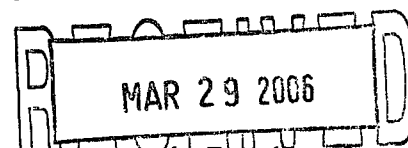


ARTICLE XXII
SECURITY INTERESTS



22.1 **Security Interests.** The Franchisee covenants and agrees to grant to the Franchisor from time to time, upon the Franchisor's request and pursuant to the Franchisor's then-current standard form of agreement(s) or document(s), such security interests in such of the assets used in connection with the Facility or situated on the Premises as the Franchisor may in its sole discretion require to secure payment and performance of any and all obligations from time to time owing by the Franchisee to the Franchisor (whether pursuant to this Agreement or otherwise) or to any of the Franchisor's affiliates.

ARTICLE XXIII
DISPUTE RESOLUTION

23.1 **Mandatory Binding Arbitration.** In order to reduce instances of possible dispute and to make the resolution of any disputes which do arise less expensive, quicker, less subject to public notoriety and to resolve disputes in a less formal and antagonistic means than litigation, as well as to increase the opportunities for Franchisee and Franchisor to maintain a mutually beneficial business relationship, Franchisee and Franchisor agree as follows:

23.1.1 ANY LITIGATION, CLAIM, DISPUTE, SUIT, ACTION, CONTROVERSY, PROCEEDING OR OTHERWISE ("CLAIM") BETWEEN OR INVOLVING FRANCHISEE (AND/OR ANY PRINCIPAL OF FRANCHISEE OR WHICH COULD BE BROUGHT BY FRANCHISEE OR ON HIS/HER BEHALF) AND FRANCHISOR (AND/OR ANY CLAIM AGAINST OR INVOLVING ANY OF THE FRANCHISOR-RELATED ENTITIES OR OTHERWISE), EXCEPT AS EXPRESSLY PROVIDED BELOW, WHETHER ARISING OUT OF OR RELATING IN ANY WAY TO THIS AND/OR ANY OTHER AGREEMENT AND/OR ANY OTHER DOCUMENT, ANY ALLEGED BREACH OF ANY DUTY OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO, THE UNDERLYING LEGALITY OF THE OFFER AND/OR SALE OF THE FRANCHISE, ANY ACTION FOR RESCISSION OR OTHER SETTING ASIDE OF SUCH SALE OR ANY TRANSACTION, AGREEMENT OR DOCUMENT AND ANY CLAIM THAT THIS AGREEMENT OR ANY PORTION THEREOF IS INVALID, ILLEGAL, VOID, VOIDABLE OR OTHERWISE AND ANY CLAIM OF FRAUD) AND ON WHATEVER THEORY AND/OR FACTS BASED, WILL BE:

(a) SUBMITTED TO BINDING ARBITRATION BEFORE AND IN ACCORDANCE WITH THE ARBITRATION RULES OF FAM (OR ANY SUCCESSOR ORGANIZATION); PROVIDED THAT IF SUCH ARBITRATION IS UNABLE TO BE HEARD BY FAM FOR ANY REASON, THE ARBITRATION WILL BE CONDUCTED BY THE AMERICAN ARBITRATION ASSOCIATION PURSUANT TO ITS COMMERCIAL ARBITRATION RULES. THE FEES AND EXPENSES OF THE ARBITRATOR(S) AND THE PARTIES WILL EXECUTE SUCH CONFIDENTIALITY AGREEMENTS, EXCEPTING ONLY SUCH PUBLIC DISCLOSURES AND FILINGS AS ARE REQUIRED BY LAW.

23.1.2 ANY ARBITRATION (AND ANY APPEAL OF ARBITRATION) WILL BE CONDUCTED AT THE OFFICE OF THE ARBITRATING ORGANIZATION (OR ITS REPRESENTATIVES) WHICH IS LOCATED CLOSEST TO FRANCHISOR'S HEADQUARTERS. EXCEPT AS EXPRESSLY PROVIDED BELOW, THE PARTIES TO ANY ARBITRATION WILL BEAR THEIR OWN COSTS, INCLUDING ATTORNEYS' FEES. ANY CLAIM, AND ANY SUCH MEDIATION/ARBITRATION, WILL BE CONDUCTED AND RESOLVED ON AN INDIVIDUAL BASIS ONLY AND NOT ON A CLASS-WIDE, MULTIPLE PLAINTIFF OR SIMILAR BASIS. UPON REQUEST OF ANY PARTY TO A CLAIM, THE ARBITRATOR MAY BE REQUIRED TO

ISSUE A WRITTEN AWARD, SPECIFYING THE FACTS FOUND AND THE LAW APPLIED, BUT THE PARTY SO REQUESTING WILL BEAR THE FEES AND CHARGES INCURRED IN CONNECTION THEREWITH. THE ARBITRATOR MAY ISSUE TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, INJUNCTIONS AND OTHER EQUITABLE AND/OR INTERIM RELIEF TO THE EXTENT REASONABLY NECESSARY TO PRESERVE THE STATUS QUO (OR PREVENT IRREPARABLE INJURY) PENDING FINAL RESOLUTION BY BINDING ARBITRATION OF A CLAIM, AS WELL AS IN CONNECTION WITH ANY SUCH FINAL RESOLUTION, AND MAY ISSUE SUMMARY ORDERS DISPOSING OF ALL OR PART OF A CLAIM AT ANY POINT. EACH PARTY CONSENTS TO THE ENFORCEMENT OF SUCH ORDERS, INJUNCTIONS, ETC. BY ANY COURT HAVING JURISDICTION. THE PARTIES AGREE THAT THE ARBITRATOR (RATHER THAN A COURT) SHALL DECIDE ANY QUESTIONS RELATING IN ANY WAY TO THE PARTIES' AGREEMENT (OR CLAIMED AGREEMENT) TO ARBITRATE, INCLUDING, BUT NOT LIMITED TO, APPLICABILITY, SUBJECT MATTER, TIMELINESS, SCOPE, REMEDIES AND ALLEGED FRAUD IN THE INDUCEMENT, OR OTHERWISE. EACH PARTICIPANT MUST SUBMIT OR FILE ANY CLAIM WHICH WOULD CONSTITUTE A COMPULSORY COUNTERCLAIM (AS DEFINED BY RULE 13 OF THE FEDERAL RULES OF CIVIL PROCEDURE) WITHIN THE SAME PROCEEDING AS THE CLAIM TO WHICH IT RELATES. ANY SUCH CLAIM WHICH IS NOT SUBMITTED OR FILED IN SUCH PROCEEDING WILL BE FOREVER BARRED.

23.1.3 IN THE EVENT THAT ANY PARTY TO AN ARBITRATION WISHES TO APPEAL ANY FINAL AWARD BY AN ARBITRATOR (THERE WILL BE NO APPEAL OF INTERIM AWARDS OR OTHER INTERIM RELIEF), SUCH PARTY MAY APPEAL, WITHIN THIRTY (30) DAYS OF SUCH FINAL AWARD, TO A THREE (3) ARBITRATOR PANEL TO BE APPOINTED BY THE SAME ORGANIZATION AS CONDUCTED THE ARBITRATION. THE ISSUES ON SUCH APPEAL WILL BE LIMITED TO THE PROPER APPLICATION OF THE LAW TO THE FACTS FOUND AT THE ARBITRATION AND WILL NOT INCLUDE ANY TRIAL DE NOVO OR OTHER FACT-FINDING FUNCTION. THE PARTY REQUESTING SUCH APPEAL MUST PAY ALL COSTS AND FEES CHARGED BY SUCH ARBITRATION APPEAL PANEL AND/OR ARBITRATION ORGANIZATION IN CONNECTION WITH SUCH APPEAL, AS WELL AS POSTING ANY BOND DEEMED APPROPRIATE BY SUCH ARBITRATION ORGANIZATION OR ARBITRATION APPEAL PANEL. IN ADDITION, A PARTY REQUESTING APPEAL AND WHO DOES NOT PREVAIL ON SUCH APPEAL WILL PAY THE OTHER PARTY'S (OR PARTIES') ATTORNEYS' FEES AND OTHER COSTS OF RESPONDING TO SUCH APPEAL.

23.1.4 JUDGMENT UPON ANY PRELIMINARY OR FINAL ARBITRATION AWARD SUBJECT TO THE OPPORTUNITY FOR APPEAL AS CONTEMPLATED IN (c) ABOVE MAY BE ENTERED IN ANY COURT HAVING JURISDICTION AND WILL BE BINDING, FINAL AND NON-APPEALABLE.

23.1.5 THE OBLIGATION HEREIN TO ARBITRATE WILL NOT BE BINDING UPON FRANCHISOR WITH RESPECT TO CLAIMS OR ISSUES RELATING PRIMARILY TO (i) THE VALIDITY OF ANY TRADEMARKS OR SERVICE MARKS OWNED BY FRANCHISOR, (ii) FRANCHISOR'S RIGHTS TO OBTAIN POSSESSION OF ANY REAL AND/OR PERSONAL PROPERTY (INCLUDING ANY ACTION IN UNLAWFUL DETAINER, EJECTMENT OR OTHERWISE) AND/OR (iii) FRANCHISOR'S RIGHTS TO RECEIVE AND ENFORCE A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, PERMANENT INJUNCTION OR OTHER EQUITABLE RELIEF.

23.1.6 THE PROVISIONS OF THIS ARTICLE XXIII WILL BE DEEMED TO BE SELF-EXECUTING AND WILL SURVIVE THE TERM OF THIS AGREEMENT AND REMAIN IN

FULL FORCE AND EFFECT NOTWITHSTANDING ITS EXPIRATION, RESCISSION, TERMINATION OR OTHERWISE FOR ANY REASON. THE PROVISIONS OF THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, THOSE RELATING TO MANDATORY ARBITRATION, WAIVER OF JURY TRIAL, LIMITATION OF DAMAGES, PRIOR NOTICE OF CLAIMS, SHORTENED PERIODS IN WHICH TO BRING CLAIMS, COSTS AND ATTORNEYS' FEES, OR OTHERWISE) WILL BE CONSTRUED AS INDEPENDENT OF EACH OTHER PROVISION OF THIS AGREEMENT AND IF ANY PROVISIONS ARE DEEMED TO BE UNENFORCEABLE IN ANY WAY, SUCH PROVISIONS WILL BE MODIFIED OR INTERPRETED TO THE MINIMUM EXTENT NECESSARY TO HAVE THEM COMPLY WITH THE LAW AND THE REMAINING PROVISIONS OF THIS AGREEMENT, INCLUDING THE PARTIES TO THIS AGREEMENT TO SUBMIT CLAIMS TO BINDING ARBITRATION, WILL REMAIN IN FULL FORCE AND EFFECT, THE PARTIES AGREEING, IN CONSIDERATION OF THEIR MUTUAL JUDGMENT THAT ARBITRATION IS GENERALLY THE SUPERIOR METHOD OF RESOLVING DISPUTES, THAT THE UNENFORCEABILITY OF ANY PROVISIONS OF THIS ARTICLE XXIII OR OTHERWISE SHALL NOT AFFECT THE REMAINDER OF THIS ARTICLE XXIII OR OTHERWISE, NOTWITHSTANDING ANY STATUTORY OR DECISIONAL LAW TO THE CONTRARY. NOTWITHSTANDING ANY PROVISIONS OF THIS AGREEMENT OR OTHERWISE RELATING TO WHICH STATE OR PROVINCIAL LAWS THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED UNDER, ALL ISSUES RELATING TO ARBITRABILITY AND/OR THE ENFORCEMENT OF THE AGREEMENT TO ARBITRATE CONTAINED HEREIN WILL BE GOVERNED BY THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.) AND THE FEDERAL COMMON LAW OF ARBITRATION. NOTWITHSTANDING ANY PROVISIONS OF STATE LAW TO THE CONTRARY, FRANCHISOR INTENDS TO FULLY ENFORCE THE PROVISIONS OF THIS FRANCHISE AGREEMENT AND OTHER DOCUMENTS, INCLUDING ALL VENUE, CHOICE-OF-LAWS AND MEDIATION/ARBITRATION PROVISIONS, AND TO RELY ON FEDERAL PREEMPTION UNDER THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.).

23.2 Litigation, Waiver of Jury Trial; Limitation of Damages, etc. Without in any way limiting or otherwise affecting the parties' obligations regarding mediation/binding arbitration, the parties agree that any litigation between Franchisee and Franchisor (and/or involving any principal of Franchisee or which could be brought by Franchisee or on his/her behalf and including matters involving any of the Franchisor-related entities or otherwise), whether to enforce an arbitration award or involving any litigation, dispute, controversy, claim, proceeding or otherwise between or involving Franchisee and Franchisor which is not subject to the foregoing agreement regarding mediation/arbitration (or in the event that a court having jurisdiction should hold that the foregoing agreement regarding mediation and/or arbitration is not enforceable) or otherwise, will be held exclusively before a court in the most immediate state judicial district and court encompassing Franchisor's headquarters and having subject matter jurisdiction or (if a basis for Federal jurisdiction is present) the United States District Court for Duval County, Florida, the parties consenting to the exclusive jurisdiction of such court(s) and **WAIVING ALL RIGHTS TO TRIAL BY JURY.**

23.2.1 So as to achieve many of the advantages which would normally be associated with arbitration (such as lower expense, more rapid resolution of controversies, fewer protracted and complex proceedings, reduced instances of costly and time-consuming appeal, use of a more sophisticated and experienced trier of fact and law, etc.) and for the parties' mutual benefit, **THE PARTIES AGREE THAT IN ANY LITIGATION BETWEEN FRANCHISOR AND FRANCHISEE (AND/OR ANY PRINCIPAL OF FRANCHISEE OR WHICH COULD BE BROUGHT BY FRANCHISEE OR ON FRANCHISEE'S BEHALF) THE PARTIES KNOWINGLY WAIVE ALL RIGHTS TO TRIAL BY JURY. IN ANY ARBITRATION, LITIGATION OR OTHERWISE, THE PARTIES WAIVE ALL RIGHTS TO PUNITIVE, EXEMPLARY, MULTIPLE, PAIN-AND-SUFFERING, MENTAL**

DISTRESS OR SIMILAR DAMAGES AND AGREE THAT THE PARTIES MAY ONLY RECOVER ACTUAL FINANCIAL LOSSES.

23.3 Prior Notice of Claims by Franchisee. Prior to Franchisee taking any legal or other action against Franchisor, whether for arbitration, damages, injunctive, equitable or other relief (including but not limited to rescission) and whether by way of claim, counterclaim, cross-complaint, raised as an affirmative defense or otherwise, based on any alleged act or omission of Franchisor, Franchisee will first give Franchisor sixty (60) days' prior written notice and opportunity to cure such alleged act or omission.

23.4 Periods In Which to Make Claims.

23.4.1 The parties agree that, except as provided below, no arbitration proceeding, action or suit (whether by way of claim, counterclaim, cross-complaint, raised as an affirmative defense or otherwise) by either party will lie against the other (nor will any action or suit by Franchisee against any person and/or entity affiliated with Franchisor), whether for damages, rescission, injunctive or any other legal and/or equitable relief, in respect of any alleged breach of this Agreement, or any other claim of any type, unless such party will have commenced such arbitration proceeding, action or suit before the expiration of the earlier of:

(a) One hundred eighty (180) days after the date upon which the state of facts giving rise to the cause of action comes to the attention of, or should reasonably have come to the attention of, such party; or

(b) Six (6) months after the initial occurrence of any act or omission giving rise to the cause of action, whenever discovered.

23.4.2 Notwithstanding the foregoing limitations, where any federal, state or provincial law provides for a shorter limitation period than above described, whether upon notice or otherwise, such shorter period will govern.

23.4.3 The foregoing limitations may, where brought into effect by Franchisor's failure to commence an action within the time periods specified, operate to exclude Franchisor's right to sue for damages but will in no case, even upon expiration or lapse of the periods specified or referenced above, operate to prevent Franchisor from terminating Franchisee's rights and Franchisor's obligations under this Agreement as provided herein and under applicable law nor prevent Franchisor from obtaining any appropriate court judgment, order or otherwise which enforces and/or is otherwise consistent with such termination.

23.4.4 The foregoing limitations shall not apply to Franchisor's claims arising from or related to: (1) Franchisee's under-reporting of Gross Revenue; (2) Franchisee's under-payment or non-payment of any amounts owed to Franchisor or any affiliated or otherwise related entity; (3) indemnification by Franchisee; (4) Franchisee's confidentiality, non-competition or other exclusive relationship obligations; and/or (5) Franchisee's unauthorized use of the Proprietary Marks.

23.5 Withholding Consent. In no event will Franchisee make any claim, whether directly, by way of setoff, counter-claim, defense or otherwise, for money damages or otherwise, by reason of any withholding or delaying of any consent or approval by Franchisor. Franchisee's sole remedy for any such claim is to submit it to an executive meeting, mediation and arbitration as described in this Agreement and, if executive meeting and mediation fails to resolve such matter, for the arbitrator to order Franchisor to grant such consent.

23.6 Survival and Construction. Each provision of this Article XXIII, together with the provisions of Article XXV, will be deemed to be self-executing and continue in full force and effect subsequent to and notwithstanding the expiration, termination, setting aside, cancellation, rescission, unenforceability or otherwise of this Agreement (or any part of it) for any reason, will survive and will govern any claim for rescission or otherwise. Each provision of this Agreement will be construed as independent of, and severable from, every other provision; provided that if any part of this Agreement is deemed unlawful in any way, the parties agree that such provision will be deemed interpreted and/or modified to the minimum extent necessary to make such provision lawful or, if such construction is not permitted or available, the remainder of this Agreement will continue in full force and effect. Each party reserves the right to challenge any law, rule or judicial or other construction which would have the effect of varying or rendering ineffective any provision of this Agreement.

23.7 Costs and Attorneys' Fees. Except as expressly provided otherwise in this Agreement with respect to appeal of an arbitration award, the prevailing party will bear the costs of enforcement and/or defense (including but not limited to attorneys' fees) in any claim or dispute between the parties (including Franchisee's and/or Franchisor's affiliates, related persons/entities, etc.).

23.8 Validity and Execution. This Agreement will become valid when executed and accepted by Franchisor at its headquarters.

23.9 Binding Effect. This Agreement is binding upon the parties hereto and their respective executors, administrators, heirs, assigns, and successors in interest, and will not be modified except by written agreement signed by both parties.

23.10 Construction. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto. Except where this Agreement expressly provides otherwise, Franchisor has the right to condition, withhold and/or refuse, in its sole and absolute discretion, any request by Franchisee and Franchisor's approval of, or consent to, any action or omission by Franchisee. The headings of the several articles and sections hereof are for convenience only and do not define, limit, or construe the contents of such articles or sections. The term "attorneys' fees" will include, without limitation, legal fees, whether incurred prior to, in preparation for or in contemplation of the filing of any written demand or claim, action, hearing or proceeding to enforce the obligations of this Agreement. References to a "controlling interest" in the Franchisee will mean more than fifty percent (50%) of the voting control of the Franchisee, if the Franchisee is a corporation, and any general partnership interest, if the Franchisee is a partnership. The term "Franchisee" as used herein is applicable to one (1) or more persons, a corporation or a partnership, as the case may be. The singular usage includes the plural and the masculine and neuter usages include the other and the feminine. If two (2) or more persons are at any time the Franchisee hereunder, whether or not as partners or joint venturers, their obligations and liabilities to Franchisor will be joint and several. This Agreement will be executed in multiple copies, each of which will be deemed an original. Each of the provisions of this Article XXIII shall apply to any claim brought (or which could be brought) by any principal of Franchisee or by or on Franchisee's behalf.

23.11 Choice of Laws. Except as provided elsewhere in this Agreement (for example, with regard to the applicability of the Federal Arbitration Act, 9 U.S.C. §1 et seq. and the effect of federal preemption of state law by such Act) and except to the extent governed by the United States Trademark Act and other federal laws, the parties agree that this Agreement (including any claims, counter-claims or otherwise by Franchisee) and all other matters concerning the parties will be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

ARTICLE XXIV
FRANCHISOR'S BUY-OUT OPTION

24.1 **Franchisor's Rights.** In the event Franchisee, after the first year of operation of the Facility, fails to generate Gross Revenues equal to Five Hundred Thousand Dollars (\$500,000) during the prior twelve (12) month period and no less than Two Million Seven Hundred Thousand Dollars (\$2,700,000) after sixty (60) months, the Franchisor will have the option to "buy-out" Franchisee's rights under this Agreement by paying Franchisee a sum calculated by the formula set forth on Schedule D attached hereto. Consequently, this Article shall not be applicable during the first year of this Agreement. The Franchisor may exercise the option to buy-out Franchisee's rights under this Agreement by providing written notice to Franchisee by personal service or prepaid registered or certified mail sixty (60) days prior to the date of the buy-out of this Agreement of its intent to exercise its option under this Article. During the sixty (60) day notice period, the Franchisee will continue to operate the Facility pursuant to this Agreement.

24.2 **Applicability of Other Provisions.** If the Franchisor elects to exercise this buy-out of Franchisee's rights pursuant to this Article, all post-term covenants not to compete contained in Section 15.2 shall be applicable.

ARTICLE XXV
GENERAL

25.1 **Joint and Several.** If two (2) or more parties shall sign or be subject to the terms and conditions of this Agreement as Franchisee, the liability of each such party to make the payments to be made and to perform all other obligations to be performed under or pursuant to this Agreement shall be deemed to be joint and several. A breach hereof of one (1) such party or Franchisee shall be deemed to be a breach of both or all.

25.2 **Rights Cumulative.** No right or remedy conferred upon or reserved to the Franchisor or the Franchisee by this Agreement is intended to be, nor shall such right or remedy be deemed to be, exclusive of any other right or remedy herein or by law or equity provided or permitted and each shall be cumulative of every other right or remedy.

25.3 **Entire Agreement and Amendments.** This Agreement, the Schedules and Exhibits hereto and any documents incorporated by reference herein, contain the entire understanding and agreement of the parties hereto concerning the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions with respect to the subject matter hereof, whether oral or written. Except as provided herein, the Franchisee acknowledges and agrees that there are no warranties, representations, statements, promises or inducements, express or implied, or collateral, whether oral or written, about this Agreement by the Franchisor or its officers, directors, shareholders, employees or agents that are contrary to the terms of this Agreement or the documents referred to herein. No amendment or other modification to this Agreement shall be valid or binding upon the parties unless the same is in writing.

25.4 **Non-Waiver.** No waiver by the Franchisor of any breach, failure or default in performance by the Franchisee and no failure, refusal or neglect of the Franchisor to exercise any right hereunder or to insist upon strict compliance with or performance by the Franchisee's obligations hereunder shall constitute a waiver of the provisions of this Agreement with respect to any subsequent breach, failure or default and shall not constitute a waiver by the Franchisor of its rights at any time or thereafter to require strict compliance with the provisions hereof.

25.5 Invalid Provisions; Substitution of Valid Provisions. As stated earlier in this Agreement in Article XV, if any provision of this Agreement relating to the payment of fees to Franchisor, to non-competition during the term of this Agreement, or to the preservation of any of the Proprietary Marks or confidential information disclosed pursuant to this Agreement is declared invalid or unenforceable, and if, as a result, Franchisor believes in its sole opinion that the continuation of this Agreement would not be in the best interests of the System, Franchisor has the right to terminate this Agreement on written notice to Franchisee. If any state or federal law requires renewal of this Agreement, Franchisee agrees to enter into Franchisor's then-current form of Franchise Agreement. To the extent that any restrictive covenant contained in this Agreement is deemed unenforceable because of its scope in terms of area, business activity prohibited, or length of time, Franchisee agrees that the invalid provision will be deemed modified or limited to the extent or manner necessary to make that particular provision valid and enforceable to the greatest extent possible in light of the intent of the parties expressed in that provision under the laws applied in the forum in which Franchisor is seeking to enforce it.

If any lawful requirement or court order of any jurisdiction (1) requires a greater advance notice of the termination or non-renewal of this Agreement than is required under this Agreement, or the taking of some other action which is not required by this Agreement, or (2) makes any provision of this Agreement or any specification, standard or operating procedures prescribed by Franchisor invalid or unenforceable, the advance notice and/or other action required or revision of the specification, standard or operating procedure will be substituted for the comparable provisions of this Agreement in order to make the modified provision enforceable to the greatest extent possible. Franchisee agrees to be bound by the modification to the greatest extent lawfully permitted.

25.6 Time of Essence. Time shall be of the essence in this Agreement.

25.7 Gender. Whenever a personal pronoun is used herein, it is understood that such usage shall include both singular and plural, masculine, feminine and neuter, and refer in appropriate cases to corporations or other legal entities as well as to individuals.

25.8 Notice. All notices, consents, approvals, statements, authorizations, documents, or other communications required or permitted to be given hereunder shall be in writing, and shall be delivered personally or mailed by registered mail, postage prepaid, or other form of electronic communication tested prior to transmission to the said parties at their respective addresses set forth hereunder, namely:

To the Franchisor at: 2985 Mercury Road
 Jacksonville, Florida 32207
 or at Franchisor's corporate headquarters

With a copy to: Harold L. Kestenbaum, Esq.
 1320 Reckson Plaza, 14th Floor, West Tower
 Uniondale, New York 11556-1320

To the Franchisee at: _____

or at any such other address or addresses as the party to whom such notice, consent, approval, statement, authorization, documentation or other communication is to be given may designate by notice in writing so given to the other parties hereto as provided hereinbefore. Any notices, consents, approvals, statements, authorizations, documents or other communications, if mailed, shall be deemed to have been given on the

fifth (5th) business day (except Saturdays and Sundays) following such mailing, or, if delivered personally or transmitted by telex or other form of electronic communication, shall be deemed to have been given on the day of delivery or transmission (as the case may be), if a business day, or if not a business day, on the business day next following the day of delivery or transmission (as the case may be).

25.9 Impossibility of Performance. Notwithstanding anything to the contrary contained in this Agreement, if either party hereto is bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason of strikes, labor troubles, inability to procure materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, acts of God or other reasons beyond the control of such party, whether all of a like nature or not, which is not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then the performance of such term, covenant or act is excused for the period of the delay and the party so delayed shall be entitled to perform such term, covenant or act within the appropriate time period after the expiration of the period of such delay. However, the provisions of this Section shall not in any way operate to excuse the Franchisee from the prompt payment of any fees, continuing service fees or other sums required to be paid to the Franchisor or its affiliates by the terms of this Agreement, or from the prompt performance of any of his/her other obligations hereunder where such prompt performance is delayed, hindered or prevented by reason of lack of funds.

25.10 Further Assurances. Each of the parties covenants and agrees to execute and deliver such further and other agreements, assurances, undertakings, acknowledgments or documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence and do and perform and cause to be done and performed any further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof. The Franchisee shall, within the time and from time to time forthwith upon the Franchisor's request, provide the Franchisor with a statutory declaration confirming any matter provided for in this Agreement. The Franchisee shall, at any time and from time to time forthwith upon the Franchisor's request, provide the Franchisor with access to the corporate records of the Franchisee to confirm the Franchisee's compliance with the terms of this Agreement.

25.11 Enforcement. The Franchisee acknowledges that his/her failure to comply herewith could cause the Franchisor irreparable harm which may not be compensable by way of damages, and, therefore, the Franchisor shall be entitled to apply to a court of competent jurisdiction to have itself appointed as the receiver of the Franchisee's business and to obtain (without bond) declarations, temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement relating to the Franchisee's use of the Proprietary Marks, relating to the obligations of the Franchisee upon termination or expiration of this Agreement, and relating to assignment of the franchise hereunder and ownership interests in the Franchisee, and to prohibit any act or omission by the Franchisee or employees of the Franchisee that constitutes a violation of any applicable law, by-law or regulation, is dishonest or misleading to the Franchisee's customers or prospective customers, or constitutes a danger to employees, customers, or to the public, or which may impair the goodwill associated with the Proprietary Marks. If the Franchisor secures any such injunction, declaration or order of specific performance, the Franchisee agrees to pay to the Franchisor any damages incurred by it as a result of the Franchisee's breach of any provision, the Franchisor's full solicitor and customer costs and all expenses the Franchisor may have incurred to enforce this Agreement (including a reasonable allowance for its employees' time spent).

25.12 The Franchisee May Not Withhold Payments. The Franchisee agrees that he/she will not, on grounds of an alleged nonperformance by the Franchisor of any of its obligations or for any other reason, withhold payment of any amount due whatsoever to the Franchisor or its affiliates. No endorsement or statement on any check or payment of any sum less than the full sum due to the

Franchisor shall be construed as an acknowledgment of payment in full or an accord and satisfaction, and the Franchisor may accept and cash such check or payment without prejudice to its right to recover the balance due or pursue any other remedy provided herein or by law. The Franchisor may apply any payments made by the Franchisee as the Franchisor may see fit. The Franchisor may set off against any payment due by the Franchisee to the Franchisor, and may, at the Franchisor's option, pay the Franchisee's trade creditors.

25.13 Interest on Late Payments. All amounts payable pursuant to this Agreement or any other agreement between the Franchisor and Franchisee shall bear interest after the date upon which the said payment becomes due until paid in full at two percent (2%) per month at the time the said payment becomes due or the maximum legal rate of interest, whichever is less. The acceptance of any interest payment shall not be construed as a waiver by the Franchisor of its rights in respect of the default giving rise to such payment and shall be without prejudice to the Franchisor's right to terminate this Agreement in respect of such default in accordance with the provisions of this Agreement.

25.14 Changes and Modifications. Franchisee understands and agrees that the System must not remain static if it is to meet (without limitation) presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, societal trends and other marketplace variables, and if it is to best serve the interests of Franchisor, Franchisee and all other Franchisees. Accordingly, Franchisee expressly understands and agrees that Franchisor may from time to time change the components of the System including, but not limited to, altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition, other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which Franchisee's franchised business is authorized and required to offer; modifying or substituting entirely the building, premises, equipment, signage, trade dress, decor, color schemes and uniform specifications and all other unit construction, design, appearance and operation attributes which Franchisee is required to observe hereunder; and changing, improving, modifying or substituting the Proprietary Marks. Franchisee expressly agrees to comply with any such modifications, changes, additions, deletions, substitutions or alterations.

Franchisee shall accept, use and effectuate any such changes or modifications to, or substitution of, the System as if they were part of the System at the time that this Agreement was executed.

Except as provided herein, Franchisor shall not be liable to Franchisee for any expenses, losses or damages sustained by Franchisee as a result of any of the modifications contemplated hereby. Franchisee hereby covenants not to commence or join in any litigation or other proceeding against Franchisor or any third party complaining of any such modifications or seeking expenses, losses or damages caused thereby. Finally, Franchisee expressly waives any claims, demands or damages arising from or related to the foregoing activities including, without limitation, any claim of breach of contract, breach of fiduciary duty, fraud, and/or breach of the implied covenant of good faith and fair dealing.

25.15 Acknowledgments.

FRANCHISEE ACKNOWLEDGES THAT HE/SHE HAS CONDUCTED AN INDEPENDENT INVESTIGATION OF THE BUSINESS FRANCHISED HEREUNDER, AND RECOGNIZES THAT THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT INVOLVES BUSINESS RISKS AND THAT ITS SUCCESS WILL BE LARGELY DEPENDENT UPON THE ABILITY OF FRANCHISEE AS AN INDEPENDENT BUSINESS PERSON. THE FRANCHISOR EXPRESSLY DISCLAIMS THE MAKING OF, AND FRANCHISEE ACKNOWLEDGES THAT HE/SHE HAS NOT RECEIVED, ANY WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO THE

POTENTIAL VOLUME, PROFITS, OR SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT.

FRANCHISEE ACKNOWLEDGES THAT HE/SHE HAS RECEIVED, READ, AND UNDERSTOOD THIS AGREEMENT, INCLUDING THE EXHIBITS HERETO; THAT THE FRANCHISOR HAS FULLY AND ADEQUATELY EXPLAINED THE PROVISIONS OF EACH TO FRANCHISEE'S SATISFACTION; AND THAT THE FRANCHISOR HAS ACCORDED FRANCHISEE AMPLE TIME AND OPPORTUNITY TO CONSULT WITH ADVISORS OF HIS/HER OWN CHOOSING ABOUT THE POTENTIAL BENEFITS AND RISKS OF ENTERING INTO THIS AGREEMENT.

FRANCHISEE ACKNOWLEDGES THAT HE/SHE HAS RECEIVED A COMPLETE COPY OF THIS AGREEMENT, THE EXHIBITS REFERRED TO HEREIN AND AGREEMENTS RELATING HERETO, IF ANY, AT LEAST FIVE (5) BUSINESS DAYS PRIOR TO THE DATE ON WHICH THIS AGREEMENT WAS EXECUTED. FRANCHISEE FURTHER ACKNOWLEDGES THAT HE/SHE HAS RECEIVED THE DISCLOSURE DOCUMENT REQUIRED BY THE TRADE REGULATION RULE OF THE FEDERAL TRADE COMMISSION ENTITLED "DISCLOSURE REQUIREMENT AND PROHIBITIONS CONCERNING FRANCHISING AND BUSINESS OPPORTUNITY VENTURES" AT LEAST TEN (10) BUSINESS DAYS PRIOR TO THE DATE ON WHICH THIS AGREEMENT WAS EXECUTED.

FRANCHISEE IS AWARE OF THE FACT THAT SOME FRANCHISEES OF FRANCHISOR MAY OPERATE UNDER DIFFERENT FORMS OF AGREEMENTS AND, CONSEQUENTLY, THAT FRANCHISOR'S OBLIGATIONS AND RIGHTS IN RESPECT TO ITS VARIOUS FRANCHISEES MAY DIFFER MATERIALLY IN CERTAIN CIRCUMSTANCES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

COFFEE PERKS FRANCHISE, INC.

WITNESS

By: _____
Name: _____
Title: _____

FRANCHISEE

WITNESS

By: _____
Name: _____
Title: _____

SCHEDULE "A"

PROPRIETARY MARKS

SCHEDULE "B"

LOCATION OF FACILITY

The following is the location of Franchisee's Facility:

SCHEDULE "C"

GUARANTY AND ASSUMPTION OF OBLIGATIONS

THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS is given this _____ day of _____, 20____, by _____.

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement (the "Agreement") on this date by COFFEE PERKS FRANCHISE, INC. ("us", "we", or "our"), each of the undersigned personally and unconditionally (a) guarantees to us and our successors and assigns, for the term of the Agreement and afterward as provided in the Agreement, that ("Franchisee") will punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement and (b) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement, both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities, including the non-competition, confidentiality and arbitration requirements.

Each of the undersigned consents and agrees that: (1) his or her direct and immediate liability under this Guaranty will be joint and several; (2) he or she will render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (3) this liability will not be contingent or conditioned upon our pursuit of any remedies against Franchisee or any other person; and (4) this liability will not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which we may from time to time grant to Franchisee or to any other person, including, without limitation, the acceptance of any partial payment or performance of the compromise or release of any claims, none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable during the term of the Agreement.

Each of the undersigned waives all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Franchisee arising as a result of the undersigned's execution of and performance under this Guaranty.

IN WITNESS WHEREOF, each of the undersigned has affixed his or her signature on the same day and year as the Agreement was executed.

GUARANTOR(S)

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

SCHEDULE "D"

BUY-OUT FORMULA

The Buy-Out Formula set forth in Article 24.1 of the Franchise Agreement shall be calculated as follows:

Franchisor shall maintain the option to buy out Franchisee by offering to pay Franchisee the sum equal to 50% of gross sales for the prior twelve (12) month period preceding the buyout.