

EXHIBIT G

FRANCHISE AGREEMENT, PERSONAL GUARANTY AND LEASE ADDENDUM

MUGINOHO USA, INC.
BEARD PAPA'S SWEETS CAFÉ
FRANCHISE AGREEMENT

FRANCHISEE:

LOCATION:

DATE:

**BEARD PAPA'S SWEETS CAFÉ
FRANCHISE AGREEMENT
TABLE OF CONTENTS**

	<i>Page</i>
Preamble	1
Article I – Grant and Operation of the Franchise	1
Section 1.1 – Location Rights	1
(a) Grant of Rights	1
(b) Single Site	2
(c) No Territorial Rights	2
(d) Types of Sales	2
(e) Other Limitations	2
(f) Rights We Reserve	2
(g) Guaranty	2
Section 1.2 – Site Selection and Development; Opening	3
(a) Site Selection	3
(b) Our Approval Does Not Constitute a Warranty	3
(c) Purchase of the Site	3
(d) Lease	3
(e) Site Development	3
(f) Conditions to Opening	4
(g) Time of Opening	4
Section 1.3 – Equipment; Suppliers; Insurance	4
(a) Purchases from Us	4
(b) Purchases from Other Suppliers	5
(c) Approval of Other Suppliers	5
(d) Computer and Cash Register Systems	5
(e) Insurance	5
(f) Compensation from Suppliers	6
Section 1.4 – Manual; System Modifications	6
(a) Manual	6
(b) System Modifications by Us	7
(c) System Modifications by You	7

Section 1.5 – Training and Support	7
(a) Initial Training	8
(b) Ongoing Training	8
(c) Ongoing Support	8
(d) Operational Reviews	
Section 1.6 – Your Conduct of the Franchised Business	8
(a) Conduct of the Business	8
(b) Customer Service	8
(c) Management	9
(d) Undertakings by Managers	9
(e) Setoff	9
(f) Maintaining Goodwill	9
(g) Compliance with Laws	9
(h) Health Standards	9
(i) Maintaining the Premises	9
(j) Remodeling	10
(k) Use of the Premises	10
(l) No Vending Machines	10
(m) Entity Requirements	10
(n) Franchisee Advisory Council	10
Section 1.7 - Marketing, Promotion and Advertising	11
(a) Signage	11
(b) Grand Opening	11
(c) Local Advertising Expenditures	11
(d) Local Advertising Materials	11
(e) Cooperative Advertising	12
(f) National and Regional Advertising	12
(g) Establishment of an Advertising Fund	12
(h) Use of the Advertising Fund	12
(i) Accounting for the Advertising Fund	13
(j) Advertising Fund Entity	13
(k) Distribution of Advertising Expenditures	13
(l) Termination of Advertising Fund	13
(m) Internet Advertising	13
Section 1.8 – Website	13
(a) Establishment of a System Website	14
(b) Maintenance of Your Web Page	14
(c) Removal of Your Web Page	14
(d) Promotion of the System Website	14
(e) Franchisee Extranet	14

Article II – Fees; Payments; Records; Inspections	15
Section 2.1 – Fees	15
(a) Initial Fee	15
(b) Royalties	15
(c) Definition of Gross Sales	15
(d) Advertising Fee	15
(e) Accounting Period	15
(f) Reporting and Payment	16
(g) Interest on Late Payments	16
(h) No Setoff	16
(i) Application of Payments	16
(j) Taxes	16
Section 2.2 – Records; Inspection	16
(a) Records	16
(b) Computer System	16
(c) Right to Inspect	17
(d) Right to Audit	17
(e) Discrepancies	17
(f) Cost	18
(g) Survival of Inspection and Audit Rights	18
(h) Disclosure of Your Financial Information	18
Article III – Proprietary Rights; Confidentiality; Noncompetition	18
Section 3.1 – Our Copyrights and Trademarks	18
(a) Our Copyrights	18
(b) Our Trademarks	18
(c) Proper Use of Marks	19
(d) Modifying the Marks	19
(e) Infringement	19
Section 3.2 – Confidentiality of Our Information	20
(a) Confidential Information	20
(b) Nondisclosure and Non-Use	20
(c) Isolated Disclosures	21
(d) Exceptions	21
(e) Disclosures Required by Law	21
Section 3.3 – Noncompetition	21
(a) Agreement Not to Compete	21
(b) Definition of Competitive Business	22

Article IV – Transfer	22
Section 4.1 – Transfer by Us	22
Section 4.2 – Transfer by You	22
(a) No Transfer Without Our Approval	22
(b) Definition of Transfer	22
(c) Notice of Transfer	23
(d) Conditions to Transfer	23
(e) Exceptions	24
(f) Transfer Upon Death or Disability	25
(g) Operation of the Franchised Business Upon Death or Disability	25
(h) Stock Offerings	25
Section 4.3 – Our Right of First Refusal	26
(a) Notice of Third Party Offer	26
(b) Exercise of Our Right of First Refusal	26
(c) Consequence of Nonexercise of Our Right of First Refusal	26
(d) Exceptions	26
Article V – Term and Termination	27
Section 5.1 - Term and Renewal	27
(a) Term	27
(b) Renewal	27
(c) Successor Franchise	28
Section 5.2 – Termination	28
(a) Termination by Either Party	28
(b) Termination by Us	28
(c) Other Remedies	30
Section 5.3 - Consequences of Termination	31
(a) Events Upon Termination	31
(b) Covenant Not to Compete After Termination	32
(c) No Compensation for Goodwill	32
Section 5.4 – Our Right to Purchase the Franchised Business Upon Termination	32
(a) Exercise of Option	32
(b) Leasehold Rights or Ownership of the Premises	32
(c) Purchase Price	32
(d) Appraisal	33
(e) Closing	33
(f) Option to Buy Certain Fixtures and Equipment	33

Article VI – Representations and Warranties; Indemnification	34
Section 6.1 - Representations and Warranties	34
(a) Your Representations	34
(b) Your Representations as an Entity	35
Section 6.2 – Indemnification	35
(a) Your Indemnity	35
(b) Our Indemnity	35
(c) Notice of Claim; Survival	36
Article VII – Miscellaneous	36
Section 7.1 – Relationship of the Parties	36
Section 7.2 – Reasonable Business Judgment	36
Section 7.3 – Injunctive Relief	36
Section 7.4 – Severability	36
Section 7.5 – No Waiver of Rights	37
Section 7.6 – Notices	37
Section 7.7 – Affiliates	37
Section 7.8 – Limitation of Actions	37
Section 7.9 – Waiver of Damages	37
Section 7.10 – Governing Law	37
Section 7.11 – Mediation	38
Section 7.12 – Arbitration	38
Section 7.13 – Jurisdiction and Venue	38
Section 7.14 – Entire Agreement	38
Schedule A – Franchise Information	
Schedule B – Guaranty	
Schedule C – Addendum to Lease	

MUGINOHO USA, INC.

BEARD PAPA'S SWEETS CAFÉ

FRANCHISE AGREEMENT

AGREEMENT made as of _____ between MUGINOHO USA, INC., a New York corporation (referred to in this Agreement as "we" or "us"), and _____, _____ [if entity, indicate type] (referred to in this Agreement as "you" or "your company").

PREAMBLE

We and our affiliated companies have developed an integrated system (the "System") for the production and sale of fresh cream puffs through retail cafés (the "Beard Papa Cafés"). The cream puffs are baked fresh on the store premises with all natural ingredients and served to order. Customers can watch as the cream puffs are filled with a sweet whipped cream custard each time an order is placed, then sprinkled with powdered sugar and served for immediate enjoyment or boxed to go. Beard Papa cream puffs are distinguished by a proprietary, double-layered crust recipe, which combines an inner choux pastry shell with an outer pie crust, and a luscious filling that blends whipped cream, custard and lavish amounts of fresh vanilla bean. They contain no preservatives and use only the best and freshest ingredients.

We market and sell the System under the trademarks BEARD PAPA, BEARD PAPA'S SWEETS CAFÉ, BEARD PAPA'S FRESH 'N NATURAL CREAM PUFFS, and a logo showing the face of a smiling man with a white beard, a yellow hat and a pipe, and we may create, use and license additional trademarks or substitute different trademarks in the future in conjunction with the operation of the Beard Papa Cafés (collectively, the "Marks").

You have applied for a franchise to own and operate a Beard Papa Café and we desire to grant such franchise to you upon the terms and conditions set forth below. Accordingly, you and we agree as follows:

ARTICLE I – GRANT AND OPERATION OF THE FRANCHISE

Section 1.1 – Location Rights

(a) *Grant of Rights.* We grant to you a nonexclusive right, and you undertake the obligation, to operate a Beard Papa Café in conjunction with the Marks, in accordance with our standards, policies and procedures as amended from time to time, for the term described in Article V, and in accordance with the terms and conditions contained in this Agreement.

(b) *Single Site.* You must operate your franchised Beard Papa Café (the “Franchised Business”) only at the location described in Schedule A to this Agreement (the “Site”). You may not relocate the Franchised Business or operate the Franchised Business from any location other than the Site without our prior written approval, which we may withhold in our discretion. If we consent to the relocation of the Franchised Business, you will bear the costs of the relocation and we have the right to charge you for the expenses we incur in connection with the relocation. You may not carry out any business at the Site other than the Franchised Business.

(c) *No Territorial Rights.* We do not grant any territorial rights to you other than the right to own and operate the Franchised Business at the Site. We do not grant to you any exclusive area, market or territorial rights.

(d) *Types of Sales.* The primary business of a Beard Papa Café is the direct sale of freshly-baked Beard Papa cream puffs at the store premises. You may also accept local orders in person or via e-mail, telephone or fax provided that you deliver the product so that each customer receives it fresh, meaning within one hour of baking. You may not sell cream puffs or any other products from the store premises in any manner to food wholesalers or retailers, such as convenience stores, grocery stores, bakeries or others for resale. You may not cater to parties, supply product to charities for resale or discount the sale of unsold product that is not fresh.

(e) *Other Limitations.* You may not use the Marks except as authorized under this Agreement. You must sell at the premises of the Franchised Business all menu items, products and services we specify, and you may not sell under the Marks or at such premises any menu items, products or services we do not specify or approve. You do not have the right to grant sub-franchises of the rights granted under this Agreement.

(f) *Rights We Reserve.* We retain all rights not specifically granted to you under this Agreement. These rights include, without limitation, the right to establish and to grant to other persons and entities the right to establish Beard Papa Cafés at any location, without regard to proximity to the Franchised Business; the right to sell cream puffs and any other products under the Marks and any other trademarks to grocery stores, supermarkets or similar outlets for resale at any time, and directly to customers anywhere through our website; and the right to acquire and operate, or be acquired by, any company, including, without limitation, a company operating one or more food service businesses, including, without limitation, businesses selling cream puffs under a trademark other than the Marks.

(g) *Guaranty.* Our grant of this franchise is made in reliance on the personal attributes of your company’s owners and managers named in Schedule A. If your company is a legal entity such as a corporation or limited liability company rather than a sole proprietorship or general partnership, then our grant of this franchise is made on the condition that each person who now or later owns or acquires, either legally or beneficially, 10% or more of the equity or voting interests of your company (the “Guarantor” or “Guarantors”) must execute and deliver to us a guaranty in a form attached as Schedule B (the “Guaranty”). Transfers of interest are restricted in accordance with Article IV. Upon our request at any time, you will furnish us with a list of all

holders of legal and beneficial interests in your company, together with descriptions of the type of interests owned and percentage amounts, and the names, addresses and telephone numbers of the owners, certified as correct in the manner we specify. If any of your company's general partners, managers, officers or directors ceases to serve as such or if any new person becomes a general partner, manager, officer or director after the date of this Agreement, you will notify us of such change within ten days.

Section 1.2 – *Site Selection and Development; Opening*

(a) *Site Selection.* You are solely responsible for selecting the Site for the Franchised Business. We merely approve the Site if it is acceptable.

(b) *Our Approval Does Not Constitute a Warranty.* You acknowledge and agree that our recommendation or approval of the Site or lease, and any information regarding the Site communicated to you, do not constitute a guarantee, assurance, representation or warranty of any kind, express or implied, as to the suitability of the Site for a Beard Papa Café or of the successful operation or profitability of a Beard Papa Café at the Site. You acknowledge and agree that your acceptance of the franchise is based on your own independent investigation of the suitability of the Site.

(c) *Purchase of the Site.* If you intend to purchase the Site, you must submit the purchase agreement to us for our prior written approval. At our request, if you own the premises, you must enter into a lease with us for a term equal to the term of this Agreement. In such case, we will sublease the premises back to you on the same terms as the prime lease. You are responsible for all commercial rental taxes or sales taxes relating to the sublease.

(d) *Lease.* If you intend to lease or sublease the premises for the Franchised Business, you must submit your proposed lease to us for our prior written approval. At our request, if you lease or sublease the premises, (i) the lease or sublease must contain an addendum substantially in the form of Schedule C, approved by the lessor; and (ii) unless you are prohibited by the terms of the lease from doing so, you will collaterally assign the lease or sublease to us as security for your timely performance of all obligations under this Agreement, and you will secure the lessor's consent to the collateral assignment. You acknowledge that we have advised you to have an attorney review and evaluate the lease or sublease. If we do not have a copy of the signed lease or sublease, you must deliver such copy to us within fourteen days after it is signed by you and the lessor.

(e) *Site Development.* Within 30 days after we approve a site, you must, at your expense, complete the acquisition or lease arrangements to acquire or lease the approved premises for the Franchised Business. You are solely responsible, at your own expense, for obtaining any necessary financing and all required building, utility, sign, health, sanitation, business and other permits and licenses required to operate the Franchised Business, construct all required improvements to the Site and decorate the Franchised Business in compliance with plans and specifications we have approved. We will furnish you with mandatory and suggested specifications

and layouts for a Beard Papa Café, including requirements for dimensions, design, image, interior layout, décor, equipment, fixtures, furnishings and signs, which we items will be supplied either by us or by suppliers we specify or approve. You (or your lessor on your behalf) must engage an architect to prepare all required construction plans and specifications to comply with all applicable ordinances, building codes and permit requirements and with all lease or sublease requirements and restrictions, if any. You must submit construction plans and specifications to us for approval before construction of improvements to the Site commences. You understand that you may modify our mandatory specifications only to the extent required to comply with applicable ordinances, building codes and permit requirements, and only with our prior written approval.

(f) *Conditions to Opening.* You may not open the Franchised Business for business until

(i) all of your obligations pursuant to Sections 1.2 (c), (d) and (e) are fulfilled;

(ii) we determine that the premises have been constructed, furnished, equipped and decorated in accordance with our requirements;

(iii) you and your manager have each completed the initial training to our satisfaction;

(iv) the initial franchise fee and all other amounts due to us and our affiliates have been paid in full;

(v) you have furnished us with certificates of insurance and copies of all insurance policies or such other evidence of insurance coverage as we reasonably request, as well as with copies of all bonds that may be required under state or local law; and

(vi) you receive our approval of the opening in writing. We may grant or withhold such approval in our sole discretion.

(g) *Time of Opening.* You agree to open the Franchised Business no later than six months after the date of this Agreement.

Section 1.3 – *Equipment; Suppliers; Insurance*

(a) *Purchases from Us.* In order to maintain the high standards of quality, taste and uniformity associated with Beard Papa cream puffs, we are the sole supplier to you of (i) the oven, the custard cream mixing machine and the tools used in the production of cream puffs, and (ii) dough used for the cream puff shells; although we retain the right to designate other suppliers of these items in the future and to require you to purchase additional items from us. Our oven, mixing machine and tools are specially designed and manufactured to our specifications. We deliver the frozen dough to you in individual portions, ready for baking. Before you open the Franchised Business, you must purchase the oven, mixing machine and tools and an initial inventory

of our dough. All of your purchases from us will be made in accordance with our then-current prices and terms and conditions of sale, delivery and payment. We may require you to pay us in advance by certified or cashier's check for your initial purchase of equipment, starting inventory, packaging, signage and other items that we supply to you or purchase on your behalf. We reserve the right to charge a reasonable fee to coordinate these purchases for you.

(b) *Purchases from Other Suppliers.* You agree to purchase all food ingredients not supplied by us only from suppliers we designate or approve as meeting our quality standards. Such ingredients include, without limitation, eggs, milk, heavy cream, vanilla beans, butter, corn starch, flour and sugar. You agree to purchase all equipment not supplied by us, and all fixtures, furnishings, signs, menu boards, advertising materials, services, paper products, plastic bags, boxes, uniforms and other supplies, products and materials for the Franchised Business only from suppliers we designate or approve as meeting our specifications and standards for quality, design, appearance, function and performance. We approve only those suppliers who demonstrate, to our continuing reasonable satisfaction, the ability to meet our then-current standards and specifications; who possess adequate quality controls and capacity to supply your needs promptly and reliably; and whose approval would enable the System, in our sole opinion, to take advantage of marketplace efficiencies. We will provide you with a list of approved products, supplies and suppliers and we will issue revisions to this list from time to time.

(c) *Approval of Other Suppliers.* If you wish to purchase or use any type or brand of product or supply item that is not approved by us, or products or supplies from a supplier that is not approved by us, you must notify us of your desire to do so and submit to us specifications, photographs, samples and other information we request to enable us to determine whether such products, supplies or suppliers meet our specifications and standards. We will have the right to require that our representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered either to us or to an independent laboratory designated by us for testing. You or the supplier must pay a charge not to exceed the reasonable cost of the inspection and the actual cost of the tests. We will use reasonable efforts to begin an investigation of the proposed supplier or product within 30 days of your request. We will notify you within 10 days after we complete our investigation whether we approve the proposed supplier or product. You may not purchase any product from any supplier until, and unless, we approve that product and supplier. We reserve the right, at our option, to re-inspect the facilities and products of any approved supplier and to revoke our approval upon the supplier's failure to continue to meet any of our then-current criteria. We will not be required to approve any particular supplier nor to make available to any prospective supplier any of our standards, specifications or formulas.

(d) *Computer and Cash Register Systems.* You agree to install, maintain and use in the Franchised Business such computer hardware, software and cash register systems as we specify from time to time in accordance with Section 2.2 (b).

(e) *Insurance.* During the term of this Agreement and any renewal hereof, you will obtain and maintain, at your own expense, such insurance as the landlord of the premises of the Franchised Business requires, and such other insurance as may be required by law. At a mini-

mum, you will maintain broad form comprehensive general liability coverage with limits of not less than \$1,000,000 per occurrence and in the aggregate and a deductible of no more than \$5,000. Such insurance must name us as additional insured. The insurance must be primary coverage without right of contribution from any other insurance of ours. The policy will provide that it may not be modified or canceled unless we are given at least thirty days' prior written notice by the insurance carrier. You will provide us with a certificate of such insurance issued by your insurance carrier before or on the date hereof and subsequently, before the renewal of such policy. We may, from time to time and in our sole discretion, make such changes in minimum policy limits and endorsements as we may determine, provided that all changes will apply to all of our franchisees that are similarly situated. If you fail to obtain or maintain the required insurance in accordance with this section, we may, without waiving our right to declare a breach of this Agreement based on your default, obtain the required insurance coverage at your expense, although we have no obligation to do so. If we obtain such insurance on your behalf, you will pay us an amount equal to the premiums and related costs for the required insurance in full upon receipt of the invoice, plus a 25% service charge.

(f) *Compensation from Suppliers.* We reserve the right to receive rebates, credits and other compensation from suppliers we designate or approve to provide goods or services to you based upon the purchases by you and other franchisees of goods and services from such suppliers. We may use such compensation for any purpose we deem appropriate.

Section 1.4 – *Manual; System Modifications*

(a) *Manual.* We will loan to you during the term of this Agreement one copy of the confidential operations manual that we generally furnish to franchisees from time to time for use in operating a Beard Papa Café (the "Manual"). The Manual and the bulletins and other written materials we provide to you (including, if applicable, audiotapes, videotapes, magnetic media and computer software) contain mandatory and suggested specifications, standards, operating procedures, policies, methods and rules ("System Standards") that we prescribe from time to time for the operation of a Beard Papa Café and information relating to your other obligations under this Agreement. The Manual is and will remain at all times our sole property. You may not at any time copy, duplicate, record or otherwise reproduce any part of the Manual except as we may specifically authorize. You further agree to keep your copy of the Manual current at all times with all updates and modifications we furnish to you, and to store the Manual in a secure location at the premises of the Franchised Business. In the event of a dispute relating to its contents, the master copy of the Manual we maintain at our principal office will control. If your copy of the Manual or any portion of it is lost, stolen, destroyed or significantly damaged, you agree to report such loss, theft, destruction or damage immediately to us. Partial loss, destruction or damage to the Manual is considered to be complete loss, destruction or damage. We will loan you a replacement copy or portion of the current Manual provided that the loss is not the result of a breach of your duty to keep the Manual's contents confidential and you are not otherwise in material default under this Agreement. In the event that we loan you a replacement Manual or portion of the Manual, you will pay us a fee of \$1,000 plus all shipping expenses in full upon your receipt of our invoice.

(b) *System Modifications by Us.* We may modify or change the System Standards from time to time, and upon notice to you, we may make additions to, deletions from or revisions in the Manual to reflect such modifications or changes. Such modifications or changes may include, for example, the addition or discontinuation of products and services that you are required to sell at the Franchised Business, and may obligate you to invest additional capital in the Franchised Business ("Capital Modifications"). No modification or change that we make will alter your fundamental status and rights under this Agreement. We will not obligate you to make any Capital Modification when you cannot reasonably amortize the investment required during the remaining term of this Agreement and with respect to leasehold improvements over the remaining term of your lease, unless we agree to extend the term of this Agreement or unless such investment is necessary in order to comply with applicable laws. You agree to adopt or comply with each new or changed procedure, policy, method and requirement as promptly as practicable after notice from us, and in any event within the time period we reasonably require.

(c) *System Modifications by You.* You agree not to implement any modification or change in the System Standards or in the Franchised Business without our prior written approval, which we may withhold in our discretion. If you or any of your employees makes an improvement to the System Standards, such improvement will be our property. We will have the right to use such improvements and to offer them to our affiliates and other franchisees for their use. For example, if you desire to sell cream puffs of a new flavor you create, you must first submit the recipe to us. We or our affiliate will test the product to see if it merits approval. You may not sell such product without our prior written approval. Any such new recipe will be an improvement owned by us that we may use at our company and affiliate cafés and that we and our affiliates may authorize other franchisees to use. You assign to us all rights to such improvements and you agree to sign any documents and to require that your employees sign any documents that we may reasonably request from time to time to evidence such assignment. Except as specified or approved by us in writing, you may not make any changes to the menu offered at the Franchised Business.

Section 1.5 – *Training and Support*

(a) *Initial Training.* Before you begin operating the Franchised Business, we will train at least one manager and two of your employees in the operation of a Beard Papa Café. We do not charge for training these three people. At your request and if space is available, we will train additional personnel of your company, but you must pay us our standard fee for training such additional personnel. We currently charge \$150 a day to train an additional manager and \$100 a day to train an additional employee, and we may change these fees in the future. You must pay the compensation and travel and living expenses of all of your personnel who attend our training, regardless of whether we charge you a fee for such training. The training program consists of four weeks of training at Beard Papa's headquarters in New York, NY. We will time the commencement of your training program so that it is completed immediately before the scheduled opening of the Franchised Business.

(b) *Ongoing Training.* We may require previously trained and experienced managers and employees to attend periodic refresher training courses at such times and locations that we designate, not to exceed three days of such refresher training in any calendar year. We do not charge for these courses that we require your personnel to take except as set forth in Section 1.5 (d), but you must pay the travel and living expenses of your personnel. Subject to space availability, you may send one or more managers and employees to take part in additional scheduled training upon prior notice to us and your payment of our then-current fees. In the event that you request and we agree to send our personnel to your Franchised Business for training, you agree to pay our then current per diem charges and travel and living expenses for our personnel.

(c) *Ongoing Support.* We will advise you from time to time, either in person, by telephone, by e-mail or in writing, regarding the operation of the Franchised Business based on reports you submit to us or inspections we make. At your request, and if we agree, we will furnish additional guidance and assistance and, in such case, we may require you to pay the per diem fees and charges we establish from time to time.

(d) *Operational Reviews.* We will provide regular operational reviews and advise you from time to time regarding the operation of the Franchised Business based on reports you submit to us and inspections we make, to ensure compliance with the System Standards and to recommend improvements. We or our designated representatives will also have the right to inspect your operation pursuant to Section 2.2 (c). Your failure to implement any corrective action required by us will constitute a material breach of this Agreement and may result in termination pursuant to Section 5.2 (b). If any review indicates a noncompliance with System Standards or if we receive negative customer feedback, we may require previously trained and experienced managers and employees to attend refresher training courses at such times and locations that we designate, and we may send our personnel to your Franchised Business for training. In such event, you agree to pay our then current fees for training and our per diem charges and travel and living expenses for our personnel.

Section 1.6 – *Your Conduct of the Franchised Business*

(a) *Conduct of the Business.* You agree to operate the Franchised Business in strict accordance with all System Standards in effect from time to time. You understand and acknowledge that every detail of the Franchised Business is important to you, to us and to other Beard Papa franchisees in order to develop and maintain high operating standards, to increase the demand for the services and products sold by all franchisees, and to protect our reputation and goodwill. You agree to keep the Franchised Business open and in normal operation for such hours and days as we may specify from time to time or, if different, for such hours as the lease of the Café premises may require.

(b) *Customer Service.* You will provide prompt, courteous and efficient service to all customers and treat all customers with respect. You will give prompt attention to all complaints from dissatisfied customers, if any.

(c) *Management.* You will ensure that the Franchised Business is always actively managed by a manager who has attended and successfully completed such training as we may require from time to time. Each such manager will actively devote his or her full time, attention and effort to the Franchised Business and provide direct, on-premises, day-to-day supervision of the operation of the Franchised Business at all times. Each such manager will ensure at all times the proper management of staff and proper levels of customer service in accordance with the Manual and this Agreement. You will use your best efforts to ensure that such personnel, at all times, faithfully, honestly and diligently perform your company's obligations under this Agreement.

(d) *Undertakings by Managers.* Each manager of the Franchised Business must sign a written agreement with you that will include the manager's undertakings (i) not to assume any business responsibilities that would be inconsistent with the proper operational requirements and best interest of the Franchised Business as long as such manager continues to manage the Franchised Business, and (ii) to comply with the confidentiality and noncompetition requirements set forth in Sections 3.2, 3.3 and 5.3 (b) to the same extent that you are obligated to us.

(e) *Staff.* In addition to one or more managers, you will maintain a competent, conscientious, trained staff in numbers sufficient to promptly service customers and maximize revenues and profits.

(f) *Maintaining Goodwill.* You will do nothing that, in our reasonable opinion, tends to discredit the Marks or the System or to bring either into disrepute, or that might diminish or affect adversely our reputation or goodwill.

(g) *Compliance with Laws.* You will comply with all applicable laws, rules and regulations in the operation of the Franchised Business. You will satisfy all safety and regulatory standards that may be imposed upon the Franchised Business or its employees.

(h) *Health Standards.* You will meet and maintain a high degree of sanitation at the premises and the highest health standards and ratings applicable to the operation of the Franchised Business. You will furnish us, within five days after you receive it, a copy of each inspection report, warning, citation, certificate and rating resulting from an inspection conducted by any federal, state, county or municipal agency with jurisdiction over the Franchised Business. You will notify us within five days of the occurrence of any accident or injury that may adversely affect the operation of the Salon or your financial condition, or give rise to liability or a claim against you or us.

(i) *Maintaining the Premises.* You will at all times maintain the premises of the Franchised Business in excellent repair and condition. You will make such additions, alterations, repairs and replacements as may be required for that purpose, including, without limitation, such periodic repainting and replacement of obsolete signs, furnishings, equipment and décor as we may reasonably direct. If we notify you of remedial work that is necessary to correct an unhealthy or unsafe condition and you fail to commence such work in good faith or to complete

such work within the period specified in our notice, we will have the right, in addition to all other remedies, but not the obligation, to enter the store premises and complete the required repair or corrective work on your behalf. We will have no liability to you for any work performed. If we perform such work, we will invoice you for labor and materials, plus a 25% service charge and an amount sufficient to reimburse us for our actual direct costs to supervise, perform and inspect the work and procure any replacement items, including labor, materials, transportation, lodging, meals, contractor fees and other direct expenses, all of which will be due and payable upon your receipt of our invoice.

(j) *Remodeling.* In addition to the requirements of Section 1.6(h), you will at your expense modify the Café premises in accordance with our standards as modified from time to time in writing, including any Capital Modifications referred to in Section 1.4(b) and as a condition to renewal pursuant to Section 5.1(b)(v). You will complete all such remodeling within six months after your receipt of our written notice. We will not require you to spend more than \$25,000 towards any such remodeling during the five-year term of this Agreement, excluding amounts required for the repair and normal upkeep of the Salon premises pursuant to Section 1.6(h) and excluding equipment upgrades pursuant to Section 2.2(b). You will make no structural improvements to the Café premises without our prior approval.

(k) *Use of the Premises.* You will use the premises of the Franchised Business solely for the operation of the Franchised Business and for no other purpose or activity.

(l) *No Vending Machines.* You will refrain from installing or permitting to be installed any vending machine, game or coin-operated or similar device, unless specifically approved by us in writing in advance.

(m) *Entity Requirements.* If your company is a corporation or limited liability company, it must be newly organized and its charter, certificate of incorporation or operating agreement must at all times provide that its activities are confined solely to operating the Franchised Business. All certificates representing stock or other ownership interests in your company must contain a legend stating that transfer of such stock or ownership interest is limited by the provisions of this Agreement. Upon our request, you will deliver to us copies of all organizational documents of your company, including articles of incorporation, by-laws, shareholders' agreements, limited liability company articles and operating agreements, and any certificates we may request certifying any resolution of directors authorizing your company to enter into this Agreement. If your company is a partnership, its activities must also be confined solely to operating the Franchised Business, and you agree, upon our request, to deliver to us a copy of your partnership agreement.

(n) *Franchisee Advisory Council.* We reserve the right to create a "Franchisee Advisory Council" for the purpose of fostering communication among and between franchisees and us, and to advise us in establishing, modifying or discussing various policies applicable to Ouidad franchised businesses. If and when the Franchisee Advisory Council is created, you will be required to participate in such of its meetings and programs as we designate. The Franchisee Ad-

visory Council may advise and make recommendations, but will not act as a policy-making board and will have no authority whatsoever. We will determine or approve the rules under which the Franchisee Advisory Council functions. We may require you to pay dues to the Franchisee Advisory Council and you will pay all costs and expenses incurred by you in connection with participation in the Franchisee Advisory Council, including the costs of transportation, lodging and meals.

Section 1.7 - *Marketing, Promotion and Advertising*

(a) *Signage.* You will post prominent signage relating to the franchised business in easily-seen locations both inside and outside the premises of the Franchised Business. We will prescribe or approve from time to time in writing the size, form, color scheme, content and location of all such signage. You agree to display and maintain signs reflecting the current image of Beard Papa franchises. You agree to discontinue the use of and destroy such signs as we declare to be obsolete within the reasonable time that we specify for such destruction, which will not be less than thirty days. Because of the importance of the Beard Papa image, you grant to us the right to enter the premises of the Franchised Business to remove and destroy unapproved or obsolete signs in the event that you have failed to do so within the time we specify.

(b) *Grand Opening.* You agree to conduct a grand opening public relations and advertising program for the Franchised Business during the period commencing thirty days before and ending ninety days after its opening and to expend at least \$5,000 for such program. Such public relations and advertising program will use the materials we have developed or approved for public relations and advertising. We will provide you with guidelines and lists of suppliers and consult with you on your grand opening public relations and marketing program, but it will be your sole responsibility to develop and implement this program.

(c) *Local Advertising Expenditures.* You are responsible at your expense for providing local advertising, marketing, promotional and public relations programs and activities for the Franchised Business. You may use any materials we have prepared or previously approved. You agree to spend annually for advertising and promotion of the Franchised Business not less than two percent of the Gross Sales of the Franchised Business (as defined in Section 2.1(c).) You may credit against your obligation for local advertising and promotion the amount of your contribution to the Advertising Fund described below, if any. Your combined required payments for advertising and promotion, cooperative advertising and contributions to the Advertising Fund will not exceed two percent of the Gross Sales of the Franchised Business, although you may spend additional amounts in your discretion, and we encourage you to do so. We have the right to review your books and records from time to time to determine your expenditures for such advertising and promotion. If we determine that you have not spent the requisite amounts, we may require you to pay such unexpended amounts to the Advertising Fund.

(d) *Local Advertising Materials.* All materials you use in local advertising, marketing, promotional and public relations programs and activities must conform to such standards and requirements as we may specify from time to time. All such materials must be clear, factual and

not misleading. You agree to submit to us, before you use them, samples of all materials you intend to use that we have not prepared or previously approved. If you do not receive our written disapproval within fifteen days after our receipt of such materials, we will be deemed to have given the required approval, but we may withdraw our approval at any time. If we withdraw our approval, you will immediately cease the use, distribution and dissemination of such material. Any advertising, marketing or sales concepts, programs or materials proposed or developed by you for the franchised business and approved by us may be used by us and by our affiliates and other franchisees without any compensation to you. You agree to use all point of sale materials that we may supply to you from time to time, in the manner prescribed by us.

(e) *Cooperative Advertising.* We may establish and coordinate from time to time cooperative advertising, marketing and sales programs, customer satisfaction programs and other programs or activities among Beard Papa franchisees. These programs or activities may be on a local, regional or national basis. You will participate in such programs and activities as we may prescribe. Such programs and activities may (at our option) be paid for partially or wholly by the Advertising Fund described below or on any other equitable basis by the participants.

(f) *National and Regional Advertising.* We or our designee will exclusively maintain and administer any national and regional advertising, public relations and marketing programs and market research, including without limitation the System Website and all programs financed by the Advertising Fund, as described below.

(g) *Establishment of an Advertising Fund.* At any time during the term of this Agreement, we may establish a public relations and advertising fund (the "Advertising Fund"), subsidized by fees paid by Beard Papa franchisees, for such advertising, promotion, marketing and public relations programs and materials as we deem necessary or appropriate. You agree to begin contributing to the Advertising Fund, on a date specified by us upon at least 90 days' notice to you, the amount we specify, which amount will be no more than one percent of the Gross Sales of the Franchised Business (as defined in Section 2.1(c),) payable monthly together with the payment of Royalties. All Beard Papa Cafés owned by us will contribute to the Advertising Fund based on their retail sales on the same basis as a franchisee under the terms of a standard franchise agreement for a Beard Papa Café.

(h) *Use of the Advertising Fund.* The Advertising Fund will be used to enhance the recognition of the Marks and the patronage of Beard Papa Cafés nationally or regionally. We or our designee will have sole discretion over the creative concepts, materials and endorsements used, and the geographic, market and media placement and allocation. The Advertising Fund may be used to pay the costs of preparing and producing video, audio and written advertising materials; administering national and regional advertising programs, and engaging advertising, promotion and marketing agencies to assist us; and supporting public relations, market research and other advertising, promotion and marketing activities. The Advertising Fund will not be used to defray any of our general operating expenses, except for such reasonable salaries, administrative costs, travel expenses and overhead as we may incur in activities related to the administration of the Advertising Fund and its programs, including, without limitation, conducting market research,

preparing advertising, promotion and marketing materials and collecting and accounting for contributions to the Advertising Fund.

(i) *Accounting for the Advertising Fund.* We will separately account for the Advertising Fund monies, but we may commingle such monies with our other monies or maintain the Advertising Fund monies in one or more separate accounts, in our discretion. We may spend, on behalf of the Advertising Fund, in any fiscal year, an amount greater or less than the aggregate contribution of all Beard Papa Cafés to the Advertising Fund in that year, and the Advertising Fund may borrow from us or others at reasonable interest rates to cover deficits or invest any surplus for future use. All interest earned on monies contributed to the Advertising Fund will be used to pay advertising costs before other assets of the Advertising Fund are expended. We will prepare annually, or cause to be prepared, a report or reports of the operations of the Advertising Funds. We will furnish such report or reports to you upon your written request.

(j) *Advertising Fund Entity.* We have the right, but not the obligation, to establish a separate entity to operate the Advertising Fund at any time. Any such entity will have all of the rights and duties with respect to the Advertising Fund that we have under this section. The Advertising Fund will not be deemed a trust, and we will have no fiduciary obligation to you in connection with the collection or administration of the Advertising Fund.

(k) *Distribution of Advertising Expenditures.* Although we will endeavor to use the Advertising Fund to develop advertising and marketing materials and programs and to place advertising that will benefit all Beard Papa Cafés, we undertake no obligation to ensure that expenditures by the Advertising Fund will benefit all Beard Papa Cafés equally nor in proportion to contributions.

(l) *Termination of Advertising Fund.* We reserve the right to defer or reduce contributions and, upon thirty days' prior notice to you, to reduce or suspend contributions to and operations of the Advertising Fund for one or more periods of any length and to terminate (and, if terminated, to reinstate) the Advertising Fund (and, if suspended, deferred or reduced, to reinstate such contributions). If the Advertising Fund is terminated, all unspent monies, if any, on the date of termination will be distributed to Beard Papa Cafés in proportion to their respective contributions to the Advertising Fund during the preceding twelve month period.

(m) *Internet Advertising.* You may not advertise the Franchised Business over the Internet except on a website created by us in the manner described in Section 1.8. You may not develop, maintain or authorize any website that mentions or describes the Franchised Business or displays any of the Marks; nor may you own an Internet domain name or use a meta tag or title tag that includes any of the Marks or variations of any of the Marks.

Section 1.8 – *Website*

(a) *Establishment of a System Website.* At our option, we may establish one or more websites to advertise, market and promote Beard Papa Cafés, the products sold at such cafés and

the Beard Papa franchise opportunity. If we establish a systemwide website (the "System Website"), we may require you to participate in such website by providing you with a web page on the System Website that refers to the Franchised Business. If we provide you with a web page on the System Website, you agree to give us the information and materials we request to enable us to develop, update and modify your web page. By providing such information and materials to us, you will be representing and warranting to us that, to the best of your knowledge, all information and materials you provide will be accurate and not misleading and will not infringe any third party's rights. You agree to indemnify, defend and hold us, our affiliates and our directors, officers, employees, agents and assigns harmless against any liabilities incurred due to inaccuracies in the information you provide to us or any resulting infringement. We will own all intellectual property and other rights in the System Website, your web page and all information it contains.

(b) *Maintenance of Your Web Page.* We will maintain the System Website, including your web page, if established pursuant to Section 1.8 (a). At your request, we will update the information on your web page or add information that we approve. You must notify us whenever any information on your web page changes or is not accurate. We will update or add information that we approve to your web page up to eight times during each calendar year at no charge. You must pay our then current fee for each additional update or addition that you request, which fee will not exceed \$500. You acknowledge that we have final approval rights over all information on the System Website, including your web page. We may implement and periodically modify System Standards relating to the System Website. We may at any time and in our sole discretion discontinue using the System Website, including your web page. If we discontinue using the System Website, we may at any time and in our sole discretion resume using it.

(c) *Removal of Your Web Page.* We will be obligated to maintain your web page on the System Website only while you are in full compliance with this Agreement and all System Standards. If you are in default of any obligation under this Agreement or the System Standards, then we may, in addition to our other remedies, temporarily remove your web page from the System Website until you fully cure the default. We will permanently remove your web page from the System Website upon the expiration or termination of this Agreement.

(d) *Promotion of the System Website.* All advertising, marketing and promotional materials that you develop for the Franchised Business must contain notices of the System Website's domain name in the manner we designate.

(e) *Franchisee Extranet.* In addition to the System Website, we may establish an extranet or other website for all Beard Papa franchisees that can be accessed only by means of user names and passwords and that will not be available to the general public. We may use this website to provide support for franchisees and to allow for electronic franchise discussion groups. You agree both during and after the term of this Agreement not to disclose your user name or password to any person or entity who is not under your direct supervision and who does not have a need to know such password. You agree to inform all persons under your supervision who

may have access to such password of this obligation of confidentiality. You further agree to comply with all guidelines and rules we establish from time to time for the use of this extranet or website.

ARTICLE II – FEES; PAYMENTS; RECORDS; INSPECTIONS

Section 2.1 – *Fees and Reports*

(a) *Initial Fee.* Upon your signing of this Agreement, you will pay us an initial fee of \$40,000 for a Café of more than 600 square feet of total space, including café space open to customers, storage space and preparation area (a “Standalone Unit”), or \$20,000 for a Café of up to 600 square feet (a “Food Court Unit”), unless you and we have agreed to a different initial fee pursuant to a Development Agreement. The designation of your franchise as a Standalone Unit or a Food Court Unit is set forth in Schedule A. The amount of any deposit already paid will be deducted from this initial fee. This initial fee is fully earned at the time we grant the franchise and is not refundable under any circumstances. It pays for our administrative and other costs in granting the franchise and for our lost or deferred opportunity to franchise others.

(b) *Royalties.* You agree to pay us royalties (“Royalties”) in the amount of five percent of the Gross Sales (as defined below) of the Franchised Business each Accounting Period (defined below).

(c) *Definition of Gross Sales.* As used in this Agreement, the term “Gross Sales” or “Gross Sales of the Franchised Business” means all revenue you derive from sales in the operation of the Franchised Business, including, but not limited to, all amounts you receive at or away from the premises of the Franchised Business, and whether from cash, check, credit card or credit transactions, including proceeds of any business interruption insurance policies, but excluding all federal, state or municipal sales or use taxes collected from customers for payment to the appropriate taxing authorities.

(d) *Advertising Fee.* If we initiate an Advertising Fund (as described in Section 1.7 (f)), you agree to pay us an advertising fee each Accounting Period (the “Advertising Fee”) commencing on the date specified in our notice. We will specify the amount of the Advertising fee at any given time in our notice, which amount will not exceed one percent of the Gross Sales of the Franchised Business each Accounting Period. We may change the amount of the Advertising Fee from time to time upon notice to you.

(e) *Accounting Period.* “Accounting Period” means the specific period that we designate from time to time in the Manual or otherwise in writing for purposes of your financial reporting and payment obligations described in this Agreement. The Accounting Period may be a calendar month or a shorter or longer time period that we select, but not shorter than one week. We may designate different Accounting Periods for different purposes.

(f) *Reporting and Payment.* You will submit a report to us within three days after the end of each Accounting Period setting forth your true and correct Gross Sales for such Accounting Period in such detail and in such manner as we require from time to time. Together with each report, you will submit to us a check, payable to us, in the amount of the Royalties and Advertising Fee, if any, owed to us based on such Gross Sales. We will have the right, upon notice to you: (i) to require you to submit to us quarterly and annual balance sheets and income statements for the Franchised Business, prepared in accordance with generally accepted accounting principles consistently applied, in the format we prescribe, and verified as correct in the manner we prescribe from time to time; and (ii) to require you to supply us with reviewed financial statements prepared annually.

(g) *Interest on Late Payments.* Any payment that is not made by the date it is due will be subject to interest at the rate of one and one-half (1½ %) percent per month or the highest rate allowed by law, whichever is less. Your failure to pay all amounts when due constitutes grounds for termination of this Agreement, as provided, in Section 5.2 (b) (ii). This charge will accrue whether or not we exercise our right to terminate. You acknowledge that this subsection does not constitute our agreement to accept any payments after they are due or our commitment to extend credit to you or otherwise finance your operation of the Franchised Business.

(h) *No Setoff.* Your obligations to make payments in accordance with this Agreement and any other agreement with us or any of our affiliates with respect to the Franchised Business are not subject to any abatement, reduction, setoff, defense or counterclaim due or alleged to be due for any past, present or future claim that you have or may have against us or any of our affiliates.

(i) *Application of Payments.* All payments you make to us will be applied in such order as we may designate from time to time, regardless of any designation you may make with respect to the application of such payments, even if you specifically make payment conditional on our acceptance of your designated application or instructions.

(j) *Taxes.* In the event that we are required to collect and pay any sales or use tax from you for payment to any tax authority based on your purchase of the franchise or any items relating to the franchise, or based on any continuing payments you make to us under this Agreement, you will pay such amounts upon receipt of our invoice.

Section 2.2 – *Records; Inspection*

(a) *Records.* You agree to maintain at the Franchised Business full, complete and accurate records and reports of the Franchised Business. You will maintain bookkeeping, accounting and records retention systems conforming to the requirements that we prescribe from time to time, and records relating to Franchised Business operations, employee turnover and such other records that we prescribe from time to time. You agree to maintain and to furnish to us upon request complete copies of all income, sales, value added, use and service tax returns, and employee withholding, worker's compensation and similar reports filed by you reflecting activities

of the Franchised Business. You agree to preserve all records described in this Section 2.2 (a) for a period of at least seven years after their creation, or such longer period as may be required by law, during both the term and each renewal term of this Agreement and following the expiration or termination of this Agreement.

(b) *Computer System.* You agree to install, maintain and use in the Franchised Business such computer hardware, software and cash register systems as we specify from time to time. We may use such systems to collect electronically the reports referred to in Section 2.1 (e) and the records referred to in Section 2.2 (a). We have the right to establish requirements that will permit us, as often as we deem appropriate, to access all cash registers and computer terminals and your computer system and to retrieve all information relating to the Franchised Business. We may require you to incur costs to purchase, lease and license computer hardware and software and to obtain service and support, and to upgrade and make such changes to the electronic equipment used in the Franchised Business as we may specify in writing. You acknowledge that we cannot estimate the future costs of the computer and software system, the cash register system, or additions or modifications to these systems, and that these costs may not be fully amortizable over the remaining term of this Agreement. Nevertheless, you agree to incur such costs, provided that we will not require you to spend more than \$2,000 annually for computer and software system, the cash register system, additions or modifications to these systems, service and support. We have the right to charge a reasonable systems fee for software or systems modifications and enhancement specifically made for us that are licensed to you and other maintenance and support services that we or our affiliate furnish to you.

(c) *Right to Inspect.* During the term of this Agreement, we or our designated representatives will also have the right, at any time during your regular business hours, without prior notice to you, to enter upon the premises of the Franchised Business to inspect the premises; observe, photograph and videotape the operations of the Franchised Business for such periods as we deem necessary; remove samples of any products, materials or supplies for testing and analysis; interview your personnel and customers; and inspect the books and records of the Franchised Business and take excerpts. You agree to cooperate fully with us and our representatives during all inspections, observations, photographing, videotaping, product removal and interviews; to present to your customers such evaluation forms as we periodically prescribe; to participate and request your customers to participate in any surveys performed by us or on our behalf; and to take all steps reasonably necessary to correct any deficiencies in your compliance with System Standards or this Agreement within the time we specify.

(d) *Right to Audit.* We generally compare the quantities of dough you purchase from us to your reports of Gross Sales. These quantities give us a good indication of the level of Gross Sales we would expect you to be reporting to us. In addition, we have the right at any time during your business hours, without prior notice to you, to inspect and audit the records of the Franchised Business, or to cause such records to be inspected and audited. This right includes the right to access your computer systems.

(e) *Discrepancies.* If any inspection or audit demonstrates an understatement of Gross Sales, you will pay the deficiency to us within 15 days after you receive the inspection or audit report.

(f) *Cost.* All inspections and audits will be at our expense; provided, however, that in the event that an inspection or audit is made necessary by your failure to furnish reports, supporting records, other information or financial statements as required by us, or by your failure to furnish such reports, records, information or financial statements on a timely basis, or if an understatement of Gross Sales for the period of any audit or inspection is determined by any such audit or inspection to be greater than three percent (3%), you agree, within 15 days after our request, to reimburse us for the cost of such inspection or audit, including, without limitation, legal and accounting fees, and the travel expenses, including lodging, meals and per diem charges of the inspecting or auditing personnel. The foregoing remedies are in addition to our other remedies and rights under this Agreement and applicable law.

(g) *Survival of Inspection and Audit Rights.* Our rights to inspect the books and records of the Franchised Business and to take excerpts, and to audit the Franchised Business, will continue for a period of six months following the expiration or termination of this Agreement; provided, however, that we may only inspect such books and records or perform any such audit following the expiration or termination of this Agreement upon at least 24 hours' prior notice to you.

(h) *Disclosure of Your Financial Information.* We have the right to disclose data we receive from you regarding the Franchised Business without identifying you or the location of the Franchised Business, except for any disclosure required by law, in which event we will notify you of the disclosure to be made and, if you request, endeavor to obtain legally binding assurance that those who receive such disclosure are bound by an obligation of confidentiality.

ARTICLE III - PROPRIETARY RIGHTS; CONFIDENTIALITY; NONCOMPETITION

Section 3.1 – *Our Copyrights and Trademarks*

(a) *Our Copyrights.* We are the sole owner of all copyrights in the Manual and of all advertising and promotional material created by or for us. You may not copy any materials described in this Section 3.1 (a), nor create derivative works of any such materials, except as specifically authorized or permitted by us.

(b) *Our Trademarks.* Your right to use the Marks is derived solely from this Agreement and is limited to your operation of the Franchised Business at and from the premises of the Franchised Business pursuant to and in compliance with this Agreement and all System Standards we prescribe from time to time during its term. Your unauthorized use of the Marks will be a breach of this Agreement and an infringement of our rights in and to the Marks. You acknowledge and agree that your use of the Marks and any goodwill established by such use will be exclusively for our benefit and that this Agreement does not confer any goodwill or other interests in the Marks

upon you (other than the right to operate the Franchised Business in compliance with this Agreement). You will not contest or assist others in contesting our right to use the Marks.

(c) *Proper Use of Marks.* You understand that any use of the Marks other than as expressly authorized by this Agreement, without our prior written consent, may constitute infringement and that your right to use the Marks does not extend beyond the expiration or termination of this Agreement. You agree to use the Marks as the sole identification of the Franchised Business, except that you agree to identify yourself as the independent owner of the Franchised Business in the manner we prescribe. You may not use any Mark as part of any corporate or legal business name or with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos licensed to you under this Agreement), or in any modified form, nor may you use any Mark in connection with the performance or sale of any unauthorized products or services or in any other manner we have not expressly authorized in writing. You may not use any Mark as part of a domain name or electronic address of a website. You agree to display the Marks prominently in the manner we prescribe at the Franchised Business, on packaging and serving materials that we designate and in connection with forms and advertising and marketing materials. You agree to give such notices of trademark and service mark registrations and such other trademark and service mark notices as we specify and to obtain any fictitious or assumed name registrations required under applicable law.

(d) *Modifying the Marks.* We will have the right to modify or change any Mark from time to time upon written notice to you specifically referring to this Agreement and describing such modification or change. Such right will include the right to use a trademark that is entirely different from "Beard Papa" and the right to require you to use one or more additional logos and marks; provided, however, that we will make all such changes in the Marks only for good faith marketing, trademark or other reasons on a uniform basis for all Beard Papa franchisees in the U.S. You agree, upon notice from us, to regard each such modified, changed, new or additional trademark as being within the definition of "Marks" hereunder, and to adopt and use each such trademark at your expense in accordance with the terms and conditions of this Agreement. If we require a change in signage, we will reimburse you for your reasonable direct expenses of changing the signs at the premises of the Franchised Business. However, we will not be obligated to reimburse you for any loss of revenue or expenses caused by any such modification or change.

(e) *Infringement.* You agree to notify us of any apparent infringement of any Mark or of any of our copyrights, by any third party, as soon as such apparent infringement comes to your attention, and to notify us immediately of any challenge to your use of any Mark and of any claim by any person of any rights in any Mark, and you agree not to communicate with any person other than us, our attorneys and your attorneys in connection with any such infringement, challenge or claim. We have sole discretion to take such action as we deem appropriate with respect to such apparent infringement, challenge or claim and the right to control exclusively any litigation, U.S. Patent and Trademark Office proceeding or any other administrative proceeding arising out of any such infringement, challenge or claim or otherwise relating to any Mark or our copyrights. You agree not to initiate any such action or proceedings, but to cooperate with us in any such action or proceeding and sign any and all instruments and documents, render such as-

sistance and do such acts and things as may be necessary or advisable, in the opinion of our attorneys, to protect and maintain our interests in any litigation or any proceeding at the Patent and Trademark Office, or otherwise to protect and maintain our interests in the Marks or copyrights. In the event any sum is recovered based on our claim of infringement, we will have the exclusive right thereto.

Section 3.2 – *Confidentiality of Our Information*

(a) *Confidential Information.* We possess and will continue to develop and acquire certain confidential information relating to the development and operation of Beard Papa Cafés (“Confidential Information”). Confidential Information includes, without limitation:

- (i) product recipes, mixes and formulas;
- (ii) site selection criteria;
- (iii) methods, formats, specifications, standards, systems, procedures and sales and marketing techniques;
- (iv) marketing and advertising programs and plans for Beard Papa Cafés;
- (v) current and concluded research, development and test programs for products, services and operations of Beard Papa Cafés;
- (vi) the content of all training provided by us, all assistance provided by us;
- (vii) the contents of the Manual;
- (viii) knowledge of specifications for and suppliers of certain equipment, fixtures, furnishings, signs, materials and supplies; and
- (ix) knowledge of the operating results and financial performance of Beard Papa Cafés other than the Franchised Business.

You acknowledge and agree that you will not acquire any interest in any Confidential Information other than the right to use Confidential Information disclosed to you in operating the Franchised Business during the term of this Agreement.

(b) *Nondisclosure and Non-Use.* At all times both during the term and after the expiration or termination of this Agreement, (i) you will keep all Confidential Information in the strictest confidence and you will not disclose any Confidential Information to any person other than your employees, agents or representatives who have a legitimate need to know such information and who are informed of this obligation of confidentiality, and (ii) you will not use any Confidential Information except for the purpose of fulfilling your obligations under this Agreement.

Upon our request, you will promptly return to us all Confidential Information and all copies thereof in your possession or under your control, and you will destroy all copies thereof on your computers, disks and other digital storage devices.

(c) *Isolated Disclosures.* Notwithstanding the foregoing, we will not deem you to be in default of this Agreement as a result of isolated incidents of disclosure of Confidential Information by an employee other than an owner, provided that you have taken reasonable steps to prevent such disclosure, including but not limited to the steps a reasonable and prudent owner of confidential and proprietary information would take to prevent disclosure of such information by his employees, and further provided that you pursue all reasonable legal and equitable remedies against such employee for such disclosure of such Confidential information.

(d) *Exceptions.* The obligations of confidentiality and non-use described above will not apply to information that: (i) you can clearly show was known to you on a non-confidential basis prior to its disclosure to you by us; (ii) is or becomes generally known in the food service business in the U.S. other than through disclosure by you or any of your employees, contractors, agents or representatives; or (iii) you can clearly show was received by you on a nonconfidential basis from a third party that is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation.

(e) *Disclosures Required by Law.* In the event that you become legally compelled to disclose any Confidential Information, you will (i) promptly notify us that such information is required to be disclosed, (ii) use your best efforts to obtain legally binding assurance that all those who receive disclosure of such information are bound by an obligation of confidentiality, and (iii) disclose only that portion of the Confidential Information that your legal counsel advises is legally required to be disclosed.

Section 3.3 – *Noncompetition*

(a) *Agreement Not to Compete.* You agree that during the term of this Agreement and any extension hereof (and thereafter pursuant to Section 5.3 (b)), you will not, directly or indirectly (through one of your company's affiliates or owners or a member of the immediate family of any owner), either (i) have a direct or indirect interest in a Competitive Business located or operating anywhere in the U.S. or within 5 miles of any Beard Papa Café outside of the U.S.; (ii) perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for a Competitive Business, wherever located or operating; (iii) divert or attempt to divert any business or customer of the Franchised Business to any competitor in any manner; or (iv) recruit or hire any person who is our employee or the employee of any Beard Papa Café (whether company or affiliate-owned or franchised) or who has been our employee or the employee of any Beard Papa Café within the six month period before such recruiting or hiring without the prior written permission of that person's employer. If we permit you to hire any such person, you agree to pay us a nonrefundable fee equal to the first year's salary of such person, but not less than \$25,000.

(b) *Definition of Competitive Business.* As used in this Agreement, the term “Competitive Business” means any business that operates, or grants franchises or licenses to others to operate, a food service business that sells cream puffs in any distribution channels to any consumer for consumption or resale and such sales comprise five percent or more of such business’ revenues (other than a Beard Papa Café operated under a franchise agreement with us or our affiliate). The restrictions of this section will not apply to the ownership of publicly traded securities that constitute less than three percent of a class of ownership interests of the issuing company.

ARTICLE IV - TRANSFER

Section 4.1 – *Transfer by Us*

We may sell, assign or transfer our rights and obligations under this Agreement to any party, without the approval of or prior notice to you, provided that such sale, assignment or transfer is made in connection with a sale of the System in the U.S., a merger, or the restructuring of the group of companies of which we are then a part. After such transfer, we will not be liable for obligations of the transferee arising after the date of transfer.

Section 4.2 – *Transfer by You*

(a) *No Transfer Without Our Approval.* This Agreement is personal to you. We have granted the franchise to you in reliance upon our perceptions of your (or your company’s owner’s) individual or collective character, skill, aptitude, business ability and financial capacity. Accordingly, you may make no Transfer (as defined below) without our prior written approval. Any purported Transfer without such approval will be a breach of this Agreement and will entitle us to terminate this Agreement as provided below.

(b) *Definition of Transfer.* As used in this Agreement, the term “Transfer” means your (or your company’s owner’s) voluntary, involuntary, direct or indirect assignment, sale, gift, pledge or other disposition of any legal or beneficial interest in: (i) this Agreement, (ii) any material asset of the Franchised Business; (iii) the lease or ownership of your premises (unless we agree to a relocation or unless the transfer of ownership does not affect your leasehold rights and obligations), or (iv) your company, whether in the form of equity or a voting interest. “Transfer” also includes (i) the merger or consolidation of your company; (ii) the issuance of additional securities or other ownership interests of your company, and (iii) the admission or departure of a partner or owner. It includes, without limitation, transfers resulting from proceedings under the U.S. Bankruptcy Code or any similar law, and transfers resulting from divorce. You have the right to grant a security interest in or otherwise encumber certain assets of the Franchised Business, excluding the Franchise Agreement, in connection with financing for the development or operation of the Franchised Business or equipment leasing, if such financing satisfies our requirements, which may include execution of agreements by us, you and the secured creditor, in a form satisfactory to us, acknowledging such creditor’s obligations to be bound by the terms of this Section 4.2.

(c) *Notice of Transfer.* You agree to notify us of any planned Transfer, and to provide us with any information we may reasonably request in order to permit us to evaluate the planned Transfer. If we approve the Transfer, then you will be free, for ninety days following such approval, to effect the Transfer to the person or persons approved by us. If we disapprove the Transfer, then we will have the right to terminate this Agreement. We agree not to unreasonably withhold our approval of a Transfer. You may not transfer any percentage ownership of your company or the franchised business to a direct competitor of ours. Our consent to a Transfer does not constitute a representation as to the fairness of the terms of any contract between you or your company's owners and the transferee, a guaranty of the successful operation of the Franchised Business by the transferee or a waiver of any claims we may have against you or your company's owners or of our right to demand the transferee's compliance with any of the terms or conditions of this Agreement.

(d) *Conditions to Transfer.* The following conditions will apply with respect to any Transfer other than a Transfer described in Section 4.2 (e):

(i) The proposed transferee, its management and owners, must be individuals of good character with sufficient business experience, aptitude, and financial resources to operate the Franchised Business and otherwise meet our then applicable standards for a new Beard Papa franchisee.

(ii) You will cure any default under this Agreement that we will have notified to you.

(iii) You will pay all fees and any other amounts then owed to us and our affiliates.

(iv) If any lease for the premises used in the business requires it, the lessor must consent to the assignment of the lease to the transferee.

(v) If the proposed Transfer would result in a change in control of the Franchised Business, then at our option:

(A) You or the transferee will pay us a nonrefundable transfer fee of \$12,000 (increased from time to time to reflect increases in the Metropolitan Area Consumer Price Index for All Urban Consumers from the date of this Agreement, as published by the U.S. Department of Labor, or a successor index).

(B) The transferee or your company under ownership by the transferee will, at the time of closing, either agree to be bound by the terms and conditions of this Agreement, enter into an assignment of this Agreement or enter into our then current form of franchise agreement for a period of no less than the balance of the term of this Agreement at the time of closing. If our then current form of

franchise agreement is signed, you and we will execute a written agreement terminating this Agreement.

(C) You will upgrade and remodel the Café premises to conform to the then-current standards and specifications of a new franchised business then being established, and you will complete the upgrading and remodeling within the time specified by us.

(D) The transferee or its designated personnel shall have completed such training as we may require, to our satisfaction.

(vi) Your company and each person who is transferring an ownership interest will sign an agreement (in a form satisfactory to us) acknowledging a continuing obligation after such transfer to comply with Section 3.2, and a continuing obligation for a period of two years after such transfer to comply with the requirements of Section 3.3.

(vii) The transferee will sign any guaranty we require pursuant to Section 1.1 (g) and will agree to send a manager and to attend and complete our training course.

(viii) We will have approved the material terms and conditions of such transfer and determined that the price and terms of payment will not adversely affect the transferee's operation of the Franchised Business.

(ix) If you or your owners finance any part of the sale price of the transferred interest, you or your owners will have agreed that all of the transferee's obligations pursuant to any promissory notes, agreements or security interests that you or your owners have reserved in the Franchised Business are subordinate to the transferee's obligation to pay Royalties, Advertising Fund contributions and other amounts due to us and otherwise to comply with this Agreement.

(x) You will give us not less than five business days' written notice of the date, time and place of the closing of such Transfer, and you will give us an opportunity to have a representative present.

(e) *Exceptions.* If the proposed Transfer is among the owners of your company or their immediate family members, then subsection 4.2 (d) (v) will not apply, although the transferee is required to reimburse us for any administrative costs, not to exceed \$500, which we incur in connection with the Transfer. If you are in full compliance with this Agreement, you may transfer this Agreement to an entity that conducts no business other than the Franchised Business in which you maintain management control and of which you own and control 100% of the equity and voting power, and further provided that all assets of the Franchised Business are owned, and the entire Franchised Business is conducted by, a single entity. Notwithstanding anything to the contrary herein, you agree to remain personally liable under this Agreement as if the transfer to such entity had not occurred.

(f) *Transfer Upon Death or Disability.* You or your executor or other personal representative must promptly notify us in the event of your death or disability or, if your company is an entity, the death or disability of the owner of a 10% or greater interest in your company. Any transfer upon death or disability will be subject to the same terms and conditions as those that apply to other transfers, as described in Sections 4.2 (a) through (e); provided, however, that you or your executor or other personal representative will have a period of twelve months in which to effect a transfer acceptable to us in the event of death, and six months in the event of disability. As used herein, the term "disability" means a mental, emotional or physical injury, illness, incapacity, disability or impairment that is reasonably expected to prevent or actually does prevent a person from performing the obligations set forth in this Agreement for at least six consecutive months. A person's disability for purposes of this section will be determined by a licensed practicing physician selected by us upon examination of such person or, if such person refuses to be examined, then such person will automatically be deemed disabled for purposes of this section as of the date of refusal. We will pay the cost of the examination.

(g) *Operation of the Franchised Business Upon Death or Disability.* If upon your death or disability or, if your company is an entity, the death or disability of the owner of a controlling interest in your company, the Franchised Business is not being managed by a trained managing owner, your or such deceased or disabled owner's executor, administrator, conservator, guardian or other personal representative must within a reasonable time, not to exceed thirty days from the date of death or disability, appoint a manager to operate the Franchised Business. Such manager will be required to complete training at your expense. Pending the appointment and training of a manager or if, in our judgment, the Franchised Business is not being managed properly, we have the right, but not the obligation, to appoint a manager for the Franchised Business. All funds from the operation of the Franchised Business during the management by our appointed manager will be kept in a separate account, and all expenses of the Franchised Business, including compensation, other costs and travel and living expenses of our manager, will be charged to this account. We also have the right to charge a reasonable management fee (in addition to the Royalties and Advertising Fund contributions payable under this Agreement) during the period that our appointed manager manages the Franchised Business. Operation of the Franchised Business during any such period will be on your behalf. We will not be liable to you or your company's owners for any debts, losses or obligations incurred by the Franchised Business or to any of your suppliers for any products, materials, supplies or services the Franchised Business purchases during any period it is managed by our appointed manager.

(h) *Stock Offerings.* You agree to submit to us, for our review, all materials for an offering or exempt private placement of stock or partnership or other interests in your company or any of your affiliates that are required by federal or state law before such materials are filed with any government agency and before they are used. We may require such materials to contain a written statement, prescribed by us, indicating that we are not participating in such offering in any way. You and all other participants in the offering must fully indemnify us and our subsidiaries, affiliates, successors and assigns, and our and their respective directors, officers, shareholders, partners, agents and representatives in connection with the offering. For each proposed offering,

you will pay us a nonrefundable fee of \$10,000 or such greater amount as is necessary to reimburse us for our reasonable costs and expenses (including legal and accounting fees) for reviewing the proposed offering. You will give us written notice at least thirty days before the date that any offering or other transaction described in this Section 4.2 (h) commences. Any such offering will be subject to all of the other provisions of this Section 4.2.

Section 4.3 – *Our Right of First Refusal*

(a) *Notice of Third Party Offer.* If you or any of your company's owners and any time desire to sell, assign or transfer for consideration an interest in this Agreement and the Franchised Business or an ownership interest in your company to anyone other than as described in Section 4.3 (d), you will obtain and immediately submit to us a true and complete copy of a bona fide written offer from the third party that desires to acquire such interest (the "Third Party Offer"). The Third Party Offer must include lists of the record and beneficial owners of any entity offeror and all partners of any partnership offeror and, in the case of a publicly-held entity, copies of the most current annual and quarterly reports and Form 10K. The Third Party Offer must contain details of the payment terms of the proposed sale and the source and terms of any financing of the proposed purchase price, and may not include or be contingent upon the purchase of assets of yours or your company's owner other than those related to the Franchised Business.

(b) *Exercise of Our Right of First Refusal.* We will have the right, exercisable by notice delivered to you or your company's selling owner or owners within thirty days after the date of our receipt of a copy of the Third Party Offer and all other information we request, to purchase such interest for the price and on the terms and conditions contained in the Third Party Offer, provided that (i) we may substitute cash for any form of payment proposed in such offer; and (ii) we will have at least sixty days after giving notice of our election to prepare for closing. If we exercise our right of first refusal, you and your selling owners agree that, for a period of two years commencing on the date of the closing, you and your selling owners will be bound by the noncompetition covenant contained in Section 3.3.

(c) *Consequence of Nonexercise of Our Right of First Refusal.* If we do not exercise our right of first refusal, you or your owners may complete the sale to such purchaser pursuant to and on the exact terms of such offer, subject to our approval of the transfer as provided above; provided that if the sale to such purchaser is not completed within 120 days after delivery of the Third Party Offer to us, or if there is a material change in the terms of the sale (which you agree promptly to communicate to us), we will have an additional right of first refusal during the thirty day period following either the expiration of such 120 day period or the notice to us of the material changes in the terms of the sale, either on the terms originally offered or the modified terms, at our option.

(d) *Exceptions.* Our right of first refusal will not apply if the proposed transfer is among the current owners of your company or the immediate family members of the owners, or if it would constitute a transfer (whether in a single transaction or a series of transactions) of less than a 10% interest in your company.

ARTICLE V - TERM AND TERMINATION

Section 5.1 - *Term and Renewal*

(a) *Term.* This Agreement will be effective as of the date first above written and, unless sooner terminated as provided herein, will continue in effect for a term of five years.

(b) *Renewal.* You will have the right to renew the franchise for one additional five-year term, provided that:

(i) you will have given us notice of your desire to renew not less than six months nor more than twelve months before the end of the initial term;

(ii) you and your affiliated companies must not be in default under this Agreement or any other franchise agreement with us or any of our affiliates at the time you give your renewal notice, or if you are in default, you have cured such default in the manner described below;

(iii) you must not have received more than three notices of default during any 24 month period during the initial term, whether or not such defaults have been cured;

(iv) you present evidence to us that you have the right to remain in possession of the Salon premises for the duration of the renewal term, or you obtain our approval of a new location for the Franchised Business for the duration of the renewal term;

(v) you remodel and refurbish the premises of the Franchised Business to comply with our then-current standards in effect for new Beard Papa Café franchises; and

(v) you execute our then-current standard form of franchise agreement for a 5-year term, which agreement will supersede this Agreement in all respects; provided, however, that (A) you will have no additional renewal rights even if the renewal agreement contains a renewal option that is different than the terms of this Agreement, and (B) you will not be required to pay the initial fee stated in the renewal agreement, but you will pay us a renewal fee of \$12,000. You understand that the renewal agreement may contain materially different terms than this Agreement, including, but not limited to, increased fees.

If you or any of your affiliated companies is in default under this Agreement or any other franchise agreement with us or any of our affiliates at the time you give your renewal notice, we will give you notice, not more than thirty days after receipt by us of notice of your desire to renew, of such default, and we will give you thirty days to cure. In the event that you fail to cure in that period, your right to renew will terminate.

(c) *Successor Franchise.* You may apply to acquire a successor franchise at the Site upon the expiration of the renewal term, provided that (i) any such successor franchise that we offer will be under then-current terms for new franchises, which may contain materially different terms than this Agreement, including, but not limited to, increased fees, and it may require the upgrading of facilities and equipment or other features of the System, and (ii) we may disapprove such application in our discretion, without cause. In the event that you will have applied for a successor franchise at least twelve months (and not more than 24 months) before the expiration of the third renewal term, we agree to notify you of our decision whether to approve a successor franchise (subject to any further conditions set forth in the then-current franchise agreement) no later than 180 days after we receive your notice. Any such approval will be subject to your continuing compliance with the terms and conditions of this Agreement.

Section 5.2 - *Termination*

(a) *Termination by You.* You may not terminate this Agreement before the expiration of its term (as set forth in Section 5.1 (a)) except through legal process resulting from our material breach of this Agreement, or otherwise with our written consent. In the event that you claim that we have materially breached this Agreement, you will provide us with written notice of such claim within twelve months of its occurrence, specifically enumerating all alleged deficiencies and providing us with an opportunity to cure, which will in no event be less than 30 days from the date of our receipt of the notice. Your failure to give such notice will constitute a waiver of your right to terminate on the basis of such breach.

(b) *Termination by Us.* We may terminate this Agreement upon written notice to you with immediate effect in the event that you breach a material provision of this Agreement, including your failure to operate the Franchised Business in strict accordance with all System Standards in effect from time to time, and you fail to cure such breach within thirty days after notice from us. In addition, we have the right to terminate this Agreement upon notice to you with immediate effect if:

(i) you or any of your company's owners have made any material misrepresentation or omission in connection with your application for and purchase of the franchise;

(ii) you or your manager fails to complete the initial training to our satisfaction in accordance with Section 1.2 (f).

(iii) you fail to commence operation of the franchised business within the time required by Section 1.2 (g),

(iv) you are more than five days late in your payment of any amount due to us under this Agreement or to any of the suppliers of the Franchised Business and you fail to make such payment within five days after we shall have notified you that such payment is past due;

(v) you lose the right to possession of the premises of the Franchised Business and have not relocated to another site approved by us;

(vi) you no longer have a sufficient number of adequately trained personnel employed at the Franchised Business;

(vii) you or any of your owners use or disclose any Confidential Information in violation of the requirements of Section 3.2;

(viii) you or any of your owners make any unauthorized use of the Marks or challenge or seek to challenge the validity of any of the Marks;

(ix) a threat or danger to public health or safety results from the construction or maintenance of the premises or from the operation of the Franchised Business, or you violate any health, safety or sanitation law, ordinance or regulation and do not begin to correct such noncompliance or violation immediately, and completely correct such non-compliance or violation within 72 hours, after written notice thereof is delivered to you;

(x) you fail for a period of 15 days after notification by appropriate authority to comply with any other law or regulation applicable to the operation of the Franchised Business;

(xi) you or your company's owner or owners effect or attempt to effect a Transfer without our approval and contrary to the provisions of Article IV;

(xii) in the event of your death or disability or the death or disability of the owner of a controlling interest in your company, this Agreement or such owner's interest in your company is not assigned as required by Article IV;

(xiii) you or any of your company's owners are or have been convicted of, or plead or have pleaded guilty or no contest to, a felony or any other crime or offense, or engage in any dishonest, deceptive or unethical conduct that may, in our opinion, adversely affect the reputation of the Franchised Business, other Beard Papa Cafés or the goodwill associated with the Marks;

(xiv) you knowingly maintain false books or records or submit a false report to us;

(xv) you fail to operate the Franchised Business for three consecutive business days, unless the Franchised Business has been closed for a purpose we have approved or because of casualty;

(xvi) you fail to pay when due any federal or state income, service, sales or other taxes due on the operations of the Franchised Business, unless you are contesting your liability for such taxes in good faith;

(xvii) you commit three or more defaults under this Agreement in any period of twelve consecutive months, whether or not each such default has been cured after notice was delivered to you;

(xviii) you become insolvent or make a general assignment for the benefit of creditors; or, unless prohibited by law, if a petition in bankruptcy is filed by you or filed against and consented to by you or not dismissed within 30 days; or if a bill in equity or other proceeding for the appointment of a receiver or other custodian of your company, business or assets is filed and consented to by you; or if a receiver or other custodian (permanent or temporary) of your business or assets, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any state or federal law should be instituted by or against you; or if a final judgment remains unsatisfied or of record for 30 days or longer (unless a bond is filed or other steps are taken to effectively stay enforcement); or if your company is dissolved;

(xix) you or any of your affiliates default under any financing agreement or arrangement with any party advancing funds to you in connection with the operation of the Franchised Business or the operation of any other business under a franchise agreement now or hereafter in effect between us and you or any of your affiliates; or

(xx) any other Beard Papa franchise agreement now or hereafter in effect between us and you or any of your affiliates is terminated due to a breach by you or any of your affiliates or any other event similar to those described above.

(c) *Other Remedies.* If you are in receipt of a notice of default issued pursuant to Section 5.2 (b) and have not cured within the time period specified in such notice, we will have the unrestricted right, in our discretion, to withhold delivery to you of the dough used for the cream puff shells and of any or all other products and services we otherwise supply to you pursuant to this Agreement in lieu of terminating this Agreement, pending your cure or our decision to terminate. You acknowledge and agree that, if we withhold delivery to you of any products or services under this Section 5.2 (c), you will continue to pay in a timely manner all fees required by you under this Agreement and any other agreements between you and us and any of our affiliates, even if such fee is for services that we withhold. If we exercise our rights under this section, you will have no right to a refund of any fees paid in advance for any products or services. You further agree that our exercise of our rights under this section will not be deemed to constitute constructive termination of this Agreement or of any other agreement between you and us, and will not be deemed a breach by us of any provision of this Agreement or of any other agreement between us, and that we will not be liable for any loss, expense or damage you incur because of any action we take under this section. Nothing in this section constitutes a waiver of any right or remedy we have under this Agreement or otherwise, including the right to terminate pursuant to Section 5.2 (b).

Section 5.3 - *Consequences of Termination*

(a) *Events Upon Termination.* Upon the expiration of this Agreement or its termination for any reason:

(i) all rights and licenses granted hereunder to you will immediately terminate;

(ii) you will remit to us, within 15 days of such expiration or termination, or on such later date that the amounts due to us are determined, such Royalties and Advertising Fund contributions, amounts owed for purchases from us, interest due on any of the foregoing and all other amounts owed to us that are then unpaid, along with any reports and other information you may be required to report to us;

(iii) if we do not exercise our option to purchase the Franchised Business in accordance with Section 5.4, you will promptly remove from the store premises and deliver to us or otherwise dispose of as we may instruct, all printed materials containing any Mark and you will remove all copies thereof from your computers and other electronic storage media, and you will allow us, without liability to you or to third parties, to remove all such items from the Franchised Business;

(iv) if we do not exercise our option to purchase the Franchised Business, you will notify the telephone company and all telephone directory publishers of the termination or expiration of your right to use any telephone numbers and any regular, classified or other telephone directory listings associated with any Mark, and you will authorize the transfer of such numbers and directory listings to us or at our direction instruct the telephone company to forward all calls made to your telephone numbers to numbers we specify;

(v) you will cease to use the Marks and the System in any way, shall cease referring to or identifying yourself as a Beard Papa franchisee and you will remove all such identifying materials from the store premises;

(vi) you will take such action as may be required to cancel all fictitious or assumed name or equivalent registrations or domain name registrations relating to your use of any Mark;

(vii) you will promptly return to us or deliver to us or otherwise dispose of as we may instruct, the Manual, all amendments and revisions thereto, and all copies thereof (including copies stored electronically), as well as all other Confidential Information and all copies of such information in your possession or under your control, and you will remove and destroy all copies thereof from your computers and other electronic storage media; and

(viii) we will have the right to buy from you all of the equipment and fixtures that you originally purchased from us, our subsidiary or our designated supplier. You may

not sell any of these items without our written waiver of this option to purchase. The purchase price for such fixtures and equipment will be their fair market value. If we and you are unable to agree on the fair market value of the equipment and fixtures, such fair market value will be determined by an independent appraiser approved by both you and us. You and we will share the cost of the appraiser equally.

(b) *Covenant Not to Compete After Termination.* Upon the expiration of this Agreement, your termination of this Agreement without cause or our termination of this Agreement in accordance with its terms and conditions, you and your company's owners agree to continue for a period of two years following such expiration or termination to comply with the obligations described in Section 3.3.

(c) *No Compensation for Goodwill.* You will not be entitled to any compensation or payment for goodwill based on the expiration of this Agreement or its termination for any reason, notwithstanding any applicable law to the contrary.

Section 5.4 – *Our Right to Purchase the Franchised Business Upon Termination*

(a) *Exercise of Option.* Upon our termination of this Agreement in accordance with its terms or your termination of this Agreement without cause, or upon the expiration of this Agreement, if we elect not to offer or you elect not to accept, a successor franchise, we have the option, exercisable by giving written notice to you within sixty days from the date of such termination, expiration or the expiration of our offer to you of a successor franchise, whichever is applicable, to purchase the assets of the Franchised Business from you, including the leasehold rights (subject to any rights of approval retained by the owner of the leasehold) to or ownership of the Site. The date on which we notify you whether or not we are exercising our option is referred to in this Agreement as the "Notification Date". We have the unrestricted right to assign this option to purchase the Franchised Business. We will be entitled to all customary warranties and representations in connection with our asset purchase, including, without limitation, representations and warranties as to ownership and condition of and title to assets; liens and encumbrances on assets; validity of contracts and agreements; and liabilities affecting the assets, contingent or otherwise.

(b) *Leasehold Rights or Ownership of the Premises.* If we exercise the option described in Section 5.4 (a), you agree at our election, (i) to assign your leasehold interest in the premises of the Franchised Business to us at its fair market value, if any; or (ii) if you are unable to assign your leasehold interest, to enter into a sublease at a fair market rental for the remainder of the lease term on the same terms (including renewal option) as the prime lease; or (iii) if you own the premises, to lease the premises to us at a reasonable commercial rent and according to terms comparable with rental terms for similar leased property in the marketplace where the Site is located.

(c) *Purchase Price.* If we exercise the option described in Section 5.4 (a), the purchase price for the assets of the Franchised Business other than the lease will be the fair market value

of the Franchised Business, determined in a manner consistent with reasonable depreciation of the leasehold improvements, equipment, fixtures, furnishings, signs, materials and supplies. The fair market value of the Franchised Business will include the goodwill you have developed in the market that is independent of the goodwill of the Marks and the System. The length of the remaining term of the lease or sublease of the premises of the Franchised Business, if any, and the age and condition of the improvements, equipment, fixtures, furnishings, décor and signs will also be considered in determining the fair market value. We may exclude from the assets purchased cash or its equivalent and any leasehold improvements, equipment, fixtures, furnishings, signs, materials and supplies that are not necessary or appropriate to the operation of the Franchised Business or that we have not approved as meeting our standards, and the purchase price will reflect such exclusions.

(d) *Appraisal.* If we and you are unable to agree on the fair market value of the Franchised Business or the Site, or the fair rental value of the premises of the Franchised Business, such fair market value or fair rental value will be determined by one independent appraiser agreed to by you and us. If we fail to agree on an appraiser within fifteen days after we exercise the option described in Section 5.4 (a), then each party will name its own appraiser within seven days thereafter, and the average of their determinations will be binding. If one appraiser is chosen, then the parties will share the cost of the appraiser equally. If two appraisers are used, each party will pay its own appraisal fees. You and we will instruct the appraiser or appraisers to complete their appraisal within thirty days after their appointment.

(e) *Closing.* The closing of the purchase described in this section will take place not later than 90 days after the determination of the purchase price. We will pay the purchase price at the closing, but we have the right to set off against the purchase price any and all amounts you or your company's owners owe to us. At the closing, you agree to deliver instruments transferring to us (i) good and merchantable title to the assets purchased, free and clear of all liens and encumbrances, with all sales and other transfer taxes paid by you; (ii) all licenses and permits of the Franchised Business that are assignable; and (iii) a leasehold interest in (or unencumbered title to) the premises of the Franchised Business and the improvements to such premises. If you cannot deliver clear title to all of the purchased assets, or if there are other unresolved issues, the closing of the sale will be accomplished in escrow.

(f) *Option to Buy Certain Fixtures and Equipment.* In lieu of exercising our option to buy the Franchised Business as provided above, we will have the option to buy from you all of the items of equipment and fixtures that you originally purchased from us, our affiliate or our designated supplier. You may not sell any of these items without our written waiver of our option to purchase them. The purchase price for such fixtures and equipment will be their fair market value, determined in the same manner as is set forth in Section 5.4 (d).

ARTICLE VI - REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION

Section 6.1 - *Representations and Warranties*

(a) *Your Representations.* You represent and warrant as follows:

(i) YOU HAVE NOT RELIED ON ANY PROMISES, REPRESENTATIONS OR AGREEMENTS NOT EXPRESSLY CONTAINED IN THIS AGREEMENT OR THE BEARD PAPA FRANCHISE OFFERING CIRCULAR IN MAKING YOUR DECISION TO SIGN THIS AGREEMENT. WE AND OUR REPRESENTATIVES HAVE NOT MADE ANY PROMISES, REPRESENTATIONS OR AGREEMENTS, ORAL OR WRITTEN, EXCEPT AS EXPRESSLY CONTAINED IN THIS AGREEMENT AND THE BEARD PAPA FRANCHISE OFFERING CIRCULAR.

(ii) YOU HAVE CONDUCTED AN INDEPENDENT INVESTIGATION OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT, AND YOU RECOGNIZE THAT, LIKE ANY OTHER BUSINESS, AN INVESTMENT IN A BEARD PAPA CAFÉ INVOLVES BUSINESS RISKS AND THAT YOUR ABILITIES AND EFFORTS ARE VITAL TO THE SUCCESS OF THE VENTURE.

(iii) YOU RECEIVED THE BEARD PAPA FRANCHISE OFFERING CIRCULAR AT OR BEFORE THE DATE OF THE FIRST FACE-TO-FACE MEETING WITH OUR REPRESENTATIVE FOR THE PURPOSE OF DISCUSSING A PROSPECTIVE FRANCHISE AND AT LEAST TEN BUSINESS DAYS BEFORE THE EARLIER OF (I) THE DATE ON WHICH YOU SIGNED THIS AGREEMENT OR ANY OTHER AGREEMENT RELATED HERETO, AND (II) THE PAYMENT BY YOU OF ANY CONSIDERATION IN CONNECTION WITH THE SALE OR PROPOSED SALE OF A BEARD PAPA FRANCHISE.

(iv) YOU RECEIVED A COPY OF THIS AGREEMENT AND ANY RELATED AGREEMENTS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE DAY THAT SUCH AGREEMENTS WERE EXECUTED.

(v) YOU HAVE READ AND UNDERSTOOD THIS AGREEMENT AND HAVE HAD AMPLE OPPORTUNITY TO CONSULT WITH AN ATTORNEY AND OTHER ADVISORS OF YOUR OWN CHOOSING ABOUT THE POTENTIAL BENEFITS AND RISKS OF ENTERING INTO THIS AGREEMENT. YOU ACKNOWLEDGE THAT WE HAVE ADVISED YOU TO HAVE THIS AGREEMENT REVIEWED AND EXPLAINED TO YOU BY AN ATTORNEY.

(vi) ALL STATEMENTS YOU HAVE MADE AND ALL MATERIALS YOU HAVE SUBMITTED TO US IN CONNECTION WITH YOUR APPLICATION FOR AND PURCHASE OF THE FRANCHISE ARE ACCURATE AND COMPLETE AND YOU HAVE MADE NO MISREPRESENTATIONS OR MATERIAL OMISSIONS IN OBTAINING THE FRANCHISE.

(vii) YOU ARE UNDER NO OBLIGATION OR RESTRICTION, NOR WILL YOU ASSUME ANY OBLIGATION OR RESTRICTION, THAT WOULD IN ANY WAY INTERFERE OR BE INCONSISTENT WITH, OR PRESENT A CONFLICT OF INTEREST CONCERNING, THE SERVICES

THAT ARE THE SUBJECT OF THIS AGREEMENT OR THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER.

(viii) SCHEDULE A COMPLETELY AND ACCURATELY DESCRIBES ALL OF YOUR COMPANY'S OWNERS, DIRECTORS, OFFICERS, PARTNERS AND MANAGERS AND THEIR OWNERSHIP INTERESTS AND MANAGEMENT POSITIONS IN YOUR COMPANY.

(b) *Your Representations as an Entity.* If your company is a corporation, limited liability company or partnership, you further represent and warrant as follows:

(i) Your company is duly organized or formed and in good standing under the laws of the state of its formation.

(ii) Your company has the power and authority to enter into this Agreement and to perform its obligations under this Agreement.

(iii) Your company's organizational documents, operating agreement or partnership agreement will recite that the issuance and transfer of your company's ownership interests are restricted by the terms of this Agreement, and all certificates and other documents representing your company's ownership interests will bear a legend referring to the restrictions of this Agreement.

Section 6.2 - *Indemnification*

(a) *Your Indemnity.* You will indemnify and hold us and our affiliates, and the stockholders, directors, officers, employees and agents of us and our affiliates, harmless from and against all costs, expenses, liabilities and losses, including reasonable attorneys' fees and disbursements, directly or indirectly relating to: (i) the failure of any of your representations, warranties or covenants set forth herein and in the schedules and exhibits hereto; (ii) any act or conduct of yours that is not in compliance with the requirements of this Agreement, including the schedules and exhibits hereto; (iii) any act or omission of yours or anyone associated with or employed by or affiliated with you; or (iv) your failure to pay any amount owed by you to a third party provider of products or services through the System or any other breach by you of a contractual obligation you may have to such provider. We will have the right to participate in the defense, with counsel of our own choice and at our own expense, of any action that may give rise to your obligation hereunder to indemnify, and to reject any settlement that might adversely affect us.

(b) *Our Indemnity.* We will defend and indemnify and hold you and your affiliates, and the stockholders, directors, officers, employees and agents of your company and its affiliates, harmless from and against all costs, expenses, liabilities and losses, including reasonable attorneys' fees and disbursements, directly or indirectly relating to: (i) your use of the System or any of the Marks in accordance with the terms and conditions of this Agreement; or (ii) advertising or promotion carried out by us or by agencies or media engaged by us relating to the Beard Papa

brand, provided that you have timely notified us of such claim or proceeding, have given us sole control of the defense and settlement, and have otherwise complied with this Agreement.

(c) *Notice of Claim; Survival.* Each party will give the other notice of any claim that may require indemnification hereunder promptly after such party learns of such claim. The rights and obligations of the parties under this Section 6.2 will survive the expiration or termination of this Agreement and remain in effect for a period of three years thereafter.

ARTICLE VII - MISCELLANEOUS

Section 7.1 – *Relationship of the Parties.* You are an independent contractor and not an agent of ours. You will have no power or authority to make any commitment or enter into any contract or agreement obligating or purporting to obligate us, and you will not hold yourself out as having such power or authority. Nothing in this Agreement creates a fiduciary relationship between the parties. You agree to conspicuously identify yourself in all dealings with customers, suppliers, public officials, your employees and others as the owner of the Franchised Business under a franchise we have granted and to place such notices of independent ownership on such forms, business cards, stationery, advertising and other materials as we require from time to time. We will not be obligated for any damages to any person or property directly or indirectly arising out of the operation of the Franchised Business.

Section 7.2 – *Reasonable Business Judgment.* You acknowledge that the long-term interests of the System, the network of Beard Papa franchisees, and our company and its shareholders, taken together, require that we have the latitude to make business decisions that, at times, may adversely affect you. We will not be required to consider your particular economic or other circumstances or to disregard our own economic or other business interest when making decisions under this Agreement.

Section 7.3 – *Injunctive Relief.* Your covenants set forth in Article III constitute essential elements of this Agreement. If you fail to comply strictly with any such covenants, we will suffer irreparable harm and will have a cause of action for damages or injunctive relief or both against you in a court of competent jurisdiction, notwithstanding the provisions of Section 7.10. In the event that we prevail in any such litigation, you will reimburse us for all costs, attorneys' fees and other expenses incurred by us in connection therewith.

Section 7.4 – *Severability.* If any restrictive covenant in this Agreement is held to be invalid or unenforceable because its duration is too long or its scope is too broad, you and we agree that the court making such determination will have the power to reduce the duration or scope in such a manner that the remaining revised covenant will be valid and enforceable. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision hereof shall be prohibited by or invalid under applicable law, such prohibition or invalidity shall not invalidate the remainder of such provision or the other provisions of this Agreement.

Section 7.5 – **No Waiver of Rights.** No delay or failure to exercise any right or remedy provided for herein shall be deemed to be a waiver thereof or acquiescence in the event giving rise to such right or remedy, but every such right or remedy may be exercised from time to time and so often as may be deemed expedient by the party exercising such right or remedy.

Section 7.6 – **Notices.** All notices, requests, consents and other communications required or permitted by this Agreement shall be in writing and shall be delivered by hand, overnight delivery service, or registered or certified first class mail, to the following address, or such other address as either party, by like notice, shall designate with respect to its own address:

If to us: Muginoho USA, Inc.
 1040 Avenue of the Americas, Suite 2415
 New York, NY 10018
 Attn: President

If to you:

Any such notice, request, consent or other communication shall be deemed given and be effective upon receipt at such address.

Section 7.7 – **Affiliates.** As used herein, the term “affiliate” of party means a company directly or indirectly controlling, controlled by or under common control with such party. “Control” of another company, as used herein, shall mean the ownership of or the power to vote, directly or indirectly through majority-owned companies, fifty-one percent or more of the voting stock or voting rights of such other company.

Section 7.8 – **Limitation of Actions.** Any and all claims and actions arising out of or relating to this Agreement brought by either party against the other must be brought or asserted before the expiration of the earlier of (a) the time period for bringing an action under any applicable statute of limitations; (b) one year after the date upon which a party discovered, or should have discovered, the facts giving rise to the claim; or (c) two years after the first act or omission giving rise to the alleged claim; or it is expressly acknowledged and agreed that such claims or actions will be irrevocably barred. Claims by us of your underreporting of sales, and claims for failure to pay monies owed or for indemnification will be subject only to the applicable statute of limitations.

Section 7.9 – **Waiver of Damages.** Each of the parties waives to the fullest extent permitted by law any right to or claim of any punitive or exemplary damages against the other, and agree that any recovery in a dispute between them will be limited to actual damages sustained.

Section 7.10 – **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed entirely within the State of New York, without regard to New York’s conflicts of laws

principles; provided, however, that nothing herein will be deemed to extend the application of the New York Franchise Sales Act to the sale of franchises outside of the State of New York.

Section 7.11 – **Mediation.** The parties will endeavor to resolve amicably any dispute arising under or in connection with this Agreement and any claim relating to its validity, construction, effect, performance, termination or breach. If any such dispute has not been resolved by negotiation within 45 days after one party notifies the other of the existence of such dispute, then both parties agree that, at the request of either party, the parties will resolve the dispute by mediation under the then current rules of the National Franchise Mediation Program administered by the CPR Institute for Dispute Resolution. Nothing in this paragraph will be deemed to limit our rights under Section 7.3.

Section 7.12 – **Arbitration.** If after one party requests mediation the other party declines to participate in mediation, or if the parties are unable to resolve a dispute within sixty days after either party has requested mediation, then the dispute will be resolved by arbitration in accordance with the then current CPR Non-Administered Arbitration Rules, by one arbitrator selected from a panel of attorneys who are familiar with franchise agreements and complex commercial disputes. Any such arbitration will take place in New York, New York. Any provisional or equitable remedy that would be available from a court of law shall be available to the parties from the arbitrator. All issues regarding discovery requests shall be decided by the arbitrator. Judgment upon the award of the arbitrator may be enforced in any court having jurisdiction thereof. Nothing in this paragraph will be deemed to limit our rights under Section 7.3.

Section 7.13 – **Jurisdiction and Venue.** The parties hereby irrevocably consent to the non-exclusive jurisdiction of the federal and state courts located in New York, New York, in any action (i) to compel arbitration, (ii) to enforce the award of the arbitrator or (iii) prior to the appointment and confirmation of the arbitrator, for temporary, interim or provisional equitable remedies. The parties hereby waive, to the full extent permitted by law, defenses based on jurisdiction, venue and forum *non conveniens*. The parties further consent to service of process in any action by registered mail, return receipt requested, or by any other means permitted by law.

Section 7.14 – **Entire Agreement.** This Agreement together with the agreements executed simultaneously herewith, shall constitute the entire understanding of the parties and shall supersede any and all prior oral or written agreements between the parties with respect to the subject matter hereof. Except for changes permitted hereunder to be made unilaterally by us, no amendment, change, or variance from this Agreement shall be binding on either party unless agreed to by the parties in writing and executed by their authorized officers.

IN WITNESS WHEREOF, the parties have signed this Agreement on the dates set forth below, with effect as of the date first above written.

MUGINOHO USA, INC.

[Franchisee]

By _____

By _____

Title _____

Title _____

Date _____

Date _____

SCHEDULE A

FRANCHISE INFORMATION

Referred to in Sections 1.1 (b) and (g), 1.2 (a) and 6.1 (a)

1. Approved location: _____

2. Type of Café (indicate one):
Standalone Unit (more than 600 square feet) _____
Food Court Unit (up to 600 square feet) _____

2. Owners of franchisee and percentage ownership interest:

3. Management of franchisee:

SCHEDULE B

GUARANTY

Referred to in Section 1.1 (g)

In order to induce MUGINOHO USA, INC., a New York corporation (the "Franchisor"), to execute the Beard Papa Papa's Sweets Café Franchise Agreement dated as of _____, 200_ (the "Franchise Agreement"), between Franchisor and _____, a _____ (the "Franchisee") for a Beard Papa franchise for _____, each of the undersigned owners or stockholders of the Franchisee (the "Guarantor(s)"), jointly and severally, hereby agrees as follows:

1. Each Guarantor personally and unconditionally guarantees to Franchisor and Franchisor's successors and assigns the due, punctual and complete payment and performance by Franchisee of all of Franchisee's obligations under the Franchise Agreement and under any modification of, amendment to or renewal of the Franchise Agreement.

2. Each Guarantor waives to the fullest extent permitted by law (a) any defense based upon any (i) legal disability or lack of authority of Franchisee, (ii) legal or equitable discharge or limitation of the liability of Franchisee, whether consensual or arising by operation of law, (iii) bankruptcy, insolvency, reorganization or other similar proceeding affecting Guarantor or the Franchisee, or (iv) invalidity, irregularity or unenforceability of any or all of the provisions of this Guaranty or the Franchise Agreement; (b) presentment, demand, protest or notice of any other kind; (c) notice of acceptance of this Guaranty; (d) other defenses available to a guarantor under applicable law; or (e) any requirement of diligence on the part of Franchisor or any right Guarantor may have to require Franchisor to proceed first against Franchisee.

3. This is a guaranty of payment and not of collection. The Franchisor shall have the right to require the performance by each Guarantor of each and every one of the Franchisee's obligations under the Franchise Agreement and to sue for damages and other relief at law and in equity (including specific performance) for breach of any such obligations without first seeking or taking any action against the Franchisee.

4. The liability of each Guarantor shall be unaffected by (a) any modification, amendment, termination or variation in or addition to the Franchise Agreement; (b) any extension of time for performance or any waiver of performance or any delay of the Franchisor in enforcing any right, remedy, power or privilege which the Franchisor may have against the Franchisee or any other person; (c) the release of the Franchisee, in whole or in part, from performance or observance of any of the agreements, covenants, terms or conditions contained in the Franchise Agreement, whether made with or without notice to Guarantor; or (d) any other guaranty now or hereafter executed by anyone else in connection with the transactions contemplated by the Franchise Agreement.

5. Without in any way restricting or limiting the guaranty given by the Guarantor as set forth above or any other rights and remedies to which the Franchisor may be entitled, the Guarantor hereby covenants and agrees to indemnify and save the Franchisor harmless against any and all liabilities, losses, suits, claims, demands, costs, fines and actions of any kind or nature whatsoever to which the Franchisor shall or may become liable for, or suffer, by reason of any breach, violation or non-performance by the Franchisee of any term or condition of the Agreements including, but not limited to any legal or administrative fees incurred with respect to any notices of default.

6. Each of the Guarantors under this Agreement is jointly and severally obligated along with the Franchisee for the fulfillment of all covenants, obligations and agreements of the Franchisee under the Franchise Agreement, including but not limited to the obligations of confidentiality and noncompetition. Each Guarantor acknowledges reviewing all of the provisions of this Agreement and agrees to be bound by all of the provisions, including without limitation, the provisions which by their nature survive expiration or termination of the Franchise Agreement. In the enforcement of its rights under this guaranty, the Franchisor may proceed against the Guarantor (or any one of them) as if the Guarantor were named as the Franchisee under the Franchise Agreement. The Franchisor will not be required to proceed against the Franchisee or to proceed against or to exhaust any security held from the Franchisee or to pursue any other remedy whatsoever which may be available to the Franchisor before proceeding against the Guarantor, and the Guarantor hereby waives any right to require the Franchisor to do so.

7. In the event this Guaranty is placed in the hands of an attorney for enforcement, each Guarantor will reimburse the Franchisor for all reasonable expense incurred directly in the enforcement of the Franchisor's rights hereunder, including reasonable attorneys' fees and expenses, if the Franchisor is the prevailing party.

8. This Guaranty will be construed and enforced in accordance with the laws of the state in which the franchised outlet is located, without regard to its conflicts of law principles.

9. No modification, waiver, amendment, discharge or change in this Guaranty shall be valid unless in writing and approved by the Franchisor.

10. All covenants and agreements by or on behalf of Guarantor in this Guaranty shall bind Guarantor's heirs, successors and assigns and shall inure to the benefit of the Franchisor, its successors and assigns.

11. This Guaranty shall be transferable and negotiable, with the same force and effect and to the same extent as all rights of the Franchisor under the Franchise Agreement are transferable, and any transferee shall have under this Guaranty, upon such transfer, all of the rights granted to the Franchisor under this Guaranty.

IN WITNESS WHEREOF, each Guarantor has signed this Guaranty as of the date of the Franchise Agreement.

Date _____

Date _____

STATE OF)
)
COUNTY OF)

ss.:

On the ____ day of _____, 200_, before me personally came
_____ and _____, to me known to be the individuals described in and
who executed the foregoing guaranty, and they acknowledged that they executed the same.

Notary Public

SCHEDULE C

Addendum to Lease
Referred to in Section 1.2 (d)

ADDENDUM

TO LEASE DATED _____ (“Lease”)

BY AND BETWEEN _____ (“Landlord”)

AND _____ (“Tenant”)

RE: RIGHTS OF MUGINOHO USA, INC. (“Franchisor”)

Franchisor and Tenant are parties to a Beard Papa franchise agreement dated as of _____ (the “Franchise Agreement”), pursuant to which Franchisor has granted to Tenant a franchise to use the Beard Papa system and trademarks in operating a Beard Papa Sweets Café.

Franchisor has approved Tenant’s request to locate its Beard Papa Sweets Café in certain premises (“Premises”) owned by Landlord which is the subject of the Lease, provided that the terms and conditions set forth in this Addendum are made a part of the Lease.

Therefore, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. *Franchise Rights.* Landlord acknowledges that the Franchise Agreement grants Franchisor certain rights to assume Tenant’s Lease in the event of a default by Tenant under the Franchise Agreement. Upon any such assumption of the Lease by Franchisor, Franchisor will give Landlord notice of the assumption of the Lease and Franchisor will thereafter be bound by all of the terms and conditions in the Lease and Landlord agrees to recognize Franchisor as the new tenant under the Lease. Franchisor will have the right to assign its interest in the Lease to an approved franchisee and following any such assignment Franchisor will have no further liability or obligation under the Lease. Any assumption of the Lease by Franchisor or subsequent assignment of the Lease by Franchisor will not release Tenant from its obligations under the Lease. Unless and until Franchisor exercises its rights under the Franchise Agreement and the provisions of the Addendum and agrees in writing to assume the Lease, Franchisor will have no liability or obligation under the Lease.

2. *Notices to Franchisor.* Landlord shall serve Franchisor with a copy of any notice of default, breach or termination of the Lease at the same time it serve Tenant with such notice. Landlord agrees not to terminate the Lease based on Tenant's breach or default under the Lease until it has given Franchisor written notice identifying the breach or default and at least 20 days after expiration of the period during which Tenant may cure such default to cure the breach or default. If Franchisor elects not to cure the breach or default, Landlord may proceed directly against Tenant in the manner provided in the Lease, but will have no remedy against Franchisor.

3. *Additional Covenants.* Landlord agrees not to (a) accept Tenant's voluntary surrender of the Lease without prior notice to Franchisor, or (b) amend the Lease without Franchisor's prior written consent.

4. *Removal of Fixtures.* Landlord agrees that, upon the earlier of the expiration or termination of the Franchise Agreement or the Lease, Franchisor will have the right, but not the obligation, at Franchisor's sole cost, to enter upon the Premises and to remove all trade names, trade dress and other trade indicia associated with Franchisor, including, without limitation, external and internal signage and menu boards, and all point of purchase materials and signage, and in general, all trade dress and architectural characteristics identifying the Premises as a Beard Papa franchise, provided that Franchisor repairs any damage to the Premises caused by such removal or modifications.

5. *Access.* Franchisor will have the right to access the Premises during continuance of the Lease to ensure compliance by Tenant with its obligations under the Franchise Agreement.

6. *Extensions.* If the Lease contains term renewal or extension rights and if Tenant allows the term to expire without exercising such rights, Landlord will give Franchisor written notice thereof, and Franchisor will have the option, for thirty days after receipt of such notice, to exercise the Tenant's renewal or extension rights on the same terms and conditions as are contained in the Lease. If Franchisor elects to exercise such rights, Franchisor will so notify Landlord in writing, whereupon Landlord and Franchisor will promptly execute and deliver an agreement whereby franchisor assumes the Lease, effective at the earlier to occur of (a) commencement of the extension or renewal term and (b) notice to Landlord of Franchisor's assumption of the Lease.

7. *Notices.* Any notices given to Franchisor pursuant to this Addendum must be in writing and must be given in compliance with the notice provision of the Lease. Franchisor's address for any such notice is as follows:

Muginoho USA, Inc.
1040 Avenue of the Americas, Suite 2415
New York, NY 10018
Attn: President

8. *Effect.* This Addendum amends and is a part of the Lease. In the event of a conflict between the terms of the Lease and the terms set forth in this Addendum, the terms set forth in this Addendum will govern.

9. *Miscellaneous.* This Addendum will be binding upon, and will inure to the benefit of, the parties hereto and their successors, assigns, heirs and person representatives. This Addendum sets forth the entire agreement of the parties with respect to Franchisor's rights, superseding any and all prior agreements and understandings between or among the parties relating to the subject matter of this Addendum. This Addendum may be amended only by written agreement signed by each of the parties.

MUGINOHO USA, INC.

[Tenant]

By _____

By _____

Title _____

Title _____

Date _____

Date _____

[Landlord]

By _____

Title _____

Date _____