PICKLE Restaurant under the terms of our "Build-Out Program." You must sign a Build-Out Program Addendum at the same time you sign the Franchise Agreement. You pay us a down payment of \$8,500 for architectural fees and other initial costs at the time you sign and deliver to us a letter of intent or similar term sheet for the space. Before commencement of the build-out services, you must have available funds to pay all estimated build-out costs. If you obtain a binding financing commitment from a third party lending source or you make other arrangements acceptable to us to ensure payment, we may elect to accept an alternative payment plan for the build-out costs. Build-out costs are based on the costs to develop, construct, equip and decorate the Restaurant. All fees and costs paid under the Build-Out Program are nonrefundable. See Item 7.~~

We assist you to develop, construct and equip your SPICY PICKLE Restaurant under the terms of our "Build-Out Program." You must sign a Build-Out Program Addendum at the same time you sign the Franchise Agreement. You reimburse us for our out-of-pocket costs and expenses incurred during build-out of your Restaurant. These costs and expenses are nonrefundable. See Item 6.

Except as described in this Item 5, all franchisees currently acquiring a franchise pay the same franchise fee and development fee per Restaurant developed.

**ITEM 6**

**OTHER FEES**

<b>Name of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty <sup>1</sup>	5% of GrossNet Sales	Payable on the day of the week we periodically designate, based on prior week's GrossNet Sales	GrossNet Sales include all revenue from the Restaurant, including sales made away from the Restaurant premises. GrossNet Sales do not include sales taxes and discounts. Royalties are paid by electronic transfer of funds.
Interest and Late Charges <sup>1</sup>	\$25 late charge, plus the lesser of 1½ % per month, or highest rate of interest allowed by law	Late fee automatically assessed but can be waived at our option; interest on demand	Begins to accrue the day after payments are due.
Advertising Contribution <sup>1</sup>	Up to 2% of GrossNet Sales, reduced by any amounts reallocated to Regional Ad Co-op	Payable on the day of the week we periodically designate, based on prior week's Gross Sales	Contributions will be used primarily for production of advertising and marketing for the Restaurants. See Item 11. Our Restaurants will contribute the same as franchisee-owned Restaurants. We may establish regional advertising co-ops and may reallocate a portion of this fee to regional advertising. The Advertising Contributions are paid by electronic transfer of funds.
Local Advertising Allocation <sup>2</sup>	1% of GrossNet Sales, reduced by any amounts reallocated to Regional Ad Co-op	As incurred	This local advertising allocation is in addition to the Advertising Contribution, but this is retained by you for advertising your Restaurant. This is the minimum average which must be expended during each calendar quarter, with a report of expenditures submitted to us on or before the 15th day after the end of each calendar quarter. If we establish a regional ad co-op which includes your Restaurant, all or a portion of your local advertising allocation may be reallocated to the co-op.
Regional Advertising Co-ops <sup>2</sup>	May vary, with recurring contributions up to 3% of GrossNet Sales, reduced by Advertising Contribution and Local Advertising Allocation	Usually on a weekly basis, based on prior week's GrossNet Sales, or as directed by co-op	As of the date of this offering circular, there were no established cooperatives. Our Restaurants will contribute on the same basis as franchised Restaurants. Reduced by national Advertising Fund contributions and by local advertising.
Costs of Inspection and Audit <sup>1</sup>	Varies, with interest on any past due amounts at lesser of 1½ % per month or highest rate of interest allowed by law	15 days after receipt of our notice to you of any underpayment	Payable only if you understate your GrossNet Sales by more than 3%, do not submit reports to us or do not cooperate in performance of the inspection and audit.

<u>Name of Fee</u>	<u>Amount</u>	<u>Due Date</u>	<u>Remarks</u>
Transfer Fee <sup>1</sup>	\$7,500, plus \$5,000 for every undeveloped franchise under a Development Agreement	Before effectiveness of transfer	Payable when the franchise agreement, interest in the Restaurant or the franchise is transferred by you. The transferee is charged no initial franchise fee.
Renewal Fee <sup>1</sup>	20% of the then current initial franchise fee for a single (first) franchise	When you sign the then current Franchise Agreement	Payable if you opt for and qualify for a successor franchise at the end of the initial term.
Training Program Expenses <sup>3</sup>	Costs associated with attending mandatory training sessions	As incurred	Initial training is included as a part of your initial franchise fee for up to two people, except for those costs paid to other parties. We may require additional training at other times. See <del>Item</del> <u>Items 7 and 11.</u>
Inventory Purchases <sup>1,4</sup>	Current published prices.	As incurred, on net 30 day <u>or other terms set by us, our affiliates or our approved vendors</u>	We charge you for inventory items you purchase through us or our affiliates. <del>These items are currently mainly food items manufactured from our proprietary recipes. Most inventory items are purchased through third party vendors.</del>
Costs and Attorneys' Fees <sup>1</sup>	Will vary depending on nature of your default	As incurred	Payable upon your failure to comply with the Franchise Agreement.
Indemnification Under Franchise Agreement <sup>1</sup>	Will vary depending on nature of the claim against us	As incurred	You have to reimburse us if we are held liable for claims resulting from your operation of your Restaurant.
Insurance Premiums <sup>1</sup>	Will vary depending on your location and insurer	As incurred	If you do not pay your premiums, although we do not have to, we can pay them for you and you must reimburse us.
Build-Out – Out-of-Pocket Expenses <sup>1</sup>	Will vary, <u>but typically ranges from \$1,500 to \$5,000</u>	Payable periodically during the provision of build-out services	You reimburse us for our actual out-of-pocket costs and expenses incurred during the build-out of your Restaurant.
Employee Salary Allocation <sup>1</sup> <u>Delivery and Catering Expenses<sup>5</sup></u>	Based on a percentage of the salaries of our employees and time spent to provide the build-out <u>Costs associated with providing optional delivery and catering services will vary</u>	Payable monthly during the provision of build-out services <u>As incurred</u>	You pay us a fee based upon a percentage allocation of salary and the time spent by each of our employees to provide the build-out services for your Restaurant <u>If you choose to provide delivery and catering, you will incur additional expenses for insurance.</u>
<u>Grand Opening Promotion and Marketing Campaign<sup>2</sup></u>	<u>As determined by SPF and you. See Item 7.</u>	<u>At or around the time your Restaurant opens</u>	<u>The grand opening promotion will typically consist of give-a-ways and direct marketing, such as mailers and other promotional materials.</u>
<u>POS System Set-Up Fee<sup>1</sup></u>	<u>\$750 will vary.</u>	<u>As incurred</u>	<u>At the request of the supplier, we collect this fee and pay it to the supplier.</u>

- 1 These are fees which we charge and must be paid to us. We do not refund these fees.
- 2 Your required expenditures under your lease or commercial center count toward this advertising requirement.
- 3 Expenses associated with travel, meals and lodging while attending initial training sessions. All of these expenses are payable to third parties. These expenses will vary according to where you stay, where you eat and how far you have to travel.
- 4 If you are not consistently timely in your payments for inventory, we our affiliates or our approved vendors may make you pay at time of order or on a C.O.D. basis. You purchase other inventory items from third parties based on the terms which they require.
- 5 Fees which are not paid to us and are not refundable.

**ITEM 7**

**INITIAL INVESTMENT**

<b>Expenditures</b>	<b>Low</b>	<b>High</b>	<b>When Due</b>	<b>Method of Payment</b>	<b>Whether Refundable</b>	<b>To Whom Payment Is To Be Made</b>
Initial Franchise Fee (See Note 1)	\$30,000	\$30,000	At signing of Franchise Agreement	Lump Sum	No	Us
<b>Build-Out Costs:</b>						
Building, Improvements and Millwork (See Note 2)	\$135,000	\$159,000	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us
Kitchen and Other Equipment (See Note 3)	40,000	65,000	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us
Signs and Menu Board (See Note 4)	15,000	15,000	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us
Point of Sale System and Software (See Note 5)	13,500	13,500	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us or Third Party Suppliers
Furniture (See Note 6)	8,000	10,000	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us
Smallwares	5,000	5,000	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us
Architect	8,500	8,500	Prior to commencement of build-out or, in our discretion, as agreed	As incurred	No	Us
<b>Sub-Total of Build-Out Costs</b>	<b>\$225,000</b>	<b>\$276,000</b>				

<u>Expenditures</u>	<u>Low</u>	<u>High</u>	<u>When Due</u>	<u>Method of Payment</u>	<u>Whether Refundable</u>	<u>To Whom Payment Is To Be Made</u>
<u>Additional Costs: Initial Franchise Fee</u> (See Note 1)	<u>\$35,000</u>	<u>\$35,000</u>	<u>At signing of Franchise Agreement</u>	<u>Lump Sum</u>	<u>No</u>	<u>Us</u>
<u>Site/Development Fees</u> (See Note 2)	<u>\$10,700</u>	<u>\$11,700</u>	<u>Before Opening</u>	<u>As Incurred</u>	<u>No</u>	<u>Third Parties</u>
<u>Utility Deposits</u>	<u>1,000</u>	<u>2,600</u>	<u>Before Opening</u>	<u>As Incurred</u>	<u>Yes</u>	<u>Third Parties</u>
<u>Equipment</u> (See Note 3)	<u>160,930</u>	<u>163,130</u>	<u>Before Opening</u>	<u>As Incurred</u>	<u>No</u>	<u>Third Parties</u>
<u>Leasehold Improvements</u> (See Note 4)	<u>117,600</u>	<u>127,000</u>	<u>Before Opening</u>	<u>As Incurred</u>	<u>No</u>	<u>Third Parties</u>
<u>POP, Menus and Uniforms</u> (See Note 5)	<u>6,950</u>	<u>6,950</u>	<u>Before Opening</u>	<u>As Incurred</u>	<u>No</u>	<u>Third Parties</u>
<u>Food and Beverages, Paper</u> (See Note 6)	<u>9,700</u>	<u>9,700</u>	<u>Before Opening</u>	<u>As Incurred</u>	<u>No</u>	<u>Third Parties</u>
<u>Opening Inventory, Grand-Opening and Initial-Training Expenses Costs and Salaries Pre-Opening</u> (See Note 7)	<u>\$10,000</u> <u>15,800</u>	<u>\$10,000</u> <u>5,800</u>	<u>Before Opening</u>	<u>Lump Sum when ordered As Incurred</u>	<u>No</u>	<u>Us or Other Suppliers Third Parties</u>
<u>Security Deposits, Utility Deposits, Business Licenses, Legal Fees</u> (See Note 8)	<u>3,000</u>	<u>5,000</u>	<u>Before Opening</u>	<u>As incurred</u>	<u>Deposits are refundable; Business licenses are not</u>	<u>Other Suppliers</u>
<u>Additional Funds - 3 months</u> (See Note 9)	<u>23,000</u>	<u>26,000</u>	<u>As incurred</u>	<u>As incurred</u>	<u>No</u>	<u>Other Suppliers</u>
<u>Sub Total of Additional Costs</u>	<u>\$36,000</u>	<u>\$41,000</u>				
<b>TOTAL ESTIMATED INITIAL INVESTMENT</b> (See Notes 10 and 11)	<b>\$291,000</b> <b>\$383,680</b>	<b>\$402,880</b> <b>\$347,000</b>				

### Explanatory Notes

**Note 1: Initial Franchise Fee and Site Development Fee.** If you sign a Development Agreement to open multiple Restaurants, you must pay an initial franchise fee of ~~\$30,000~~ \$35,000 for the first SPICY PICKLE Restaurant plus a \$10,000 development fee for each additional Restaurant to be developed. We apply the nonrefundable \$10,000 development fee paid for the second and each subsequent Restaurant to be developed toward the initial franchise fee for each Restaurant, the remainder

of which is paid at a later date. The initial franchise fee is discounted to \$15,000 ~~20,000~~ for the second and each subsequent Restaurant that is developed under the Development Agreement. See Item 5.

**Note 2: Building, Improvements and Millwork      Site Development Fees.** Depending on the availability of construction or "as built" drawings, it may be necessary to obtain an on site investigation report of the condition of the premises, which could cost an additional \$2,000. If a permit expeditor is used to obtain permits, your additional costs not included in the chart could be as high as \$3,000. A breakdown of these estimated costs follows:

	Low	High
Conceptual Drawing	\$ 700	\$ 700
Full Set of Plans	8,500	8,500
Permits & Licenses	1,500	2,500
	\$10,700	\$11,700

**Note 3: Equipment.** This item includes the estimated costs to obtain, ship and install the large equipment, bakery equipment, furniture (including tables and chairs, and patio furniture), millwork and concrete counters, booths if applicable, custom display materials, smallwares, music and TV systems, safe and other office equipment including computers and related POS System equipment and software fees for set up of the gift, frequency and reporting modules. This item includes the estimated costs to purchase and license a computerized point-of-sale system and software with two terminals and training. None of these payments are refundable once paid. Your costs may be higher if you decide to add more terminals. We reserve the right, in the Franchise Agreement, to license to you our own proprietary software if we choose to develop proprietary software and make it available to you. We reserve the right to charge you for obtaining the software in an amount that will not exceed the high range estimate in the chart above, when added to your other costs incurred for items in this category. See Items 8 and 11 for other information about the required POS System and computer hardware and software for your Restaurant. The estimates assume new equipment. Although used equipment is generally available at lower costs it usually carries no warranty and can in the long run be more costly than new equipment. We do not require that you purchase or lease a vehicle, as you may use any existing vehicle that you own or employees' vehicles to make deliveries. A breakdown of these estimated costs follows:

	Low	High
Signage & Menu Board	\$ 12,000	\$ 12,000
Interior Design Material	7,500	7,500
Large Equipment	42,000	42,000
Baking Equipment	21,200	21,200
Table and Chairs	7,550	7,550
Patio Furniture	2,000	2,000
Umbrella Stands	730	730
Freight and Installation	14,000	14,000
	\$106,980	\$106,980

	Low	High
Counters and Booths	\$ 22,500	\$ 22,500
Smallwares	7,150	7,150
POS System	14,750	16,950
Music System and TV	1,300	1,300
Office Equipment	1,250	1,250
Freight & Shipping Costs	7,000	7,000



\$53,950

\$56,150

**Note 4: Leasehold Improvements.** Typically, a SPICY PICKLE Restaurant will be between 1,600 to ~~1,800~~2,000 square feet of retail space and seat approximately 30 to 50 customers inside. Ideally, limited patio seating is also available. Your costs for tenant finish for the Restaurant will depend in large part on the square footage of your Restaurant, whether your space must be completely constructed or is the remodel of an existing space, the location and overall costs in the market in which you are developing the Restaurant. The estimates in the above chart reflect the build-out of empty space in vanilla shell condition based on a Restaurant of 1,600 square feet on the low estimate and ~~1,800~~2,000 square feet on the high estimate. The square foot cost is assumed to be ~~\$75~~\$85 a square foot for the low estimate and ~~\$80~~ a square foot for the high estimate plus profit and overhead, although your actual costs may vary under or over the estimates. ~~The millwork is assumed to be \$15,000 for each size. If we also assume that you receive obtain a tenant improvement allowance from the landlord of \$20 to \$30 a square foot. A tenant improvement allowance in this range is generally available on new construction unless the landlord is going to install all of the permanent improvements such as HVAC, electrical panels, bathrooms and fire code systems. If the build-out is a remodel of an existing space and already installed improvements may be re-used, your costs may be lower than the costs estimated in the chart. The leasehold improvements that are typically made include floors, carpentry, doors & windows, finishes, HVAC, electrical, plumbing, millwork and other improvements, including site work, include: demolition where necessary, concrete, masonry, structural steel, rough carpentry, roofing, doors and frames, drywall, flooring, painting, mechanical and plumbing and electrical. If the jurisdiction requires grease traps, additional costs will be incurred may be incurred unless the landlord installs it as a common amenity and amortizes the cost in the common area maintenance charge of the lease. We provide you with standardized blueprints for a Restaurant to suit the shape and dimensions of the Franchised Location. This estimate also includes the counter areas for order-taking and food preparation. If you purchase property or a building, or both, for the Restaurant, your additional costs will depend on the location and size of the land and building. We do not typically invest in the land and building for a SPICY PICKLE Restaurant. We are unable to estimate these costs due to the significant variances based on location and market conditions.~~

~~**Note 3: Kitchen and Other Equipment.** This item includes the estimated costs to obtain and install the panini grill, walk-in or reach-in refrigerators, self-serve reach-in refrigerated display case, sinks, slicers, holding cabinets and ovens, hoods, food preparation stations, shelving, music and TV systems, safe and other equipment (not including computers and related POS System equipment). The estimates assume new equipment, although used equipment is generally available at lower costs. This item includes the estimated cost for equipment and other items to provide box-lunch delivery and catering services. We do not require that you purchase or lease a vehicle, as you may use any existing vehicle that you own or employees' vehicles to make deliveries. We are currently testing ovens to bake fresh bread in the Restaurants. If this program is approved and your Restaurant is located outside the area supplied by us, our affiliates or designated suppliers, we reserve the right to require you to purchase this equipment.~~

~~**Note 4: Signs and Menu Board.** This item includes indoor and outdoor signage, menu boards, graphics, wall décor and point-of-purchase displays.~~

~~**Note 5: Point-of-Sale System and Software.** This item includes the estimated costs to purchase and license a computerized point-of-sale system and software with two terminals and training. None of these payments are refundable once paid. Your costs may be higher if you decide to add more terminals. All of these costs are paid to us and we pay third-party suppliers or are paid directly to the third-party supplier. We do, however, reserve the right, in the Franchise Agreement, to license to you our own~~

~~proprietary software if we choose to develop proprietary software and make it available to you. We reserve the right to charge you for obtaining the software in an amount that will not exceed the high range estimate in the chart above, when added to your other costs incurred for items in this category. See Items 8 and 11 for other information about the required POS System and computer hardware and software for your Restaurant.~~

Note 5: POP, Menus and Uniforms. This includes the cost of printing menus with the address of the Franchised Location, other point of purchase ("POP") materials, patio umbrellas with the COCA COLA® and Spicy Pickle logos, an introductory grand opening marketing campaign, including direct mail, uniforms and clothing for the staff and a Spicy Pickle Mascot suit (optional).

Note 6: Food and Beverages, Paper, Furniture. This item includes indoor and patio furniture, consisting of tables, chairs and umbrellas. Note 7: Opening Inventory, Grand Opening, and Initial Training. You must open with and maintain an adequate inventory of menu items and ingredients, and paper goods and branded products and merchandise for retail sale to serve your customers.

Note 7: Training Costs and Salaries Preopening. You must conduct a grand opening promotional and marketing campaign and you will incur costs for giveaways and direct marketing, such as mailers and other promotional and marketing expenses. You will ~~also~~ will incur expenses for retaining and training employees prior to the opening of your Restaurant. Your travel and living expenses when you attend our initial training program in Colorado vary depending on the length of your instruction, the distance you must travel and the standard of living you desire while you attend the program. The estimate covers expenses for two people attending our ~~three~~four-week training session in Colorado and certain other preopening training costs. See Items 6 and 11.

Note 8: Security Deposits, Utility Deposits, Business Licenses and Legal Fees ("Soft Costs"). Security deposits, if applicable to your Restaurant, are usually one month's rent; utility deposits range from a nominal amount to approximately \$1,000; and business licenses range from approximately \$100 to \$1,000, depending on your location. If you retain an attorney, the legal fee estimate includes entity set-up, lease review, employment matters and advice regarding licenses and permits.

Note 9: Additional Funds. This item estimates your pre-operational expenses, which we have not listed above, as well as additional funds necessary for the first three months of your business operations. These figures are estimates and we cannot guarantee that you will not have additional expenses starting the business. Your costs depend on factors such as: how much you follow our methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our products and services; the prevailing wage rate; competition; and the sales level reached during this initial period. This item includes a variety of expenses and working capital items during your start-up phase such as: rent; debt service; accounting fees; office equipment (not detailed above, such as facsimile machine and photocopier); insurance premiums; advertising and promotional expenses and materials; employee salaries; and other miscellaneous costs. This item also includes your reimbursements to us of our out-of-pocket costs and expenses, and a salary allocation based on our employees' time spent, for the build-out of your Restaurant. However, this item excludes your salary. If you choose to provide delivery and catering services, the chart does not include the cost of a delivery vehicle. You are not required to provide a delivery vehicle (you may rely on your currently owned vehicle or employee-owned vehicles). If you acquire your own vehicles, costs will vary depending upon the type of vehicle and whether it is owned or leased.

Note 10: Basis For Estimates; Financing. We relied on our principals' experience in the Restaurant business of over ~~twelve~~thirteen years, ~~six~~seven of which have been in owning and operating

SPICY PICKLE Restaurants, combined with use of professional consultants knowledgeable in the restaurant industry and our experience in opening restaurants, when preparing these figures. Because the ranges in the chart are only estimates, it is possible both to reduce and exceed the estimated range of costs listed in each item of the chart. In certain major metropolitan areas, actual costs may substantially exceed the high range estimates in the chart. You should review these figures carefully with a business advisor before making any decision to purchase a franchise. We do not offer financing either directly or indirectly for any part of the initial investment. The availability and terms of financing from independent third parties depends on factors such as the availability of financing generally, your creditworthiness, other security and collateral you may have and policies of lenders.

**Note 11: Multiple SPICY PICKLE Restaurants.** Except as mentioned above, including that the initial franchise fee is discounted for the second and subsequent Restaurants (See Note 1), if you sign a Development Agreement, you will incur the costs described in the charts for every SPICY PICKLE Restaurant developed.

## ITEM 8

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

#### **Operations.**

Your SPICY PICKLE Restaurant must be established and operated in compliance with your Franchise Agreement. It is mandatory that you comply with the standards and specifications contained in an operations manual we provide to you, in the form of one or more manuals, technical bulletins or other written materials ("**Operations Manual**"), which we may modify. We provide you with our mandatory standards and specifications for almost all of the menu items and retail products and related services offered at or through your SPICY PICKLE Restaurant and for the Franchised Location, equipment, furniture, fixtures, menus, food, paper products, uniforms, supplies, forms, chart of accounts, advertising material, and other items used at your Restaurant.

#### **Restaurant Build-Out Program.**

Each of our franchisees are required to participate in our Build-Out Program. Under this program, ~~we assist franchisees pay us to assist~~ in developing, constructing and equipping their SPICY PICKLE Restaurant in accordance with the terms of the Build-Out Addendum, which is attached to the Franchise Agreement as Exhibit VI. In addition to your payments to ~~us~~ third parties of the actual cost to develop, construct and equip your SPICY PICKLE Restaurant, you pay us our out-of-pocket costs and expenses and ~~a service fee based on the salary of and time spent by each of our employees to~~ assist you in the build-out of your Restaurant. See Items 55, 6 and 7.

#### **Lease.**

We work with real estate brokers in the area where your Restaurant is to be located to review possible locations and study demographic information concerning the potential location. Although we prepare and submit the letters of intent for any possible location for your Restaurant, you and your advisors ~~must~~ can submit to us comments for incorporation into the final letter of intent. We also prepare comments on a final lease, but you and your advisors ~~must~~ can submit comments prior to execution of the lease and we must approve any lease or, if applicable, any purchase agreement for your Restaurant before you execute any of these agreements. Then, a copy of the signed lease is to be delivered to us within 15

days after signing. The primary lease should contain certain provisions which grant us certain rights, as your franchisor, including:

- (i) The initial term of the lease, or the initial term together with any renewal terms (for which rent must be specified in the lease) must be for at least 10 years;
- (ii) The lease must give the landlord's consent to your use of the Marks and signage which we initially prescribe for the Restaurant;
- (iii) We must have the right to enter the premises to make any modification necessary to protect the Marks and the Licensed Methods;
- (iv) We or our designee must have the option to assume your occupancy rights under the existing lease terms and have the right to assign the lease or sublet the premises to a qualified franchisee, for all or any part of the lease term, if you are in default under the lease or the Franchise Agreement or if the lease or Franchise Agreement is terminated;
- (v) Your lessor must agree to provide us with a notice of default and an opportunity to cure any default; and
- (vi) The lease must contain restrictive use and exclusive use provisions which are acceptable to us.

#### **POS Systems, Enterprise System and Intranet.**

Each of our franchisees must use operations and accounting software that has capabilities that meet our standards and specifications. You must purchase or lease a point-of-sale system and computer equipment meeting our specifications (together with the software, referred to as "POS System"). The POS System currently approved for use in the Restaurants is called Aloha, available through BEC, a Denver, Colorado-based company not affiliated with us. You must also subscribe to, pay for, and connect your POS System to the web-based enterprise system provided by Aloha, or such other enterprise system we may designate ("Enterprise System"). This system provides for gift card and frequency programs system wide. You must also subscribe to become a member of the intranet system that we designate. The current supplier of this system is ~~HFX International, Inc~~ Webex. The Enterprise System and the intranet have monthly fees that we pay on your behalf out of the Advertising Fund. We reserve the right to require alternate payment arrangements. ~~We reserve the right to develop and own proprietary software and license it to you, but have no current plans to do so.~~ We reserve the right to derive revenue from POS System maintenance fees, if and when we develop our own proprietary software for use in Restaurants, although we have no current plans to do so. See also Items 6, 7 and 11.

#### **Purchases from Designated or Approved Sources.**

~~We reserve the right to require that you~~ You purchase from us, or another supplier designated by us certain proprietary spice and seasoning packets from which to prepare our proprietary mayonnaise, salad dressings and sauce recipes, breads and other proprietary food items that we may develop from time to time ("Proprietary Recipe Items"). These are items for which we customarily refrain from divulging the recipes, which are maintained as trade secrets. In addition, if you purchase from us certain items that are branded with our logo. If we, our affiliates or others develop commissaries in your area, we reserve the right, upon 30 days prior written notice to you, to require you to purchase from the commissary the Proprietary Recipe Items, bread and other food items. We are currently constructing a Bakery in Denver,

Colorado that will supply bread to most Restaurants located in Colorado. We also reserve the right, upon 30 days prior written notice to you, to designate a vendor which you must use to provide all bookkeeping, payroll and merchant services for your Restaurant.

SPICY PICKLE Restaurants feature sandwiches made with designated premium quality meats, cheeses, pickles and breads available in the market where the franchise will be located. Dietz & Watson is currently the only approved brand of meats and cheeses for the sandwiches. We designate exclusive suppliers for these items based on the market where your Restaurant is located. Most other markets in the United States have a designated source for Dietz & Watson meats and cheeses. ~~We approve the source of breads for the sandwiches based on our review and quality testing of local bakeries' products.~~ We reserve the right to designate alternative sources of meats, cheeses, pickles, breads and certain other products of a quality comparable to these brands that you must use in connection with supplying your Restaurant.

You will purchase or lease the rest of your inventory needs, equipment, supplies, and services used, sold or leased through your SPICY PICKLE Restaurant only from suppliers designated or approved by us in advance. ~~You~~We reserve the right to designate a single approved supplier for certain inventory items, equipment, supplies and services. ~~If there is no designated or approved supplier for a particular item, you~~ must only purchase, lease, sell or use inventory, equipment, supplies and services meeting our standards and specifications. On or before your commencement of our initial training program, we will make available to you a list of our approved suppliers, and the standards and specifications for items to be used, sold or leased by you through your SPICY PICKLE Restaurant, ~~as well as our criteria for approving a supplier.~~

We are not currently affiliated with any designated or approved suppliers. We reserve the right to sell products, equipment, supplies and services to franchisees and to derive revenue from such sales. In the fiscal year ended December 31, ~~2005, 2006,~~ we derived revenue received payments from the sale or lease of products and services to franchisees of ~~\$66,682,937,778~~ or 7% of our revenues of \$940,196. ~~However, the \$66,682.93 which constituted payments to us by suppliers as a result of your purchases, was allocated to the Advertising Fund for use in the development of our brand identification and corresponding point of purchase materials and store decorations.~~ 9% of our revenues of \$873,499. Payments received by us from franchisees from the sale or lease of products or services were paid by us to the third parties that provided the products or services to franchisees. We estimate that the costs of your purchases from designated or approved sources, or according to our standards and specifications, may range from 83% to 95% of the total cost of establishing a SPICY PICKLE Restaurant and approximately 30% to 40% of the total cost of operating a SPICY PICKLE Restaurant after that time.

If you want to purchase or lease any inventory, equipment, supplies, or services we have not approved, or purchase or lease these items from a supplier who we have not approved, you will need to notify us and obtain our approval in advance. The notification should include sufficient specifications, photographs, drawings and other information and samples to determine whether those items or those suppliers meet our specifications. You must reimburse us for the actual cost of any testing and the reasonable cost of investigation to determine whether those items or those suppliers meet our specifications. We must notify you within a reasonable time whether or not we approve of the items submitted by you. We have 30 days to approve or disapprove of a supplier. We will not unreasonably withhold our approval of a supplier of your choosing, if the supplier meets our published standards and specifications. We reserve the right to deny approval of a supplier if approving an additional supplier for a particular item increases the cost of the item for franchisees. We reserve the right to change the published standards regarding any approved supplier or any inventory, equipment, supplies, or services

used, offered for sale or leased by franchisees upon 30 days written notice to all franchisees and all approved suppliers.

We do not provide material benefits, such as renewal or granting additional franchises to franchisees, based on your use of designated or approved sources or suppliers.

### **Advertising and Marketing.**

All marketing and promotion of your SPICY PICKLE Restaurant must conform to our standards and specifications. You must submit to us samples of all advertising and promotional materials that have not been prepared or previously approved by us. Your Restaurant must participate in promotions we institute from time to time for all SPICY PICKLE Restaurants, or for all SPICY PICKLE Restaurants within a particular area. We retain the right to develop and control all advertising using our Marks on the Internet or other electronic method. We reserve the right, upon 30 days prior written notice to you, to require that you participate in electronic advertising by creating, customizing or providing access to a linked web page or otherwise. All SPICY PICKLE Restaurants, including our Restaurant, must participate in this program and in other promotions we may adopt.

### **Insurance.**

You must maintain certain types and amounts of insurance coverage described in the Franchise Agreement, Operations Manual and the lease for the premises where your Spicy Pickle Restaurant will be located. If you fail to purchase this insurance, we may demand that you cease operations or obtain insurance for you and you must reimburse us for the cost of the insurance. All insurance policies must name us as an additional insured and give us at least 30 days prior written notice of termination, amendment or cancellation. You also must provide us with certificates of insurance evidencing your insurance coverage before the opening of your SPICY PICKLE Restaurant. You must furnish us with copies of all required insurance policies or other evidence of insurance coverage and payment of premiums as we request from time to time. We reserve the right, upon 60 days prior written notice to you, to require you to change the type of insurance you are required to maintain and to revise the required coverage limits.

### **Purchasing Arrangements.**

We have no purchasing or distribution cooperatives at the current time, ~~although we~~. We may establish pricing programs with certain suppliers based on volumes purchased. Periodically, we may negotiate purchase arrangements with suppliers for the benefit of our franchisees. We currently maintain purchasing and pricing arrangements for the supply of certain inventory and soft drinks with Dietz & Watson and distributors of Dietz & Watson products and Coca-Cola. The pricing arrangement with the soft drink supplier includes an equipment leasing program. Currently, you are provided the dispensing equipment from the soft drink supplier at no cost. The annual cost, if any, will vary depending on the equipment leased and current program terms. As part of the distribution arrangement with the soft drink supplier, the Advertising Fund currently receives from the supplier \$1.35 per gallon of soft drinks purchased by all Restaurants from the supplier. However, you should not rely on the continued availability of any particular pricing or distribution arrangement, or the availability of any particular product or brand in deciding whether to purchase the franchise. SPF has the right to receive payments from suppliers on account of their dealings with you and other franchisees. During the ~~2005~~2006 fiscal year, in addition to payments from the soft drink supplier described above, SPF received payments from our meat and cheese supplier of approximately \$0.40 a pound as a result of franchisee purchases, which funds were ~~placed~~used in the Advertising Fund for development of the brand and for advertising. We

may, in our discretion, either retain all or a portion of the credit of any volume discounts, rebates or incentives received as a result of your purchases or contribute all or a portion of them to the Advertising Fund.

## ITEM 9

### FRANCHISEE'S OBLIGATIONS

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AGREEMENT AND, IF APPLICABLE, THE DEVELOPMENT AGREEMENT. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Section in Agreement	Item in Offering Circular
(a) Site selection and acquisition/lease	Sections 3.1, 5.1 and 5.2 of Franchise Agreement; Sections 3.3 and 3.5 of Development Agreement	Items 8 and 11
(b) Pre-opening purchases/leases	Sections 5.2, 5.3, 5.4, 5.5 and 5.6 of <u>Franchise Agreement</u>	Items 5, 6, 7 and 8
(c) Site development and other pre-opening requirements	Sections 5.3, 5.4, 5.5, 5.6 and 5.7 <u>and Exhibit VI of Franchise Agreement</u>	Items 7, 8 and 11
(d) Initial and ongoing training	Article 6 of Franchise Agreement	Item 11
(e) Opening	Section 5.8 of Franchise Agreement	Item 11
(f) Fees	Articles <u>44, 12</u> and <u>1213</u> of Franchise Agreement; Sections 4, 5 and 6 of the Build-Out Addendum; Article 2 of Development Agreement	Items 5, 6 and 7
(g) Compliance with standards and policies/Operations Manual	Article <u>8 and 8</u> , Sections 14.1 and 14.2 <u>and Exhibit V</u> of Franchise Agreement	Item 1
(h) Trademarks and proprietary information	Article 15 and Section 21.3 of Franchise Agreement	Items 13 and 14
(i) Restrictions on products/services offered	Sections 3.2, 10.1(d) and 14.4 of Franchise Agreement	Items 11 and 16
(j) Warranty and customer service requirements	None	
(k) Territorial development and sales quotas	None – Franchise Agreement; Sections 1.1, 1.2 and 3.1 of Development Agreement	Item 12
(l) On-going product/service purchases	Sections 14.5, 14.6 and 14.7 of Franchise Agreement	Item 8
(m) Maintenance, appearance and remodeling requirements	Sections 10.1(a), (b) and (h) of Franchise Agreement	Item 11