

DEPARTMENT OF CORPORATIONS  
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SACRAMENTO OFFICE

**JUICE IT UP!**<sup>®</sup>

**JUICE IT UP  
FRANCHISE AGREEMENT**

EXHIBIT C-2

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- 3:     Lease Assignment Agreement
- 4:     Conditional Assignment of Telephone Numbers
- 5:     Nondisclosure and Noncompetition Agreement
- 6:     Personal Guaranty
- 7:     Terms of Use – Juice Net

**JUICE IT UP**  
**FRANCHISE AGREEMENT**

**1. PARTIES**

This Agreement is signed on \_\_\_\_\_ [date], by and between Juice It Up Franchise Corporation ("**Juice It Up**," "**we**," or "**us**"), a California corporation with its principal office in Irvine, California, and \_\_\_\_\_ [franchisee's legal name] ("**You**").

**2. RECITALS**

**2.1. Ownership of System**

Juice It Up is the owner of certain intellectual property rights, including the Juice It Up Trade Name, "JUICE IT UP," and the Marks, including the words JUICE IT UP. It has spent a considerable amount of money, time, and effort, to construct, and continues to develop, business methods, technical knowledge, and marketing concepts, including proprietary recipes, trade secrets, commercial ideas, administrative procedures, information on sources of supply, supply contracts, marketing strategies, business forms, advertising materials, distinctive signs, trade dress, uniforms, and owner/employee training techniques that, taken together, comprise a proprietary System for the operation of juice bars featuring delicious smoothies, fruit and vegetable juices, organic coffee, and healthy snacks.

**2.2. Objectives of Parties**

Juice It Up would like to grant to you, and you would like to accept, from Juice It Up a franchise to own and operate a JUICE IT UP Juice Bar, using the JUICE IT UP Trade Name, Marks, and System, upon the terms and conditions below.

**3. DEFINITIONS**

For purposes of this Franchise Agreement, when any of the following words and phrases begins with a capital letter, its meaning is defined in this Article 3:

**3.1. JUICE IT UP Juice Bar**

"**JUICE IT UP Juice Bar**" means "an enterprise that we have authorized you to conduct under the Trade Name, Marks, and System at an Accepted Location under this Agreement."



### **3.2. Juice It Up**

“**Juice It Up**” means “Juice It Up Franchise Corporation or any person or entity to which Juice It Up Franchise Corporation allocates all or part of its rights and obligations under this Agreement.”

### **3.3. Adjusted Gross Sales**

“**Adjusted Gross Sales**” means “the total amount of ^revenues derived by you and your Related Parties for all goods sold and services rendered from the ^Accepted Location or in connection with the Trade Name or Marks, ^whether evidenced by cash, services, property, barter, or other means of exchange, and whether or not we offer such services or products in its other locations, including: (a) revenues from sales of any nature or kind whatsoever, derived by you and your Related Parties; (b) sales of Promotional Items in contravention of this Agreement at locations other than the at the Accepted Location; (c) the proceeds of any business interruption insurance, after the satisfaction of any applicable deductible; (d) sales from vending devices including pay telephones; (e) mail or telephone orders received or filled in or from the JUICE IT UP Juice Bar; and (f) orders taken in or from the JUICE IT UP Juice Bar although filled elsewhere, including products produced at the ^Accepted Location and sold off-site. Notwithstanding the foregoing, “Adjusted Gross Sales” shall exclude the amount of bona fide refunds paid to customers, the amount of any state or local sales or use tax actually paid by you and sales of fixtures or other capital items you sell after use thereof in the operation of the JUICE IT UP Juice Bar.”

### **3.4. Agreement**

“**The Agreement**” or “**this Agreement**” means “this Franchise Agreement.”

### **3.5. ^Accepted Location**

“**^Accepted Location**” means “a location that Juice It Up has ^accepted in writing as a site at which you may own and operate a JUICE IT UP Juice Bar.”

### **3.6. Crisis Management Event**

“**Crisis Management Event**” means any event that occurs at or about the JUICE IT UP Juice Bar that has or may cause harm or injury to customers or employees, such as food contamination, food spoilage/poisoning, food tampering/sabotage, contagious diseases, natural disasters, terrorist acts, shootings, or any other circumstance which may damage the System, Marks, or image or reputation of JUICE IT UP Juice Bars, the Franchise Network, or us or our Related Parties.”

### **3.7. ^Designated Manager**

“**Designated Manager**” means “the general manager of the JUICE IT UP Juice Bar.”

**3.8. Entity**

"Entity" means "any limited liability company, Partnership, trust, association, corporation or other entity which is not an individual."

**3.9. Equity**

"Equity" means "capital stock, membership interests, Partnership Rights, or other equity ownership interests of an Entity."

**3.10. Force Majeure**

"Force Majeure" means "acts of God (such as tornadoes, earthquakes, hurricanes, floods, fire or other natural catastrophe); strikes, lockouts or other industrial disturbances; war, riot, terrorism, or other civil disturbance; epidemics; or other unforeseeable forces which you could not by the exercise of due diligence have avoided, provided however, that (a) you must use all commercially reasonable efforts to mitigate the effect of the event of Force Majeure upon your performance and to fulfill your obligations under this Agreement, and upon completion of the event of Force Majeure, you must as soon as reasonably practicable recommence the performance of its obligations under this Agreement, and (b) neither an act or failure to act by a governmental authority (i.e. Federal, state, county, municipal and local governmental and quasi-governmental agencies, commissions and authorities), nor the performance, non-performance or exercise of rights under any agreement with you by any lender, contractor, landlord, or other person (other than us) shall be an event of Force Majeure hereunder, except to the extent that such act, failure to act, performance, non-performance or exercise of rights results from an act which is otherwise an event of Force Majeure. For the avoidance of doubt, your financial inability to perform or your insolvency shall not be an event of Force Majeure hereunder."

**3.11. ^Franchise Network**

"Franchise Network" means "the interdependent network composed of Juice It Up, all JUICE IT UP franchisees, Juice It Up's Related Parties, and any other people or business entities that Juice It Up has licensed to use the Trade Name, Marks, System or any of them."

**3.12. ^Good Standing**

"Good Standing" means "timely compliance by you and your Related Parties with all provisions of this Agreement and the Manual, specifically including provisions for timely payment of amounts owed by you to Juice It Up and its Related Parties."

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### **3.13. ^Juice Net**

“**Juice Net**” means the “internet web site utilized, from time to time, by Juice It Up to facilitate communications with you and other franchisees and licensees of Juice It Up and through which we may disseminate the Manual, disseminate updates to the Manual, disseminate advertising and marketing materials, conduct promotions, and communicate and conduct other matters.”

### **3.14. ^Manual**

“**Manual**” means “the Operations Manual, as amended from time to time, that Juice It Up will lend you during the term of this Agreement and that contains information, forms and requirements for the establishment and operation of a JUICE IT UP Juice Bar and for use of Juice It Up’s Trade Name and Marks.”

### **3.15. ^Marks**

“**Marks**” means “selected trademarks, service marks, trade dress, logotypes, slogans and other commercial symbols ^that we may from time to time authorize or direct you to use under this Agreement.”

### **3.16. Owner**

“**Owner**” means “any direct or indirect shareholder, member, general or limited partner, trustee, or other equity owner of an Entity, except, that if we or any of our Related Parties has any ownership interest in you, the term “Owner” shall not include or refer to us or that Related Party or their respective direct and indirect parents and subsidiaries, and no obligation or restriction upon the “you”, or your Owners shall bind us, or said Related Parties or their respective direct and indirect parents and subsidiaries or their respective officers, directors, or managers.”

### **3.17. Partnership**

“**Partnership**” means “any general partnership, limited partnership, or limited liability partnership.”

### **3.18. Partnership Rights**

“**Partnership Rights**” means “voting power, property, profits or losses, or partnership interests of a Partnership.”

### **3.19. ^Promotional Item**

“**Promotional Item**” means “any product that has been prepared or manufactured in accordance with Juice It Up’s secret recipes or specifications or that has been packaged or labeled with any of the ^Marks.”

### **3.20. ^Related Party**

“**Related Party**” or “**Related Parties**” means “people and companies affiliated with Juice It Up or you, as the context indicates, including, ^direct or indirect Owners owning a Substantial Interest in Juice It Up or in you<sup>^</sup>, as the context requires. As used in this paragraph, the phrase ‘Substantial Interest’ means ‘the right to twenty-five percent (25%) or more of the capital or earnings of a partnership or limited liability company or, alternatively, ownership of twenty-five percent (25%) or more of the voting stock of a corporation’.”

### **3.21. ^Start Date**

“**Start Date**” means “the earlier of two hundred ten (210) days after the date of the Agreement or the date when your JUICE IT UP Juice Bar opens.” The Start Date may be extended only with the written consent of Juice It Up.

### **3.22. ^System**

“**System**” means “the business methods, technical knowledge and marketing concepts licensed by Juice It Up to you under this Agreement, including the right to use Juice It Up’s trade secrets, purchasing arrangements, commercial ideas, advertising materials, marketing strategies, information on sources of supply, administrative procedures, business forms, distinctive signs, trade dress, architectural design and uniforms, and employee training techniques.”

### **3.23. ^Termination**

“**Termination**” means “expiration of this Agreement; non-renewal of this Agreement; or termination, under the circumstances described in Article 10 of this Agreement, of the then-current term of this Agreement before its normal expiration date.”

### **3.24. ^Trade Name**

“**Trade Name**” means “the commercial name ‘JUICE IT UP.’”

### **3.25. ^Transfer**

“**Transfer**” means “any direct or indirect sale, ^assignment, transfer, gift, pledge, mortgage, encumbrance, or other change in ownership of all or any part of the rights and obligations: 1) of this Agreement, 2) of or all or any substantial portion of the assets of the JUICE IT UP Juice Bar, including the lease for the ^Accepted Location, or 3) of an ownership interest in you of a magnitude at least as great as that described in this Section. If you are ^an Entity, each of the following shall be deemed to be a Transfer: (i) the sale, assignment, transfer, conveyance, gift, pledge, mortgage, or other encumbrance of more than 25% in the aggregate, whether in one or more transactions, of the Equity or voting power of you, by operation of law or otherwise or any other event(s) or transaction(s) which directly or indirectly, effectively changes control of you; (ii) the issuance of any securities by you which itself or in combination with any other transaction(s) results in its Owners, as constituted on the Effective Date, owning less than 75% of the outstanding Equity or voting

power of you; (iii) if you are a Partnership, the resignation, removal, withdrawal, death or legal incapacity of a general partner or of any limited partner owning more than 25% of the Partnership Rights of the Partnership, or the admission of any additional general partner, or the transfer by any general partner of any of its Partnership Rights in the Partnership, or any change in the ownership or control of any general partner; (iv) the death or legal incapacity of any of your Owners owning more than 25% of your Equity; and (v) any merger, stock redemption, consolidation, reorganization, recapitalization or other transfer of control of your, however effected. If you are an Entity, you must promptly provide us with written notice (stating such information as we may from time to time require) of each and every transfer, assignment and encumbrance by any Owner of any direct or indirect Equity or voting rights in you, notwithstanding that the same may not constitute a "Transfer".

### **3.26. ^You**

"You" means "the person or entity that is named as "you" in Article 1 of this Agreement." "You" means, in addition, "all ^natural person(a) or ^Entities that succeed to your (or its) interest by Transfer or operation of law."

## **4. GRANT OF FRANCHISE**

### **4.1. Granting Clause; No Sublicensing Rights**

#### **4.1.1. Grant**

Juice It Up grants to you, and you accept from us, a franchise and license to operate a "JUICE IT UP" juice bar under the Trade Name, Marks and System in accordance, and in full compliance, with the terms of this Agreement.

#### **4.1.2. No Sublicensing Rights**

You shall not sublicense, sublease, subcontract or enter any management agreement providing for, the right to operate the JUICE IT UP Juice Bar or to use the Trade Name, Marks and System granted pursuant to this Agreement.

### **4.2. Location of the Franchised Juice Bar**

#### **4.2.1. Location**

The franchised juice bar must be located at an ^Accepted Location. You may not establish your business premises at any other site, engage in business activities at any other site, or engage in mail order, Internet, or catalog sales. Without limiting the generality of the foregoing, you may not operate any permanent or temporary mobile vending vehicle, grab 'n go case, cart, kiosk or any other form of distribution without our prior written consent, for which we may require you to execute a separate addendum to ^this Agreement.

#### **4.2.2. Rights Reserved**

Juice It Up reserves all rights in the Trade Name, Marks and System not expressly granted in this Agreement, including the ^exclusive, unrestricted rights, in its discretion directly and indirectly, itself and through its employees, Related Parties, representatives, franchisees, licensees, assigns, agents and others to:

(a) ^locate or relocate any company-owned or franchised JUICE IT UP juice bar to any site regardless of how close the site is to one or more of your juice bars; and

^

(b) to own or operate, and to license others (which may include its Related Parties) to own and/or operate (i) juice bars under the Trade Name and Marks and/or using the System at any location regardless of how close the site is to one or more of your juice bars; (ii) businesses, including juice bars, operating under names other than the Trade Name, at any location, and of any type whatsoever, regardless of their proximity to the juice bar developed pursuant hereto; and

(c) to produce, license, distribute and market foods and other products bearing the Marks (or any of them), including Promotional Items, pre-packaged juices, smoothies, supplements, snacks and other food and beverage products; books; clothing; souvenirs and novelty items; through any outlet (regardless of its proximity to the juice bar opened pursuant hereto), including grocery stores, supermarkets and convenience stores and through any distribution channel, at wholesale or retail, including by means of the Internet or Internet web site, mail order catalogs, direct mail advertising and other distribution methods; and to advertise and promote the System through any means, including the Internet.

#### 4.2.3. Relocation

You may ^not relocate the JUICE IT UP Juice Bar without our prior written consent, and payment of the relocation fee required by Section 6.9 of this Agreement. If we shall consent to any relocation, you must de-identify the former location in the manner described in this Agreement with respect to your obligations upon termination and expiration, and shall reimburse and indemnify and hold us harmless from any direct and indirect losses, costs and expenses, including attorneys' fees, arising out of your failure to do so.

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### **4.3. Term and Renewal**

#### **4.3.1. Initial Term**

The initial term of the franchise will begin on the Start Date and will continue for a period of ten (10) years.

#### **4.3.2. Renewal**

You will have the right <sup>^</sup>(the "**Renewal Right**") to enter into a new franchise agreement in the form then generally being offered to prospective "JUICE IT UP" franchisees (the "**Renewal Franchise Agreement**") for a 5 year period (the "**First Renewal Term**"), which Renewal Franchise Agreement shall likewise grant you the right to enter into one additional Renewal Franchise Agreement for a 5 year period, if you have notified Juice It Up in writing at least ninety (90) days before the expiration date of this Agreement of your wish to exercise your Renewal Right and each of the following conditions are fulfilled:

- (a) <sup>^</sup>You and your Related Parties are in Good Standing under this Agreement, any other Agreement between Juice It Up or our Related Party and you, and the Manual;

<sup>^</sup>
- (b) <sup>^</sup>You and any Related Parties that have signed this Agreement have signed a new franchise agreement in the form then being offered by Juice It Up (modified to reflect your then remaining renewal rights, if any) not less than thirty (30) days before the expiration of this Agreement or thirty (30) days after you receive a copy of the new Franchise Agreement from Juice It Up, whichever is later;
- (c) <sup>^</sup>You have, before beginning of the renewal term, at your own expense, remodeled, modernized and redecorated the JUICE IT UP Juice Bar premises and replaced and modernized the fixtures, equipment, and signs used in the JUICE IT UP Juice Bar so that the premises of the JUICE IT UP Juice Bar meet the standards of appearance and function applicable to the premises of new JUICE IT UP juice bars at the time of renewal;
- (d) <sup>^</sup>You and any Related Parties that are parties to <sup>^</sup>an agreement with us have signed a general release of known and unknown claims in a form satisfactory to Juice It Up with respect to past dealings with Juice It Up and its Related Parties;
- (e) <sup>^</sup>You have renewed or have the right to renew the lease for the <sup>^</sup>Accepted Location, and have provided us with a copy of the documents evidencing such renewal right or right to renew the lease; and
- (f) <sup>^</sup>Without limiting the generality of Section 4.3.2(a), you shall not have committed 2 or more material breaches of this Agreement, for which Juice it Up shall have delivered a notice of default, whether or not such default was cured, during the 12

month period immediately preceding the date on which you provide notice to Juice It Up of your desire to renew.

You understand that the terms of the ^Renewal Franchise Agreement in use by Juice It Up at the times of renewal may be materially different than those contained in this agreement, including, ^increased royalties and advertising fees. You understand that your right to renew will be contingent upon your acceptance of the new terms. The term of each Renewal Franchise Agreement shall commence upon the date of expiration of the term hereof or the First Renewal Term, as applicable.

#### 4.3.3. Notice Required by Law

If applicable law requires us give notice to you prior to the expiration of the term, this Agreement shall remain in effect on a week to week basis until we have given the notice required by such applicable law. If we are not offering new franchises, are in the process of revising, amending or renewing its form of franchise agreement or offering circular, or are not lawfully able to offer you the Renewal Franchise Agreement, at the time you deliver your notice exercising your Renewal Right, we may, in our discretion, (i) offer to renew this Agreement upon the same terms set forth herein for a renewal term determined in accordance with Section 4.3.2 of this Agreement hereof, or (ii) offer to extend the term hereof on a week to week basis following the expiration of the term hereof for as long as it deems necessary or appropriate so that it may lawfully offer you the Renewal Franchise Agreement.

## **5. SERVICES TO FRANCHISEE**

Juice It Up agrees to perform the following services provided that you are, at the time when service is to be rendered, in Good Standing under this Agreement, any other agreement with Juice It Up or Juice It Up's Related Party, and the Manual.

### **5.1. Lay-out, Design and Construction**

We will provide you with a template layout (in plan view) and specifications for the design and layout of a typical JUICE IT UP juice bar and required fixtures, equipment, furnishings, decor, trade dress, and signs. We will also prepare and provide you with a project and construction management activity timeline for the development and construction of your JUICE IT UP juice bar. The Manual will contain a list of approved architects, building contractors, and equipment suppliers.

In accordance with Section 7.2.2, you must submit to us for our prior review and ^acceptance the plans and specifications for your JUICE IT UP juice bar. We will review and accept or reject the plans and specifications for your JUICE IT UP juice bar. You agree that our acceptance of your plans and specifications does not constitute a representation warranty, or guarantee, express or implied, by us that such the plans are free of architectural or design errors and thus, we shall have no liability to you or any other person with respect thereto. You will cause each architect, engineer, designer, or other person creating plans for ^your JUICE IT UP Juice Bar to assign, without further consideration, the copyright in such plans to us and to thereafter execute, from time to time,



any and all other documents necessary or appropriate to confirm title to such copyright in our name.

## **5.2. Orientation Program; Initial Training Program; "Hands-On" Training Program**

### **5.2.1. Orientation Program**

Before the opening of your JUICE IT UP Juice Bar, Juice It Up will conduct an orientation program ("**Orientation Program**") at our corporate offices or another location designated by us. Such training shall consist of approximately eight (8) hours of introductory training and orientation to the System. You and your Designated Manager must attend the Orientation Program. We will not provide you with the Orientation Program if you are an assignee of this Agreement and the Transfer to you is made in accordance with this Agreement, or if this Agreement is entered into in connection with a Transfer.

### **5.2.2. Initial Training Program**

Before the opening of your JUICE IT UP Juice Bar, Juice It Up will conduct an initial training program ("**ITP**") at a location designated by us. Such training shall consist of approximately thirty (30) hours of classroom training in the operation of the JUICE IT UP Juice Bar under the JUICE IT UP System for your management. You and your Designated Manager, if different, and not more than two (2) additional individuals that will work at the JUICE IT UP Juice Bar must attend, participate in, and successfully complete the ITP to our satisfaction before you may open the JUICE IT UP Juice Bar. If you or your Designated Manager have already successfully completed the ITP and have a history of operating a JUICE IT UP Juice Bar, we may waive the requirement that you successfully complete the ITP if you acknowledge in writing that you are waiving our obligation to provide such training and acknowledge that you have been adequately trained in all matters necessary to operate the JUICE IT UP Juice Bar.

If you are an assignee of this Agreement and the Transfer to you is made in accordance with this Agreement, or if this Agreement is entered into in connection with a Transfer: (a) Juice It Up will conduct and provide at no additional cost to you the ITP at a location designed by us; and (b) you, and your Designated Manager, if different, and not more than two (2) additional individuals that will work in at the JUICE IT UP Juice Bar must attend and successfully complete the ITP to our satisfaction before you may open or operate the JUICE IT UP Juice Bar.

### **5.2.3. "Hands-On" Training Program**

Before the opening of your JUICE IT UP Juice Bar, Juice It Up will provide you with a "hands-on" training program (the "**Hands-On Program**") at a location designated by us. Such training shall consist of approximately twelve (12) hours of training in the operation of the JUICE IT UP Juice Bar under the JUICE IT UP System. You and your Designated Manager, if different, and not more than two (2) additional individuals that will work at the

JUICE IT UP Juice Bar must attend, participate in, and successfully complete the Hands-On Program to our satisfaction before you may open the JUICE IT UP Juice Bar.

### **5.3. Operations Manual**

Juice It Up will lend you a copy of the JUICE IT UP Operations Manual which includes, but is not limited to sections such as "store build-out", "equipment requirements", "training", product recipes", manager's guide, safety guide, "legal matters", and a customer service guide. The Manual will contain explicit instructions, as authorized by Juice It Up, for use of the Marks, specifications for goods that will be used in or sold by the JUICE IT UP Juice Bar, customer service techniques, sample business forms, information on marketing, management, and administration methods developed by Juice It Up for use in the JUICE IT UP Juice Bar, names of approved suppliers, and other information that Juice It Up believes may be necessary or helpful to you in your operation of the JUICE IT UP Juice Bar. Juice It Up may revise the Manual periodically to conform to the changing needs of the Franchise Network and will distribute updated pages containing these revisions to you, or notify you that updated or additional materials for the Manual are available at the Juice Net. All updates or changes to the Manuals will be effective upon delivery, unless we provide otherwise.

### **5.4. Designated and Approved Suppliers**

Juice It Up will, from time to time, give you, in the Manual or otherwise in writing, a list of names and addresses of suppliers of goods and services that currently meet Juice It Up's standards and specifications. These may be "designated suppliers" from which you are required to purchase certain types of goods or services or "approved suppliers" from whom you may purchase certain types of goods or services. In advising you of designated and approved suppliers, **Juice It Up expressly disclaims any warranties or representations as to the condition of the goods or services sold by the suppliers, including, without limitation, expressed or implied warranties as to merchantability or fitness for any intended purpose.** You agree to look solely to the manufacturer of goods or the supplier of services for the remedy for any defect in the goods or services. We may notify designated suppliers or approved suppliers of any impending termination or expiration of this Agreement and may, among other things, instruct such suppliers to deliver only such quantity of goods and services as is reasonably necessary to supply your needs prior to the expiration or termination date of this Agreement.

### **5.5. Opening Assistance**

Juice It Up will send a representative to your place of business for up to fifty (50) hours to assist with opening, and conduct the "on-the-job" training for you and your staff. You and your Designated Manager must be present during the entire fifty (50) hour on-the-job training. If you are a legal entity, one of your owners acceptable to us must participate in the on-the-job training. The Juice It Up Training representative(s) will serve only as consultants to you and will in no way be responsible (personally or on behalf of you) for the operation of the JUICE IT UP Juice Bar or the actions of your officers, agents or employees during this time.

The opening training will involve certain aspects of store operations including, but not limited to "early morning" store opening procedures, and "end-of-the-day" store closing for clean-up procedures. Should we determine that you or your Designated Manager, or any other person attending training, have failed to successfully complete the on-the-job training, or any aspect of any other training we provide, we may require you, your Designated Manager and/or such other person to undergo further training or "re-training." If you, your Designated Manager and/or such other person are required to undergo further training or "re-training" then you shall pay our then-current fees for such training.

If you are an assignee of this Agreement and the Transfer to you is made in accordance with this Agreement, or if this Agreement is entered into in connection with a Transfer, then the assignor may provide you with the "on-the-job" training, if we have approved the assignor to provide such training to you, and in which case we will not be obligated to provide you with this training.

## **5.6. Consultation**

Juice It Up will use commercially reasonable efforts to make its personnel available to you for consultation throughout the term of the franchise in a timely manner. Our consultation may include matters involving the prices for goods and services you desire to obtain. Our staff provides this additional support on an "as available" basis, and our consultation may be rendered orally, in writing and/or through the Juice Net.

## **5.7. Advertising**

### **5.7.1. Advertising Fund**

Juice It Up will administer the advertising fund (the "Fund"), which will be kept in a separate bank account. Nothing herein shall be deemed to create a trust fund. The purpose of the Fund is to pool advertising money of our franchisees, and, subject to this section, Juice It Up and our Related Parties that operate JUICE IT UP juice bars to promote the Trade Name and Marks. Juice It Up and each of its Related Parties that operate JUICE IT UP juice bars in the United States may (and currently do) contribute to the Fund in such amounts as it (or they) elects. If Juice It Up or any of its Related Parties contribute money to the Fund, Juice It Up or such Related Parties may from time to time cease contributing to the fund or vary the amount it (or they) contributes to the Fund. The Fund may be used to pay for market research, advertising materials, media space and time, a referral program, a website, or any combination of them. The Fund may also be used for advertising grants to franchisees, collectively on a regional basis or individually on a local basis. In addition, the Fund may be used to pay for point-of-purchase materials or public relations projects. Up to 15 percent (15%) of the Fund<sup>^</sup> may be used to compensate Juice It Up for overhead and other expenses incurred in connection with its administration of the Fund. Juice It Up will distribute to its franchisees, once a year, an <sup>^</sup>Fund report which will set out the total amounts of money collected and spent from the Fund during the past year and list, by general category, the manner in which the money was spent. We (or our Related Parties) may collect rebates and credits from suppliers based on your purchases or sales and, at our discretion, we may either refund such amounts to you, contribute such amounts to the Fund or retain such amounts for our or such Related

Party's use in promoting the Marks. Any such contribution of such rebates or credits to the Fund shall not reduce your obligation to pay all advertising fees. You acknowledge that not all of our other franchisees or licensees are or shall be required to contribute, or contribute the same percentage of Adjusted Gross Sales, to the Fund.

#### 5.7.2. Allocation of Expenditures; Expenditures

Juice It Up will give preference to regional Advertising Fund projects, but may make allocations of Advertising Fund money to individual franchisees when it considers it desirable. Because the benefits of advertising, marketing, and promotion are difficult to measure with precision, Juice It Up reserves the unqualified right to determine, in its sole discretion, how Advertising Fund money may be spent; the only condition is that the money must be used in a manner that is reasonably related to the general promotion of the Trade Name and Marks.

If less than the total of all contributions and allocations to the Fund are expended during any fiscal year, such excess may be accumulated for use during subsequent years. Juice It Up may spend in any fiscal year an amount greater or less than the aggregate contributions to the Fund in that year and may cause the Fund to borrow funds to cover deficits or invest surplus funds. If Juice It Up advances money to the Fund, it will be entitled to be reimbursed for such advances.

#### 5.8. Co-op Advertising

We may from time to time establish regions for co-operative advertising ("Co-op Advertising Regions"), to coordinate advertising, marketing efforts and programs and maximizing the efficient use of local and/or regional advertising media. If and when we create a Co-op Advertising Region for the region in which the JUICE IT UP Juice Bar is located, you shall become a subscriber and member thereof and shall execute and participate in accordance with the Subscription Agreement and the Certificate of Incorporation and Bylaws of such Co-op Advertising Region on the forms prescribed by us. You recognize and agree that we may not have the contractual authority to require other franchisees in the region to participate in your Co-Op Advertising Region, but we will encourage all franchisees with JUICE IT UP juice bars in the area to participate. The size and content of such regions, when and if established by us, shall be binding upon you, and all other similarly situated franchisees in the region if we have the contractual authority to bind such other franchisees. At all meetings of such Co-op Advertising Region each participating franchisee shall be entitled to one vote for each JUICE IT UP juice bar located within such Co-op Advertising Region or such other vote as may reasonably be determined by us.

You and other members of the Co-op Advertising Region, whose agreements require their participation (or those franchisees that elect to participate in the Co-op Advertising Region, if their agreements do not require their participation), will contribute to the Co-op Advertising Region such amount as may be determined by vote of the Co-op Advertising Region (not to exceed 1.5% of the Adjusted Gross Sales of each member's JUICE IT UP juice bar located in the region, subject to our written approval. Your

contribution to the Co-op Advertising Region, shall be credited towards the satisfaction of the local advertising requirements.

Subject to the forgoing, each Co-op Advertising Region will decide as to the usage of funds available to it for media time, production of media materials, whether for radio, television, newspapers or JUICE IT UP juice bar level materials such as flyers, or posters, or for any other type of advertising or marketing use, and then such Co-op Advertising Region shall in writing request approval from us to use said funds in said manner. Juice It Up shall not withhold approval unreasonably, but no placement of advertising or commitment of advertising funds on behalf of an Co-op Advertising Region will be made without our prior written approval. We reserve the right to establish general standards concerning the operation of the Co-op Advertising Region, advertising agencies retained by Co-op Advertising Region, and advertising programs conducted by Co-op Advertising Region. Any disputes (other than pricing) arising among or between you, other franchisees, and/or the Co-op Advertising Region may be resolved by us whose decision shall be final and binding on all parties.

We and our Related Parties may, but are not required to, participate (and become a member of) any or all Co-op Advertising Regions. If we or any of our Related Parties participate or become a member of any or all Co-op Advertising Regions, we and our Related Parties, as applicable, will have one vote for each JUICE IT UP juice bar we or our Related Parties, as the case may be, located within the applicable Co-op Advertising Region. We and our Related Parties that participate (if any) in a Co-op Advertising Region may withdraw from such Co-op Advertising Region at any time.

#### **5.9. ^Annual and Semi-Annual Conventions**

Annually, Juice It Up may conduct a convention for its franchisees. If it conducts an "annual convention," we will endeavor to provide you with at least four (4) weeks prior notice of the dates and location of the "annual convention." You must register and attend the entire convention at your expense. We may charge a registration fee for each person registered to attend the "annual convention" in an amount we reasonably estimate to be necessary to allow us to recoup our costs for organizing and conducting the "annual convention." If you fail to attend an "annual convention" we may charge you up to \$500 for such failure. If you are a legal entity, we may require one of your owners acceptable to us to attend the "annual convention." If we conduct a "semi-annual" or regional franchisee meeting or convention, although you are encouraged to attend, you will not be required to attend.

#### **5.10. ^Promotional Items Availability**

Juice It Up will use its ^commercially reasonable efforts to ensure that Juice It Up, its ^Related Party, or a designated supplier will at all times have a supply of Promotional Items for sale to you.

## 6. PAYMENTS BY FRANCHISEE

### 6.1. Initial Franchise Fee

When you sign this Agreement, you will pay Juice It Up in cash or another form of payment that will make the funds immediately accessible to Juice It Up, such as cashier's check or wire transfer, an initial franchise fee of \$\_\_\_\_\_. The initial fee is not refundable.

### 6.2. Royalties

On Wednesday of each week during the term of this Agreement, or on another day designated by Juice It Up, you will pay Juice It Up a weekly royalty of six percent (6%) of Adjusted Gross Sales for the immediately preceding week. If you have not opened the JUICE IT UP Juice Bar by the Start Date, then you will pay Juice It Up a weekly fee of \$125 for each week (or part thereof) following the Start Date that the JUICE IT UP Juice Bar fails to be open. Our acceptance of such \$125 fee is not a waiver of any default by you, or our acquiescence to your failure to open the JUICE IT UP Juice Bar by the Start Date. For purposes of this paragraph, payment will be considered to be made on the day when the funds paid are accessible to Juice It Up.

### 6.3. Advertising Fees

On Wednesday of each week during the term of this Agreement, or on another day designated by Juice It Up, you will pay <sup>us</sup> a weekly advertising fee of two percent (2%) of Adjusted Gross Sales for the immediately preceding week. We will contribute all advertising fees you pay to us to the Fund. For purposes of this paragraph, payment will be considered to be made on the day when the funds paid are accessible to Juice It Up.

### 6.4. When Payments Begin

Your obligation to pay ongoing weekly royalties and advertising fees begins on the Start Date of this Agreement.

### 6.5. Audit

Juice It Up and its representatives will have the right during normal working hours to audit your books and records, including your tax returns, with respect to the JUICE IT UP juice bar. If an audit discloses an underpayment of royalties or advertising fees payable under this Agreement, you will immediately pay these amounts to Juice It Up together with accrued interest on the amount underpaid in accordance with Section 6.10 of this agreement. In addition, if the underpayment exceeds three percent (3%) of the total royalty or advertising fee payable for any period covered under the audit, you must reimburse Juice It Up for all expenses actually incurred by Juice It Up in connection with the audit.

## **6.6. Training Costs**

Juice It Up will not charge a fee for the Orientation Program, the ITP, and the opening assistance training provided pursuant to Sections 5.2 and 5.5. You will be charged our then-current fees for all other training we provide to you. If you, your Designated Manager, or any other person attending training pursuant to Sections 5.2 or 5.5 fail to successfully complete such training, then you must pay us our then-current fees for any and all additional or "re-training" we provide to you, your Designated Manager, or other person. In addition to any other fees, you must pay or reimburse us for all of our costs and expenses in connection with travel, lodging, meals and other incidental expenses we incur to provide you with the opening assistance training pursuant to Section 5.5 and any other training we provide to you.

If we provide you, your Designated Manager or any of your other employees with additional training as a result of your request, or if we require you, your Designated Manager or any of your other employees to attend additional training or "re-training," then we may require you to pay our then-current fees for such training.

You will have to pay any costs of travel, lodging, meals and other incidental expenses that you, your Designated Manager, or your employees incur during training and any incidental expenses our trainer(s) incurs in conducting the program at your facility if we agree to train at your site.

We will loan you one copy of our training materials. If you request additional copies of our training materials, you must pay us an amount equal to our direct and indirect cost for producing the additional copy.

## **6.7. Payment for Promotional Items**

You must pay Juice It Up promptly for Promotional Items and other goods it sells to you. However, Juice It Up has the right to require payment in cash, electronic funds transfer, cashier's check, or other means of making funds immediately accessible to Juice It Up if, in Juice It Up's reasonable discretion, your payment practices or financial status, the amount of the order, general economic conditions, or other business reasons make it advisable.

All goods, products, and supplies purchased from us shall be purchased in accordance with the purchase order format issued from time to time by us. We may change the prices, delivery terms and other terms relating to its sale of goods, services, products and supplies to you on prior written notice. All product orders by you shall be subject to acceptance by us at our designated offices, and we reserve the right to accept or reject, in whole or in part, any order you place. No purchase order submitted by you shall contain any terms except as approved in writing by us, nor be deemed complete unless all of the information required by the prescribed purchase order form, as revised from time to time, is provided by you. No new or additional term or condition contained in any order placed by you shall be deemed valid, effective or accepted by us unless such term or condition shall have been expressly accepted by us in writing.

We will not be liable to you on account of any delay or failure in the manufacture, delivery or shipment of goods or products caused by Force Majeure or other events or circumstances beyond our reasonable control including such events as labor or material shortages, conditions of supply and demand, import/export restrictions, or disruptions in our supply sources. On the expiration or termination of this Agreement, or in the event of any default by you of this Agreement, we shall not be obliged to fill or ship any orders then pending or, in the case of termination or non-renewal, made any time thereafter by you.

#### **6.8. Transfer Fee**

As a condition of Transfer of this franchise, you must pay, before Transfer, a transfer fee of ten thousand dollars (\$10,000); provided, however, if the Transfer for which you pay us a transfer fee is not consummated, we will refund the transfer fee paid, less our out-of-pocket expenses and administrative costs. We may waive up to \$2,000 of the transfer fee if we determine that you are capable to train your assignee and you provide your assignee "opening training" as we specify (not to exceed fifty (50) hours of training).

#### **6.9. Relocation Fee**

As a condition of relocation of this ^franchise and the JUICE IT UP juice bar operated hereunder, you must pay us, before relocation, ^our then-current relocation fee ^(which is currently \$5,000) and reimburse us for any direct and indirect costs and expenses we incur in connection with such relocation.

#### **6.10. Interest on Late Payments**

If you fail to pay to Juice It Up the entire amount of any payment due, including, but not limited to Royalties and Advertising Fees, you shall immediately pay a late fee of \$200 per occurrence, plus interest on the unpaid amounts, from the date due, at eighteen percent (18%) per year or at the highest rate allowed by applicable law on the date when payment is due, whichever is less. Interest charges on late payments are intended to partially compensate Juice It Up for loss of use of the funds and for internal administrative costs resulting from late payment which would otherwise be difficult to measure with precision. The fact that these charges are imposed should not be construed as a waiver of Juice It Up's right to timely payment.

#### **6.11. Application of Payments**

Any payment you make to Juice It Up may be applied by Juice It Up, at its option, to any of your past due indebtedness to Juice It Up regardless of your written or orally expressed intention. Once so applied, Juice It Up will not alter the manner in which the payment has been applied. Juice It Up is not required to accept payments after they are due or to extend credit or otherwise finance your operations. Failure to pay all amounts when due may result in suspension of access to Juice It Up's services and support until the failure is cured and, if not cured within any applicable cure period, constitutes good cause for termination of this Agreement.

