

(f) All references in this Agreement to "You" include your successors and assigns, subject to compliance with Section 11, and legal representatives, and all acknowledgments, promises, covenants, agreements and obligations You make or undertake in this Agreement will be considered jointly and severally undertaken by them.

**22. ACKNOWLEDGMENTS.**

(a) **YOU ACKNOWLEDGE THAT YOU HAVE CONDUCTED AN INDEPENDENT INVESTIGATION OF THE BUSINESS CONTEMPLATED BY THIS AGREEMENT AND RECOGNIZE THAT IT INVOLVES BUSINESS RISKS THAT MAKE THE SUCCESS OF THE VENTURE LARGELY DEPENDENT UPON YOUR BUSINESS ABILITIES AND PARTICIPATION. CBDI EXPRESSLY DISCLAIMS THE MAKING OF, AND YOU ACKNOWLEDGE THAT YOU HAVE NOT RECEIVED OR RELIED UPON, ANY WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO THE POTENTIAL VOLUME, PROFITS OR SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT OR THAT ANY SHOPPE SITE REVIEWED BY CBDI WILL BE A SUCCESSFUL LOCATION FOR A SHOPPE.**

Initials \_\_\_\_\_  
\_\_\_\_\_

(b) You acknowledge that You are responsible for pursuing any rights You may have against any third parties or other Chain franchisee for interfering in any way with the license granted to You under this Agreement, and that CBDI is not obligated to pursue your rights on your behalf, nor is it responsible for any losses that You may incur in connection therewith.

Initials \_\_\_\_\_  
\_\_\_\_\_

(c) You acknowledge that You have been advised to and have had ample opportunity to consult with your own attorneys, accountants, and other advisors, and You also acknowledge that the attorneys for CBDI are not your attorneys and have not advised or represented You in the negotiation or review of this Agreement or the relationship created by this Agreement.

Initials \_\_\_\_\_  
\_\_\_\_\_

(d) With respect to the Primary Marketing Area, You acknowledge that (i) You may not offer, sell or deliver orders into the Primary Marketing Area of another COOKIE BOUQUET®\COOKIES BY DESIGN® franchisee, except in special circumstances approved both by CBDI and by a COOKIE BOUQUET®\COOKIES BY DESIGN® franchisee into whose primary marketing area You have requested consent to offer, sell or deliver, and (ii) that CBDI retains certain rights within the Primary Marketing Area, as described in Section 1(f).

Initials \_\_\_\_\_  
\_\_\_\_\_

(e) The acknowledgments contained in this Section 22 are not intended to be, nor will they act as, a release, estoppel or waiver of any liability arising under applicable state franchise registration and disclosure laws to the extent prohibited thereby.

Initials \_\_\_\_\_  
\_\_\_\_\_

**23. SUPERSEDING STATE AND FEDERAL LAW.**

Certain federal laws and, in certain states, an applicable state statute may regulate aspects of the relationship between CBDI and You and affect some of the provisions contained in the preceding sections of this Agreement. If a statute of that nature applies to this Agreement, then a reference to the statute and a description of the way the statute changes, modifies, supplements or otherwise affects the provisions

contained in the preceding sections of this Agreement, is set forth in the applicable state addendum, if any, and on Attachment D to this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

CBDI:

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

YOU:

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_,  
a(n) \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate signature lines  
and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF ILLINOIS**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable Illinois law. Accordingly, CBDI will amend each Agreement for a Shoppe to be developed or operated in Illinois as follows:

1. Modify Section 22(a) to delete the phrase:

**AND YOU ACKNOWLEDGE THAT YOU HAVE NOT RECEIVED OR RELIED UPON.**

2. Modify Attachment B to add the following paragraph:

4. Section 4 of the Illinois Franchise Disclosure Act states that: "any provision in a franchise agreement which designates jurisdiction or venue in a forum outside of Illinois is void with respect to any cause of action which otherwise is enforceable in Illinois". Accordingly, notwithstanding any other provision in the Franchise Licensing Agreement to the contrary, amend Section 20(a) of the Franchise Licensing Agreement to read in its entirety as follows:

This Agreement is accepted by CBDI in the State of Texas and will be governed by and construed in accordance with the laws thereof, except to the extent inconsistent with the Illinois Franchise Disclosure Act, which Act will prevail in the event of any such inconsistency or unless otherwise preempted or prohibited by federal or other applicable state laws.

The terms of this Addendum will govern to the extent this Addendum is found to be inconsistent with any terms or conditions of the Agreement or Exhibits or Attachments thereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines  
and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF MARYLAND**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable Maryland law. Accordingly, CBDI will amend each Agreement for a Shoppe to be developed or operated in Maryland as follows:

1. Delete Section 2(e)(iii) and insert the following:

(iii) execution of a mutual general release and waiver, in a form satisfactory to CBDI, of all claims CBDI, its parent, subsidiaries or affiliates (if applicable) and their officers, directors, attorneys, shareholders and employees, on the one hand, and You, your parent, subsidiaries or affiliates (if applicable) and their officers, directors, members, attorneys, shareholders and employees, on the other hand, might have against each other of any nature except that such release will not release CBDI or any other persons or entities from liability arising under applicable state franchise registration and disclosure laws, including claims arising under the Maryland Franchise Registration and Disclosure Act (the "Law").

2. Delete Section 11(f)(iii) in its entirety and insert the following in its place:

(iii) The transferor and CBDI will have executed a mutual general release and waiver, in a form satisfactory to CBDI, of all claims against each other and their respective parents, subsidiaries and affiliates (if applicable) and their respective officers, directors, members, attorneys, shareholders, and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances, arising out of, or connected with, the performance of this Agreement except that such release will not release CBDI or any other persons or entities from liability arising under applicable state franchise registration and disclosure laws, including claims arising under the Law.

3. Modify Section 20 by adding the following:

Notwithstanding the provisions of this Section 20, a Maryland franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

4. Delete Section 22(f) in its entirety and insert the following in its place:

(f) The acknowledgments contained in this Section 22 are not intended to be, nor will they act as, a release, estoppel or waiver of any liability arising under the Maryland Franchise Registration and Disclosure Law.

The terms of this Addendum will govern to the extent this Addendum is found to be inconsistent with any terms or conditions of the Agreement or Exhibits or Attachments thereto.

WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines  
and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF MINNESOTA**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable Minnesota law. Accordingly, CBDI will amend each Agreement for a Shoppe to be developed or operated in Minnesota as follows:

1. Modify Section 2(h) by adding the following sentence:

To the extent governed by Minnesota law, CBDI will comply with Minn. Stat. Sec. 80C.14, Subdivisions 3, 4 and 5 which require, except in certain specified cases, that You be given 180 days notice of CBDI's intention not to renew this agreement.

2. Modify Section 12(a) by adding before the last sentence the following:

To the extent governed by Minnesota law CBDI will comply with Minn. Stat. Sec. 80C.14, Subdivisions 3, 4, and 5 which require, except in certain specified cases, that You be given 90 days notice of termination, with 60 days to cure.

3. Modify Section 20(a) by adding the following:

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit CBDI from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Offering Circular or any agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

4. Notwithstanding any provision to the contrary in this Agreement, CBDI will indemnify You for expenses or damages if You become a party to an administrative or judicial proceeding involving your use of the Licensed Marks or Indicia of the System.

The terms of this Addendum will govern to the extent this Addendum is found to be inconsistent with any terms or conditions of the Agreement or Exhibits or Attachments thereto.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF NEW YORK**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable New York law. Accordingly, CBDI will amend each Agreement for a Shoppe to be developed or operated in New York as follows:

1. Delete Section 2(e)(iii) and insert the following:

(iii) execution of a mutual general release and waiver, in a form satisfactory to CBDI, of all claims CBDI, its parent, subsidiaries or affiliates (if applicable) and their officers, directors, attorneys, shareholders and employees, on the one hand, and You, your parent, subsidiaries or affiliates (if applicable) and their officers, directors, members, attorneys, shareholders and employees, on the other hand, might have against each other of any nature except that such release will not release CBDI or any other persons or entities from liability arising under applicable state franchise registration and disclosure laws, including claims arising under the non-waiver provisions (Article 33, sections 687.4 and 687.5) of the General Business Laws of the State of New York (the "Law");

2. Modify Section 3(a)(iii) to delete the phrase:

"or a location designated by CBDI"

3. Delete Section 11(a) and insert the following in its place:

11(a) CBDI will have the right to transfer all or any part of its rights or obligations under this Agreement to any person or legal entity who, in CBDI's good faith judgment, is willing and able to assume CBDI's obligations under this Agreement.

4. Delete Section 11(f)(ii) in its entirety and insert the following in its place:

(ii) You, as the transferor, and CBDI will have executed a mutual general release, in a form satisfactory to CBDI, of any and all claims against each other, and your respective parent(s), subsidiaries and affiliates (if applicable) and their officers, directors, attorneys, shareholders, and their officers, directors, attorneys, shareholders and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances, related to, or connected with, the performance of this Agreement except that such release will not release CBDI or any other persons or entities from liability arising under applicable state franchise registration and disclosure laws, including claims arising under the non-waiver provisions (Article 33, sections 687.4 and 687.5) of the General Business Laws of the State of New York (the "Law");

The terms of this Addendum will govern to the extent this Addendum is found to be inconsistent with any terms or conditions of the Agreement or Exhibits or Attachments thereto.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines  
and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF NORTH DAKOTA**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable North Dakota law. Accordingly, CBDI will amend each Agreement for a Shoppe to be developed or operated in North Dakota as follows:

1. Section 9-08-06 of the N.D.C.C. will govern the enforceability of Section 10(b), relating to post-term covenants not to compete.

2. Amend Sections 2(d), 2(e) and 2(f) by adding the following to each:

Any release required as a condition of CBDI's consent to a Transfer will not release CBDI or any other persons or Entity from liability arising under the North Dakota Franchise Investment Law (the "Law")

3. Amend Section 11(f)(iii) by adding the following:

Any release required as a condition of a renewal of the Franchise will not release CBDI or any other persons or entities from liability arising under the Law.

4. Delete Section 20(a) in its entirety and insert the following in its place:

(a) Except with respect to interpretation, this Agreement will be governed by and enforced in accordance with the laws of the State of North Dakota. This Agreement is accepted by CBDI in the State of Texas and, unless prohibited by applicable law or otherwise determined by a court of competent jurisdiction, will be interpreted under the laws of the State of Texas.

5. Delete Section 20(b)(ii)(1) in its entirety and insert the following in its place:

(1) Mediation will occur in a mutually agreed upon locale determined at the time of mediation, before a single mediator, using the facilities and mediation rules of the Mediation Organization. If the parties cannot agree on a Mediation Organization, they will use the facilities and mediation rules of the AAA.

6. Delete Section 20(b)(iii)(2) in its entirety and insert the following in its place:

(2) Arbitration proceedings will be conducted in a mutually agreed upon locale determined at the time of arbitration, before a single arbitrator, using the facilities and commercial arbitration rules of the Mediation Organization or the Arbitration Organization. If CBDI selects an Arbitration Organization other than the Mediation Organization and You reasonably object to CBDI's choice, the parties will use the AAA's facilities and commercial arbitration rules.

7. Delete Section 20(b)(iv) in its entirety and insert the following in its place:

(iv) Notwithstanding Sections 20(b)(ii)(1) and 20(b)(iii)(2), CBDI will not be obligated to mediate or arbitrate any claim arising from your alleged infringement of the Licensed Marks. The parties agree that any action based on infringement of any of the Licensed Marks or disclosure of Confidential Information will be governed by and interpreted and enforced in

accordance with the United States Trademark (Lanham) Act or the United States Copyright Act, as applicable, and will be litigated in any federal District Court sitting in North Dakota. The parties further agree to submit to the jurisdiction and venue of any such federal District Court and that service of process by certified mail, return receipt requested, will be sufficient to confer in personam jurisdiction over them in connection with any such trademark or copyright litigation. Further, You and CBDI agree that the provisions of this Section 20 will not be applicable to the exercise of rights and remedies under any other agreements and contracts executed by and between You and any third parties or affiliates of CBDI in connection with or relating to the Franchised Business (including, without limitation, any notes, guaranties, real property, personal property or equipment leases) unless expressly provided in such agreements and contracts.

The terms of this Addendum will govern to the extent this Addendum is found to be inconsistent with any terms or conditions of the Agreement or Exhibits or Attachments thereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF RHODE ISLAND**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable Rhode Island law. Accordingly, each Franchise Licensing Agreement for a Shoppe to be developed or operated in Rhode Island will be amended as follows:

1. Sections 2(d), 2(d) and 2(e) are amended by adding the following to each:

Any release required as a condition of CBDI's consent to a Transfer will not release CBDI or any other persons or Entity from liability arising under the Rhode Island Franchise Investment Act (the "Act").

2. Section 11(f)(iii) is amended by adding the following:

Any release required as a condition of a renewal of the Franchise will not release CBDI or any other persons or entities from liability arising under the Act.

3. Section 20(a) is deleted in its entirety and the following is inserted in its place:

(a) With respect to claims under the Act, this Agreement will be governed by and enforced in accordance with the laws of the State of Rhode Island. Otherwise, this Agreement is accepted by CBDI in the State of Texas and, unless prohibited by applicable law or otherwise determined by a court of competent jurisdiction, will be construed and enforced in accordance with and governed by the laws of the State of Texas.

4. Section 20(b)(ii)(1) is deleted in its entirety and the following is inserted in its place:

(1) Mediation will occur in a mutually agreed upon locale determined at the time of mediation, before a single mediator, using the facilities and mediation rules of the Mediation Organization. If the parties cannot agree on a Mediation Organization, they will use the facilities and mediation rules of the AAA.

5. Section 20(b)(iii)(2) is deleted in its entirety and the following is inserted in its place:

(2) Arbitration proceedings will be conducted in a mutually agreed upon locale determined at the time of arbitration, before a single arbitrator, using the facilities and commercial arbitration rules of the Mediation Organization or the Arbitration Organization. If CBDI selects an Arbitration Organization other than the Mediation Organization and You reasonably object to CBDI's choice, the parties will use the AAA's facilities and commercial arbitration rules.

6. Section 20(b)(iv) is deleted in its entirety and the following is inserted in its place:

(iv) Notwithstanding Sections 20(b)(ii) and 20(b)(iii), CBDI will not be obligated to mediate or arbitrate any claim arising from your alleged infringement of the Licensed Marks. The parties agree that any action based on infringement of any of the Licensed Marks or disclosure of Confidential Information will be governed by and interpreted and enforced in accordance with the United States Trademark (Lanham) Act or the United States

Copyright Act, as applicable, and will be litigated in any federal District Court sitting in Rhode Island. The parties further agree to submit to the jurisdiction and venue of any such federal District Court and that service of process by certified mail, return receipt requested, will be sufficient to confer in personam jurisdiction over them in connection with any such trademark or copyright litigation. Further, You and CBDI agree that the provisions of this Section 20 will not be applicable to the exercise of rights and remedies under any other agreements and contracts executed by and between You and any third parties or affiliates of CBDI in connection with or relating to the Franchised Business (including, without limitation, any notes, guaranties, real, personal property or equipment leases) unless expressly provided in such agreements and contracts.

7. No acknowledgment provision, disclaimer or integration clause or clause having a similar effect in the Franchise Licensing Agreement will have any effect on any statement, misrepresentations or actions that would violate the Act or any order under the Act.

To the extent this addendum will be deemed to be inconsistent with any terms or conditions of said or Exhibits or Attachments thereto, the terms of this addendum will govern.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, Partnership or Limited Liability Company Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_

(Select the appropriate franchisee signature lines and mark out the unused signature block)

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF SOUTH DAKOTA**

Reference is made to certain sections of the Franchise Licensing Agreement to which this Addendum is attached. Those sections may be contrary to or unenforceable under applicable South Dakota law. Accordingly, CBDI will amend each Agreement for a Shoppe to be developed or operated in South Dakota as follows:

1. Amend Section 10(b) by adding the following to the end of the paragraph:

Covenants not to compete upon termination or expiration of a franchise agreement are generally unenforceable in the State of South Dakota, except in certain instances as provided by law.

2. Add the following new Section 12(c) as follows:

(c) Notwithstanding Section 12(a) above, CBDI will provide notice and You will have 30 days to cure the following defaults: failure to meet performance and quality standards and failure to make payments of Licensing Fees. Additionally, the enforceability of Section 12 (a)(ix) is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction.

3. Delete Section 20(a) in its entirety and insert the following in its place:

The laws of the State of South Dakota will govern regarding franchise registration, employment, covenants not to compete, and other matters of local concern; but as to contractual and all other matters, the laws of the State of Texas will govern the construction, enforcement and interpretation of this Agreement, except where preempted by federal law.

4. Delete Section 20(b)(iii)(2) in its entirety and insert the following in its place:

In the event that either party will make demand for arbitration, such arbitration will be conducted in a mutually agreed upon site in accordance with Section 11 of the Commercial Arbitration Rules of the American Arbitration Association, before a single arbitrator, using the facilities and commercial arbitration rules of the Mediation Organization or another professional dispute-resolution organization selected by CBDI and reasonably acceptable to You (the "**Arbitration Organization**"). If CBDI selects an Arbitration Organization other than the Mediation Organization and You reasonably object to CBDI's choice, the parties will use the AAA's facilities and commercial arbitration rules.

5. Designation of Dallas County, Texas, as the location for litigation is hereby deleted from Section 20(b)(iv) of the Franchise Licensing Agreement.

The terms of this Addendum will govern to the extent this Addendum is found to be inconsistent with any terms or conditions of the Agreement or Exhibits or Attachments thereto.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines  
and mark out the unused signature block]

**ADDENDUM TO THE CBDI  
FRANCHISE LICENSING AGREEMENT  
FOR THE STATE OF WASHINGTON**

The State of Washington has a statute, RCW 19.100.180 which may supersede the franchise agreement in your relationship with CBDI including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with CBDI including the areas of termination and renewal of your franchise.

Except for certain claims, all disputes must be submitted to non-binding mediation and if not resolved, to binding arbitration in a mutually agreed upon site determined in accordance with Section 11 of the Commercial Arbitration Rules of the American Arbitration Association.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

A release or waiver of rights executed by a franchisee will not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect CBDI's reasonable estimated or actual costs in effecting a transfer.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

[Select the appropriate franchisee signature lines and mark out the unused signature block]

## GLOSSARY OF TERMS

**AAA** means the American Arbitration Association.

**ADMIN SITE** refers to the CDBI Website maintained by CDBI for the purposes of facilitating online orders for those who participate in the Online Order Program, and of providing email services, customer order information, employment opportunities in Shoppes, online ordering reports and such other matters as CDBI may determine.

**ADMIN SITE AGREEMENT** refers to the Orders Administration Website Participation and License Agreement for CDBI/CB Website, Attachment J to this Agreement.

**ADVERTISING AND PROMOTION FEE** is defined in Section 8(d)(i).

**AFT AGREEMENT** means the automatic funds transfer agreement authorizing payment of funds by means of automatic transfer of funds from your bank account to CDBI's bank account.

**AGREEMENT** means this Franchise Licensing Agreement and all amendments, modifications and attachments thereto.

**ARBITRATION ACT** means the United States Arbitration Act.

**ARBITRATION ORGANIZATION** means a professional dispute-resolution organization selected by CDBI and reasonably acceptable to You.

**ASSIGNMENT OF LEASE** means the Assignment of Lease attached to this Agreement as Attachment G.

**ASSOCIATION** is defined in Section 8(c)(i).

**CHAIN** means the entire network of franchises, franchised businesses and Shoppes that operate under the Licensed Marks and use the System.

**COMMENCEMENT DATE** refers to the date that You, or if You are an Entity, your Manager, successfully complete initial training. If CDBI waives initial training, the Commencement Date will be the Effective Date.

**CONFIDENTIAL INFORMATION** means information, data or know-how relating to the operation, management and marketing of the Franchised Business and the operations, expansion and development of the CDBI Chain, including, without limitation, methods of operations and doing business; business plans and projections; sales information, pricing policies and data, financial projections and financial and accounting data; recipes, formulas, processes, product data, and research and development data; Shoppe designs, specifications and layouts; customer lists, profiles and data; marketing, promotional and advertising campaigns, strategies and related data; training techniques and materials; inventory control, techniques, processes and procedures; inventions and innovations; identities of supplies and suppliers; information about systems, including communications, information and order processing systems; and any quality control procedures of CDBI, a Licensor, any CDBI franchisee, and/or the System, including any such information that You may develop, create or generate in connection with the operation of your Franchised Business or that is disclosed to You under circumstances that reasonably indicate that it is considered confidential. Confidential Information may be disclosed to You orally or in writing, or contained in any compilation of information, presentation, instruction, memoranda, newsletter, video tape, electronic or computerized media, form, agreement, correspondence, book, record, plan, report,

addendum, revision, or supplement, and includes all information contained in any manual created by CBDI or a Licensor and provided or made available to You in connection with CBDI's business, the Chain or the System, now or in the future, including specifically, but not limited to, the Confidential Manuals and data generated by computer programs.

**CONFIDENTIAL MANUALS** means the confidential written instructions and manuals and the proprietary technology, appliances and materials including, but not limited to, (i) the Operations Manual; any computer operations manual developed by or on behalf of CBDI; Site, Design and Construction Manual; Baking Manuals; Cookie Cutter, Holiday, Spring and other Design Manuals; Employee Policy Manual and other policy manuals, Supplier Information Manual; Training Workbook; (ii) Cookie Crumbs® newsletters and Cookie Dough® newsletters; (iii) Planning Effectively for the Holidays; Determining Production Capacity; Sales & Assembly, the Learning Journey and other publications that CBDI loans to You or otherwise delivers to You, each as may be modified or amended from time to time; (iv) any confidential Select Products, and (v) manuals, written instructions and other materials or information provided for use with a Sublicense, some of which are Copyrighted Materials.

**CONTROL** means the direct or indirect (i) ownership of more than 50% of the voting Equity Interest in You, or if there is no one voting Equity Interest of more than 50%, then it means the largest undivided voting Equity Interest in You, (ii) having the right to elect a majority of the members of the board of directors or other governing body of You, or otherwise having the power to direct the management and policies of You, whether through the ownership of voting securities, by contract or otherwise.

**COPYRIGHTED MATERIALS** means the Confidential Manuals; CBDI's original cookie and arrangement designs, the franchisee newsletters Cookie Crumbs® and Cookie Dough® and any additional or replacement newsletters; any advertising and marketing materials, whether or not the copyrights are registered, including newspaper and magazine advertisements, jingles, radio and television commercials, promotional materials, merchandising materials, sales aids, sales brochures, and information on the CBDI Websites, or, if applicable, reproduced on your approved website on the Internet with changes that CBDI authorizes; and any other original materials created by or on behalf of CBDI, a Licensor with respect to a Sublicense, or You or another franchisee based on materials relating to the Franchise, the Chain or the System, some of which may contain Confidential Information.

**DISPUTE** means any claim, controversy or dispute between CBDI and You.

**EFFECTIVE DATE** means the date inserted in the first paragraph on page 1 of this Agreement by all parties to this Agreement.

**ENTITY** means a corporation, partnership, limited liability company or trust.

**EQUITY INTEREST** means an equity interest (beneficial or otherwise) in You when You are a corporation, limited liability company, general partnership or limited liability partnership (other than a limited partnership interest), or an *inter vivos* trust formed for the benefit of the spouse and/or the adopted or natural children of a holder of an Equity Interest. An Equity Interest includes a stock, partnership (other than a limited partnership interest) or membership interest in any other legal entity that holds a beneficial or non-beneficial equity interest in You.

**FRANCHISE** means all of the rights and obligations created by this Agreement, including the right to operate your Shoppe as a retail establishment and the related licenses to use the System, each other element of the Intellectual Property and the Confidential Information. The term also includes all of the rights and obligations evidenced by each Sublicense Agreement during the term of each Sublicense that You execute.

**FRANCHISED BUSINESS** means a business owned by You that will use and operate in accordance with the Intellectual Property, the Confidential Information and the System pursuant to the terms of this Agreement, including your Shoppe and any Satellites and/or Kiosks.

**FUND FEE** is defined in Section 8(d)(ii).

**GOOD CAUSE** is defined in Section 12(a).

**GROSS VOLUME OF BUSINESS** means the aggregate gross amount of all revenues from whatever source derived (whether in the form of cash, credit, barter, agreements to pay or other consideration, and whether or not payment is received at the time of sale and regardless of whether any of the amounts prove uncollectable) and through whatever communication or sales contact medium utilized which arise from or are derived by You or by any other person from business conducted or which originated in, on, from or through the Premises (including any Satellites and/or Kiosks), whether the business is conducted in compliance with or in violation of the terms of this Agreement, excluding sales tax or other tax receipts (the collection of which is required by law), delivery revenues and any refunds paid by You.

**GUARANTY OF FRANCHISEE'S UNDERTAKINGS** means the guaranty attached to this Agreement as Attachment B.

**IMAGE** is defined in Section 3(b).

**INDEMNIFIED PARTIES** means CBDI, and its directors, officers, agents, employees, attorneys, shareholders, parent and affiliates.

**INITIAL TERM** is defined in Section 2(a).

**INITIAL TERM EXTENSION** means the shorter of four years from the expiration of the Initial Term or the term (including lease renewal options exercisable by You) of any lease of the Premises.

**INTELLECTUAL PROPERTY** means all elements and components of the Copyrighted Materials, Licensed Marks, Trade Dress, trade secrets, Patents, and proprietary technology, appliances and materials, some of which may also constitute Confidential Information, that have been or may later be developed or created by or on behalf of CBDI, including any Copyrighted Materials, Licensed Marks, Trade Dress, trade secrets, Patents, and proprietary technology, appliances and materials based on materials relating to the Franchise, the Chain or the System that You or any other franchisee create, develop or improve.

**INTRANET WEBSITE** is a private online communications system for CBDI personnel, authorized franchisees and affiliates, including Associations, administrators of a Fund and advertising cooperatives.

**INTRANET AGREEMENT** refers to the End User License Agreement for CBDI/CB Intranet Site, Attachment I to this Franchise Agreement.

**KIOSK** means a retail sales location, cart or booth operated within the Primary Marketing Area and meeting the specifications in the Confidential Manuals.

**LEASEHOLD DEED OF TRUST** means the deed of trust attached to this Agreement as Attachment F.

**LICENSED MARKS** means the trade names, trademarks, service marks, Trade Dress, logos, symbols, proprietary marks and other indicia of origin that are now or later designated by CBDI for your use in the operation of the Franchised Business. Unless otherwise noted, the term "Licensed Marks" also includes trademarks, service marks, trade dress, logos, symbols, proprietary marks and other indicia of origin that



CBDI now or later sublicenses to its franchisees pursuant to licenses to CBDI from various Licensors, with the right to sublicense to CBDI franchisees.

**LICENSING FEE** means the continuing monthly licensing fee described in Section 4(c).

**LICENSOR** refers to a party that grants a license to CBDI for intellectual property, with a right to sublicense the intellectual property to CBDI franchisees for use in the System.

**MANAGER** means a full-time employee responsible for your obligations under this Agreement and who has met the qualifications for managerial personnel defined in the Operations Manual, which qualifications will include completion of training provided by CBDI in its methods, systems and procedures for the development and operation of Shoppes.

**MEDIATION ORGANIZATION** means a professional dispute-resolution organization selected by CBDI and reasonably acceptable to You.

**CBDI** means Cookies by Design, Inc., a Texas corporation.

**CBDI DISTRIBUTION MARKETS** means and includes all areas inside and outside the United States that are not within a primary marketing area, as described in a current franchise licensing agreement.

**CBDI WEBSITES** refers to the CBDI Websites on the World Wide Web, with the Uniform Resource Locators of [cookiebouquet.com](http://cookiebouquet.com) and [cookiesbydesign.com](http://cookiesbydesign.com), as well as any new versions of those Websites and any additional Websites that CBDI may establish to advertise and promote the Chain.

**MINIMUM ANNUAL FEE** is specified in Column IV of Attachment C to this Agreement.

**MINIMUM PERFORMANCE STANDARDS** means levels of annual gross sales specified in Column II of Attachment C to this Agreement, as modified, and as provided in any other form of CBDI franchise licensing agreement that supersedes this Agreement.

**NATIONAL ACCOUNT** refers to an arrangement between CBDI and a company that does business in more than one primary marketing area and orders products for delivery both inside and outside of the Primary Marketing Area.

**NATIONAL PROGRAM** has the meaning assigned in the Operations Manual and refers to customer service programs that are designed to enhance the Chain's Image.

**ONLINE ORDER PROGRAM** is defined in Section 6(a)(v).

**OPERATIONS MANUAL** means the specific manual titled "Operations Manual" that CBDI will loan to You, as modified or amended. The Operations Manual sets forth the policies and procedures for the operation and marketing of the Shoppes within the Chain.

**PATENTS** means all inventions, improvements, processes, ideas, designs, and discoveries whatsoever that are discovered, made, invented, conceived, produced, developed, or designed by You, CBDI, or any other franchisee, solely or jointly with others, that relate to the Franchise, the Chain or the System. Without limitation, "Patents" includes all improvements, developments, modifications, upgrades, updates, additions, extensions, expansions, and other changes developed or acquired by CBDI or You of U.S. Patent No. 5,755,325 or any patent issuing from U.S. Patent Application No. 10/000,558 or any future patent applications filed by or on behalf of CBDI, together with any continuation, continuation-in-part, divisional, reissue, reexamination, extension, follow-on, and substitution patents and patent applications

relating to such patents and patent applications, including foreign counterparts thereof and equivalents thereof.

**PREMISES** means the address set out in Section 1(b) where You are authorized to conduct the Franchised Business.

**PRIMARY MARKETING AREA** (formerly known as "Defined Market" and "Protected Area") means the geographic territory described in Attachment A to this Agreement, but excluding all Special Venues, sites of Special Events, CBDI Distribution Markets and any markets reached through electronic commerce outside of the territory described in Attachment A.

**RENEWAL TERM** means one of the Renewal Terms described in Section 2(d).

**SATELLITE** means a version of a Shoppe on a smaller scale operating within the Primary Marketing Area and meeting the specifications in the Confidential Manuals. A Satellite cannot be opened or operated unless You have first opened and are operating a Shoppe in accordance with this Agreement.

**SCHEDULED OPENING DATE** means the earlier to occur of (i) the date on which your lease of the Premises requires You to begin your business or (ii) 120 days after the Effective Date.

**SELECT PRODUCTS** means those products that must be purchased directly from CBDI or from exclusive vendors, including cookie cutters, plastic bossed containers and certain other appliances and materials that are used in connection with the Franchised Business.

**SHOPPE** means a full scale retail outlet located in a shopping center, shopping mall, office building or other commercial installation that sells products under the COOKIES BY DESIGN® or COOKIE BOUQUET® name and in association with the other Licensed Marks and uses the System and the Confidential Information.

**SPECIAL USE FUND** is defined in Section 8(c)(ii).

**SPECIAL VENUE** means the food court of an enclosed shopping mall, an airport terminal, sports arena, theme or amusement park, United States military bases, location of a Special Event or other facility in which the rent structure is artificially inflated to a significant degree. CBDI will determine whether a particular facility qualifies as a Special Venue through the exercise of reasonable business judgment.

**SPECIAL EVENT** means a notable event of world wide, regional or national proportion regardless of frequency such as the Olympics, World's Fair, a State Fair, a Political Convention, the Super Bowl, etc. CBDI will determine whether a particular event qualifies as a Special Event through the exercise of reasonable business judgment.

**SUBLICENSE** refers to a sublicense from CBDI to You granting You the right to use a Licensor's intellectual property, including the Sublicensed Material, in connection with the Franchised Business, as authorized by a license between CBDI and a Licensor.

**SUBLICENSE AGREEMENT** refers to an agreement between CBDI and You evidencing the grant by CBDI to You of a Sublicense.

**SUBLICENSED MATERIAL** refers to such intellectual property of various Licensors that CBDI sublicenses to its franchisees pursuant to applicable Sublicense Agreements, and may include trademarks, service marks, trade secrets and other confidential information, know-how, trade dress, and material protected by copyright.

**SYSTEM** means the compilation of know-how, specifications, techniques, processes and procedures that apply to and govern the operation, management and marketing of businesses that produce and sell COOKIES BY DESIGN® and COOKIE BOUQUET® brand merchandise for retail sale to the general public, including cookies, decorated cookies, fanciful cookie arrangements and related products, and includes all aspects, elements and components of the Confidential Information and Intellectual Property.

**TERM** includes both the Initial Term and the Initial Term Extension.

**TRADE DRESS** means the combination of elements that together make up the physical embodiment and overall appearance of a Shoppe, Kiosk, Satellite or a COOKIES BY DESIGN® or COOKIE BOUQUET® brand product, including the printed materials, color combinations, design specifications and other physical characteristics of any such outlet or product.

**TRANSFER** is defined in Section 11(b).

**YOU** means the individual or business entity that operates the Franchised Business pursuant to this Agreement.

**ATTACHMENT A**

**FRANCHISE LICENSING AGREEMENT  
BETWEEN COOKIES BY DESIGN, INC.  
AND**

\_\_\_\_\_  
(Name of Franchisee)

**INFORMATION REGARDING  
THE FRANCHISED BUSINESS AND ITS CONTROLLING PERSONS**

1. **EFFECTIVE DATE.** The Effective Date of the Franchise Licensing Agreement is: \_\_\_\_\_  
\_\_\_\_\_, 20\_\_.
  
2. **STREET ADDRESS OF PREMISES.** The street address of the Premises is: \_\_\_\_\_  
\_\_\_\_\_
  
3. **PRIMARY MARKETING AREA.** The Primary Marketing Area consists of the area encompassed by the following U.S. Postal Zip Codes:  
  
\_\_\_\_\_
  
4. **FRANCHISEE'S NAME.** Your full legal name is: \_\_\_\_\_  
\_\_\_\_\_
  
5. **BUSINESS ADDRESS.** The street address of Your principal place of business is: \_\_\_\_\_  
\_\_\_\_\_
  
6. **ACKNOWLEDGMENT REGARDING FRANCHISEE.** You acknowledge that You are a(n):  
  
\_\_\_\_\_ individual - resident of the State of \_\_\_\_\_  
\_\_\_\_\_ partnership - State of \_\_\_\_\_  
\_\_\_\_\_ joint venture - State of \_\_\_\_\_  
\_\_\_\_\_ corporation - State of \_\_\_\_\_  
\_\_\_\_\_ limited liability company - State of \_\_\_\_\_  
\_\_\_\_\_ other business form \_\_\_\_\_  
(check one) (describe)
  
7. You will operate using the following assumed name.  
  
\_\_\_\_\_ Cookie Bouquet®  
  
\_\_\_\_\_ Cookies by Design®

8. **WARRANTY AND REPRESENTATION REGARDING CONTROLLING PERSONS.** You warrant and represent that the following persons own, either legally or beneficially, voting control of the entity that operates the Franchise:

<u>NAME</u>	<u>TYPE OF OWNERSHIP (LEGAL OR BENEFICIAL)</u>	<u>PERCENTAGE OF INTEREST OWNED</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

You acknowledge that CDBI is relying on these representations as a material basis for entering into this Agreement, and that the information set forth above is true and correct.

**FRANCHISEE**

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

Date: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
 Name: \_\_\_\_\_

**IF YOU ARE A CORPORATION OR LIMITED LIABILITY COMPANY, YOU MUST PROVIDE CDBI WITH RESOLUTIONS (REVISED AS APPROPRIATE FOR A LIMITED LIABILITY COMPANY) IN SUBSTANTIALLY THE FORM THAT FOLLOWS ON PAGE THREE OF THIS ATTACHMENT A. IF YOU ARE A PARTNERSHIP YOU MUST PROVIDE CONSENTS TO THIS TRANSACTION FROM ALL PARTNERS NOT SIGNING THIS AGREEMENT.**

## CONSENT OF DIRECTORS

The undersigned, being all of the members of the Board of Directors of \_\_\_\_\_, a

\* \_\_\_\_\_ (insert state) corporation (the "**Corporation**"), do hereby consent, pursuant to the

\* \_\_\_\_\_ [insert applicable state corporations act], to

the adoption of the following resolutions:

WHEREAS, it is in the best interest of the Corporation to acquire a license for the operation of a COOKIE BOUQUET®/COOKIES BY DESIGN® franchise;

NOW, THEREFORE IT IS:

RESOLVED, that the Corporation acquire a license for the operation of a COOKIE BOUQUET®/COOKIES BY DESIGN® franchise and execute the Franchise Licensing Agreement (the "**Agreement**"), [insert \*the Area Development Agreement (the "**Development Agreement**")], and Disney Sublicense Agreement (the "**Sublicense**") by and between Cookies by Design, Inc., a Texas corporation ("**CBDI**"), and the Corporation on terms, provisions and conditions in the form submitted to the Directors.

RESOLVED FURTHER, that the Corporation execute and deliver the Assignment of Lease (the "**Assignment of Lease**") and Leasehold Deed of Trust (the "**Deed of Trust**") for the benefit of CBDI covering the lease by and between the Corporation, as tenant, and \_\_\_\_\_, as landlord, concerning the property on which the Franchised Business, as that term is defined in the Agreement, is located, on terms, provisions and conditions in the form submitted to the Directors.

RESOLVED FURTHER, that the form, terms and provisions of the Agreement, \*[insert the "**Area Development Agreement**"], the Assignment of Lease, the Deed of Trust, the Sublicense, and each ancillary agreement contemplated by the Agreement (the "**Documents**") are hereby approved in all respects and the President or any Vice-President of the Corporation, is hereby authorized and directed in the name and on behalf of the Corporation, to execute, acknowledge where required, and deliver each of the applicable Documents substantially in the form submitted to and approved by the Directors of the Corporation, with such changes therein and such subsequent amendments thereto as the President or any Vice-President of the Corporation may in his sole and absolute discretion approve, such written approval to be conclusively evidenced by the execution and delivery of the respective instruments with such changes therein or any such subsequent amendment.

RESOLVED FURTHER, that the President or any Vice-President of the Corporation with the joinder of the Secretary or any Assistant Secretary of the Corporation, if joinder is necessary or appropriate, is hereby authorized in the name and on behalf of the Corporation to execute and deliver all such certificates, representations, assurances, and other instruments and documents of every character and to do and perform or cause to be done and performed such other and further acts and things as the President or any Vice-President of the Corporation will deem necessary, advisable or appropriate to consummate the transactions contemplated by these resolutions.

IN WITNESS WHEREOF, the undersigned have executed this instrument dated the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

[Add signatures for additional Directors]

**AMENDMENT TO ATTACHMENT A**

**FRANCHISE LICENSING AGREEMENT  
BETWEEN COOKIES BY DESIGN, INC.  
AND**

\_\_\_\_\_  
(Name of Franchisee)

**INFORMATION REGARDING  
THE FRANCHISED BUSINESS AND ITS CONTROLLING PERSONS**

**Instructions:** Cross out the Sections below that do not apply.

1. **DESIGNATION OF PREMISES LOCATION.** Paragraph 2 of Attachment A is revised to read as follows:

**STREET ADDRESS OF PREMISES.** The street address of the Premises is: \_\_\_\_\_  
\_\_\_\_\_

2. **ACKNOWLEDGMENT REGARDING CONTROLLING PERSONS.** You acknowledge that You are a(n):

_____	individual - resident of the State of _____
_____	partnership - State of _____
_____	joint venture - State of _____
_____	corporation - State of _____
_____	limited liability company - State of _____
_____	other business form _____
(check one)	(describe)

3. (Not Applicable)

4. **WARRANTY AND REPRESENTATION REGARDING CONTROLLING PERSONS.** You warrant and represent that the following persons own, either legally or beneficially, voting control of the entity operating the Franchise:

<u>NAME</u>	<u>TYPE OF OWNERSHIP (LEGAL OR BENEFICIAL)</u>	<u>PERCENTAGE OF INTEREST OWNED</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____



You acknowledge that CBDI is relying on these representations, that this Amendment amends the Franchise Licensing Agreement with respect to the sections completed above, and that the information set forth above is true and correct.

You:

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(Individual Franchisee)

Name: \_\_\_\_\_

Date: \_\_\_\_\_

COOKIES BY DESIGN, INC.

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT B**

**FRANCHISE LICENSING AGREEMENT  
BETWEEN COOKIES BY DESIGN, INC.  
AND**

\_\_\_\_\_  
(Name of Franchisee)

**GUARANTY OF FRANCHISEE'S UNDERTAKINGS**

In consideration of, and as a material inducement to, the execution of the Franchise Licensing Agreement (the "**Agreement**") dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by COOKIES BY DESIGN, INC., a \_\_\_\_\_ Texas corporation ("**CBDI**"), and \_\_\_\_\_, a [corporation][partnership][limited liability company] formed under the laws of the State of \_\_\_\_\_ ("**Franchisee**"), and other good and valuable consideration the receipt and sufficiency of which are acknowledged, the undersigned (the "**Guarantor**" whether one or more) guarantees by this guaranty (this "**Guaranty**") to CBDI, the full and timely payment of and performance by Franchisee of every payment, covenant, agreement and undertaking on the part of Franchisee contained and set forth in the Agreement and any Sublicense (as defined in the Agreement), and any other agreements between Franchisee and CBDI to which Franchisee is a party (the "**Obligations**").

CBDI, its successors and assigns, may without notice to the Guarantor and as often as CBDI chooses (a) resort to the Guarantor for payment of any of the Obligations, whether or not it or its successors have resorted to any property securing any of the Obligations or proceeded against any other of the Guarantor or any party primarily or secondarily liable on any of the Obligations, (b) release or compromise any Obligation of any Guarantor under the Agreement, or a Sublicense, or any other agreement between Franchisee and CBDI, or any Obligation of any party or parties primarily or secondarily liable on any of the Obligations, and (c) extend, renew or credit any of the Obligations for any period (whether or not longer than the original period); alter, amend or exchange any of the Obligations; or give any other form of indulgence, whether under the Agreement, or Sublicense, or any other agreement between Franchisee and CBDI or not. This Guaranty is an absolute and irrevocable guarantee of payment and performance and not collectability and is not conditioned nor contingent upon any attempt to collect from any person or entity or resort to any other remedies.

The Guarantor also waives presentment, demand, notice of dishonor, protest, nonpayment and all other notices, including notice of acceptance of this Guaranty; notice of all contracts and commitments; notice of the existence or creation of any Obligations under the Agreement or any Sublicense, and of the amount and terms of the Agreement, or any Sublicense, or any other agreement between Franchisee and CBDI; and notice of all defaults, disputes or controversies between Franchisee and CBDI resulting from the Agreement, any Sublicense, or any other agreement between Franchisee and CBDI or otherwise, and the settlement, compromise or adjustment of the Agreement, or any Sublicense, or any other agreement between Franchisee and CBDI. The Guarantor waives all requirements that CBDI institute any action or proceeding, or exhaust any or all of CBDI's rights, remedies or recourses against Franchisee or anyone else as a condition precedent to bringing an action against any or all Guarantors under this Guaranty, it being expressly agreed that the liability of each Guarantor under the Agreement, and any Sublicense, and any other agreement between Franchisee and CBDI will be primary and not secondary. The Guarantor waives any defense arising by reason of any disability, insolvency, lack of authority or power, death, insanity, minority, dissolution or any other defense of Franchisee, any Guarantor or any other surety or guarantor of the Obligations of Franchisee pursuant to the Agreement, and any Sublicense, and any other agreement between Franchisee and CBDI. Guarantor agrees that he will remain liable on this Guaranty

regardless of whether Franchisee or any other person is found not liable pursuant to the Agreement or any Sublicense or any other agreement between Franchisee and CBDI for any reason. Guarantor agrees that any obligation of Franchisee to Guarantor will be subordinate to the payment of the Obligation.

The Guarantor agrees to pay all expenses paid or incurred by CBDI in attempting to enforce the Agreement, any Sublicense, and any other agreement between Franchisee and CBDI and this Guaranty against Franchisee and against the Guarantor and in attempting to collect any amounts due under the Agreement, any Sublicense, and any other agreement between Franchisee and CBDI and under this Guaranty, including reasonable attorneys' fees if the enforcement or collection is by or through an attorney-at-law. Any waiver, extension of time or other indulgence granted by CBDI, its agents, its successors or assigns, as to the Agreement, or as to any Sublicense, or as to any other agreement between Franchisee and CBDI, will in no way modify this Guaranty, which will be continuing, absolute, unconditional and irrevocable.

Each Guarantor agrees that all rights, remedies and recourses afforded to CBDI by reason of this Guaranty, or otherwise, (a) are separate and cumulative and may be pursued separately, successively or concurrently, as the occasion will arise, and (b) are non-exclusive and will in no way limit or prejudice any other legal or equitable right, remedy or recourse which CBDI may have.

This Guaranty will be governed by and construed in accordance with the laws of the State of Texas (except for the application of its conflict of laws provisions), and it is intended to be performed in accordance with, and to the maximum extent permitted, by the laws of the State of Texas. If any provision of this Guaranty or the application of this Guaranty to any person or circumstance will, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Guaranty nor the application of that provision to any other persons or circumstances will affect the invalidity, but rather the Guaranty will be enforced to the greatest extent permitted by law. Venue for any litigation for the enforcement of this Guaranty and the collection of any sums due under this Guaranty will lie in Dallas County, Texas.

If this Guaranty is executed by more than one party, it is specifically agreed that CBDI may enforce the provisions of this Guaranty against one or more of the parties without seeking to enforce this Guaranty as to all or any other parties to this Guaranty and each Guarantor waives any requirement of joinder of all or any other of the parties to this Guaranty in any suit or proceeding to enforce the provisions of this Guaranty.

If more than one person has executed this Guaranty, the term "the Guarantor," as used in this Guaranty will refer to each person, and the liability of each of the Guarantors under this Guaranty will be joint and several and primary as sureties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guaranty effective as of the date of the Agreement.

\_\_\_\_\_  
Witness      *[Not a Guarantor]*  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, Individually  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Witness      *[Not a Guarantor]*  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, Individually  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

[To be signed by owners in their individual capacity. See Section 1(g) of the Franchise Licensing Agreement for information on who must sign.]

**ADDENDUM TO GUARANTY OF FRANCHISEE'S UNDERTAKINGS  
REQUIRED BY THE STATE OF INDIANA  
FOR FRANCHISEES IN INDIANA**

Reference is made to certain sections of the Guaranty to which this Addendum is attached. Those sections may be contrary to or unenforceable under Indiana law, including the Indiana Deceptive Franchise Practices Law (the "Law"). Consequently, if the Guarantor is a resident of Indiana, the sections are amended as follows:

The third full paragraph on page 2 is deleted in its entirety and the following is inserted in its place:

Subject to preemption by applicable state and federal law, this Guaranty will be governed by and construed in accordance with the laws of the State of Indiana, and it is intended to be performed in accordance with, and to the maximum extent permitted, by the laws of the State of Indiana. If any provision of this Guaranty or the application of this Guaranty to any person or circumstance will, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Guaranty nor the application of that provision to any other persons or circumstances will be affected by the invalidity, but rather the Guaranty will be enforced to the greatest extent permitted by law. Venue for any litigation for the enforcement of this Guaranty and the collection of any sums due under this Guaranty will lie in Indiana, subject to applicable state and federal law.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms and agrees it will become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_

Name: \_\_\_\_\_

**ATTACHMENT C**

**FRANCHISE LICENSING AGREEMENT  
BETWEEN COOKIES BY DESIGN, INC.  
AND**

\_\_\_\_\_  
**(Name of Franchisee)**

**MINIMUM PERFORMANCE STANDARDS**

1. Pursuant to Section 2, beginning the first full 12 months from the Commencement Date of the Initial Term, and during each 12-month period following the Commencement Date, except as may be amended with respect to a Renewal Term, You will be required to achieve the following Constructive Annual Gross Volume of Business:

<b>I.</b>	<b>II.</b>	<b>III.</b>	<b>IV.</b>
<b><u>12-MONTH PERIOD</u></b>	<b><u>CONSTRUCTIVE ANNUAL GROSS VOLUME OF BUSINESS</u></b>	<b><u>MONTHLY CONTINUING FEE %</u></b>	<b><u>MINIMUM ANNUAL FEE</u></b>
1st	\$70,000	6%	\$4,200
2nd	\$85,000	6%	\$5,100
3rd	\$100,000	6%	\$6,000
4th	\$115,000	6%	\$6,900
5th	\$115,000	6%	\$6,900

**ATTACHMENT D**

**FRANCHISE LICENSING AGREEMENT  
BETWEEN COOKIES BY DESIGN, INC.  
AND**

\_\_\_\_\_  
(Name of Franchisee)

**SPECIAL AGREEMENTS/STATE AND FEDERAL LAWS**

To the extent of any conflict, that is not preempted by applicable federal law, between the following and the printed provisions of the Franchise Licensing Agreement the following will control:

The following states have statutes which may supersede the Franchise Licensing Agreement in your relationship with CBDI including some or all of the areas of waiver, release, arbitration, transfer fees, jurisdiction, venue, choice of law, termination and renewal of your franchise:

ARKANSAS [Stat. Section 70-807], CALIFORNIA [Bus. & Prof. Code Sections 20000-20043], CONNECTICUT [Gen. Stat. Section 42-133e *et seq.*], DELAWARE [Code, Title 6, Chapter 25, Sections 2551-2556], HAWAII [Rev. Stat. Section 482E-1], ILLINOIS [815 ILCS 1704, 1719-1720], INDIANA [Stat. Section 23-2-2.7], MICHIGAN [Stat. Section 19.854(27)], MINNESOTA [Stat. Section 80C.14], MISSISSIPPI [Code Section 75-24-51], MISSOURI [Stat. Section 407.400], NEBRASKA [Rev. Stat. Section 87-401], NEW JERSEY [Stat. Section 56: 10-1], NORTH DAKOTA [North Dakota Century Code Annotated, Title 51, Chapter 51-19, Sections 51-19-01 through 51-19-17, as amended], RHODE ISLAND [General Laws of Rhode Island, 1956, Title 19, Chapter 28, Sections 19-28.1-1 through 19-28.1-34], SOUTH DAKOTA [Codified Laws Section 37-5A-51], VIRGINIA [Code 13.1-557-574-13.1-564], WASHINGTON [Code Sections including 19.100; 19.100.180; and 19.100.220], WISCONSIN [Stat. Section 135.03 and 553.76]. These and other states may have court decisions, laws and regulations which may supersede the Franchise Licensing Agreement in your relationship with CBDI including some or all of the areas of waiver, release, arbitration, transfer fees, jurisdiction, venue, choice of law, termination and renewal of your franchise. With respect to arbitration, federal law may preempt the application of such state laws and regulations.

The following states have statutes which limit CBDI's ability to restrict your activity after the Franchise Licensing Agreement has ended:

CALIFORNIA [California Business and Professions Code Section 16,600]; FLORIDA [Florida Statutes Section 542.33]; MICHIGAN [Michigan Compiled Laws Section 445.771 *et seq.*]; MONTANA [Montana Codes Section 30-14-201]; NORTH DAKOTA [North Dakota Century Code Section 9-08-06]; OKLAHOMA [Oklahoma Statutes Section 15-217-19]; and WASHINGTON [Washington Code Section 19.86.030]. Other states have court decisions, laws, and regulations limiting CBDI's ability to restrict your activity after the Franchise Licensing Agreement has ended.

The enforceability of Section 12(a)(ix) of the Franchise Licensing Agreement is a matter governed by Federal Bankruptcy Law and enforceability or unenforceability is subject to that law and rulings of a court of competent jurisdiction.

COOKIES BY DESIGN, INC., a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate, LLC or Partnership Franchisee)

\_\_\_\_\_  
a(n) \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Individual Franchisee)

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_



**ATTACHMENT E**

**FRANCHISE LICENSING AGREEMENT  
BETWEEN COOKIES BY DESIGN, INC.  
AND**

\_\_\_\_\_  
*(Name of Franchisee)*

**FRANCHISE FEE CALCULATION**

<b>BASE FRANCHISE FEE</b>	<b>LOCATION MULTIPLIER</b>	<b>=</b>	<b>INITIAL FRANCHISE FEE</b>
\$10,000.00	X	=	_____
_____			

\*1.     CBDI bases the location multiplier on various demographic factors and statistics obtained from the Site Targeter™ zip code mapping software distributed by Tactician® Corporation.

CBDI determines the total *estimated population* for the Primary Marketing Area for the year in question from the statistics mentioned above.

CBDI determines the weighted average median household income for the Primary Marketing Area for the year in question from the statistics mentioned above.

2.     From the demographic information CBDI calculates the location multiplier based on one of the following:
- If the population within the Primary Marketing Area is approximately 250,000 and the median household income is greater than or equal to \$40,500 then CBDI sets the multiplier at 2.75.
  - If the population within the Primary Marketing Area is approximately 250,000 and the median household income is less than \$40,500, CBDI has two alternatives:
    - (A)    CBDI may increase the Primary Marketing Area so that the population is larger than 250,000 and CBDI sets the multiplier at 2.75, or
    - (B)    CBDI lowers the multiplier to between 1.25 and 2.75 depending on how low the population and/or the median income numbers are. CBDI rarely uses alternative B because it becomes very subjective
  - If the population within the Primary Marketing Area is larger than 250,000 and the median household income is greater than or equal to \$40,500, then CBDI sets the multiplier at a number approximately equal to the result achieved by dividing the total population of the Primary Marketing Area by 90,000.
  - If the population within the Primary Marketing Area is less than 250,000 and the median household income is greater than or equal to \$40,500, then CBDI sets the multiplier at a number approximately equal to the result achieved by dividing the total population of the Primary Marketing Area by 90,000.
  - If the population within the Primary Marketing Area is less than 150,000 and the median household income is less than \$40,500, then CBDI sets the multiplier at 1.25.