**Master Franchise Agreement**

This document is a Master Franchise Agreement ("Agreement") and is effective [DATE],

**BETWEEN: [YOUR COMPANY]** (the "Company"), which is a company organised and existing under the laws of the [Country] of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [SUB-FRANCHISOR NAME]** (the "Sub-franchisor"), an individual with his main address located at OR a company organised and existing under the laws of the [Country] of [COUNTRY], located at:

 [COMPLETE ADDRESS]

WHEREAS, Company and certain of its Affiliates own and operate certain proprietary and other property rights and interests of [FRANCHISE NAME] throughout [COUNTRY] which, among other things, rent, sell and market [PRODUCT/SERVICE] to the [GENERAL PUBLIC OR COMPANY OR GOVERNMENT]; and

WHEREAS, Company and certain of its Affiliates acquire, produce, licence market and sell [PRODUCT/SERVICE]; and

WHEREAS, Company's processes, trade secrets and procedures for the operation of [FRANCHISED BUSINESS], including advertising, sales techniques, materials, signs, exterior decoration and decor, personnel management and control systems, bookkeeping and accounting methods, and in general, a style, system and method of business operation developed through and by reason of its prior business experience (the “System”).

WHEREAS, Company desires to expand and develop the Franchised Business, and seeks a Master Franchisee who will open and operate or procure and assist Sub-franchisees (“Sub-franchisees”) to open and operate, numerous [FRANCHISE NAME] conducting business under the Trademarks and System within the Development Area, as defined herein.

WHEREAS Sub-franchisor desires to build and operate [FRANCHISE NAME], and procure, qualify, train and assist Sub-franchisees to build and operate [FRANCHISED BUSINESS], and Company desires to grant to Sub-franchisor the right to build and operate, and procure, qualify, train and assist the Sub-franchisees to build and operate, [FRANCHISED BUSINESS] in accordance with the terms and upon the conditions contained in this Agreement.

NOW, THEREFORE, based on the above premises and in consideration of the covenants and agreements contained herein, and intending to be legally bound, the parties agree hereto as follows:

1. **GRANT OF MASTER FRANCHISE**

Company hereby grants to Sub-franchisor, and Sub-franchisor hereby accepts, the right during the Term to open and operate [FRANCHISED BUSINESS], and to procure, screen, qualify, train and assist Sub-franchisees to open and operate [FRANCHISED BUSINESS], in the Development Area more fully described in Annexure “A” which is annexed hereto and by this reference made a part hereof, upon the terms and subject to the conditions of this Agreement.

1. **AGREEMENT TERM**

The term of this Agreement shall be for the period (the "Term"), commencing as of the date of this Agreement. Each year of the Term, as measured from the date of this Agreement, is a "Contract Year."

# 2.1 Additional Development

If Company shall determine that further development of the Development Area following the Term is desirable, Company shall notify Sub-franchisor in writing at least [NUMBER OF MONTHS] prior to the expiration of the Term, of Company's intention to develop additional [FRANCHISED BUSINESSES] in the Development Area and deliver a plan for such development over a five-year-period. Subject to the conditions set forth in Section 2.2 of this Agreement, Sub-franchisor shall have a prior right to undertake the additional development which Company shall have set forth in its notice to Sub-franchisor, which right of additional development shall be exercised only in accordance with Section 2.3. Such right of additional development by Sub-franchisor shall arise upon the expiration of each successive Master Franchise agreement between Company and Sub-franchisor for so long as Company concludes that development of additional [FRANCHISED BUSINESSES] is commercially appropriate in the Development Area. Subject to the rights of first refusal set forth in subparagraph (a) below, if such right of additional development is not exercised by Sub-franchisor, Company or its nominee(s) may construct, equip, open and operate additional [FRANCHISED BUSINESSES] in the Development Area upon the expiration of the Term.

1. If Company shall have notified Sub-franchisor prior to the expiration of the Term that further development of the Development Area is not then desirable, Company's right to construct, equip, open and operate additional [FRANCHISED BUSINESSES] in the Development Area, or to licence any third party to do so, shall be subject to the Sub-franchisor’s right of first refusal with respect thereto, which shall be exercised, if at all, in the following manner:
2. In the case any additional [FRANCHISED BUSINESSES] are to be developed by the Company, Company shall serve upon Sub-franchisor a written notice setting forth the proposed location of the [FRANCHISED BUSINESS], and two (2) copies of the Company's then-current form of Franchise Agreement. Sub-franchisor shall have thirty (30) days following Company's service of such notice within which to enter into a lease for the Location and to execute and return both copies of the Franchise Agreement to Company in the manner described in Section 5.4 below, together with the franchise fee payable with respect thereto. If Sub-franchisor shall fail to exercise its said right of first refusal, as aforesaid, Company may thereafter open [FRANCHISED BUSINESS] at such location.
3. With respect to any proposed area development agreement (pursuant to which the Company grants the right to open, but not Sub-franchise, two (2) or more Franchises within a defined development area), or Master Franchise agreement (pursuant to which the Company grants the right to open, or Sub-franchise others to open, two (2) or more Franchises within a defined development area), Company shall serve upon Sub-franchisor a written notice of its intention to enter into such agreement, together with two copies of the proposed area development or Master Franchise agreement, as applicable. Sub-franchisee shall have the right, thirty (30) days following the Company's service of such notice, to execute and return to Company both copies of the proposed area development or Master Franchise agreement, together with any fees payable to Company pursuant to the terms thereof. If Sub-franchisor has satisfied the conditions described in Section 2.2, Company shall execute and return one (1) copy of the area development or Master Franchise agreement to Sub-franchisor. If Sub-franchisor fails to exercise its right of first refusal as aforesaid or fails to satisfy the conditions described in Section 2.3, Company may thereafter enter into an area development or Master Franchise agreement, with such third party.

(iii) The Sub-franchisor’s rights of first refusal described herein shall be effective only if, and for so long as, a management agreement is in effect between Company and Sub-franchisor pursuant to Section 6.5 below.

# 2.2 Exercise of Right of Additional Development

At the time Company delivers to Sub-franchisor Company's written notice of its intention to undertake additional development in the Development Area, Company shall also deliver to Sub-franchisor two copies of the then-current Master Franchise agreement. The new Master Franchise agreement, which may vary substantially from this Agreement, will reflect Sub-franchisor’s new development obligation consistent with Company's plan for additional development set forth in its notice to Sub-franchisor. Within thirty (30) days after Sub-franchisor’s receipt of the new Master Franchise agreement, Sub-franchisor shall execute two copies of the Master Franchise agreement and return them to Company. If Sub-franchisor has so executed and returned the copies and has satisfied the conditions set forth in Section 4.5, Company will execute the copies and return one fully executed copy to Sub-franchisor.

# 2.3 Conditions to Exercise of Right of Additional Development

Sub-franchisor’s right to additional development described in Section 2.2 shall be subject to Sub-franchisor’s fulfilment of the following conditions precedent:

(a) Sub-franchisor shall have strictly performed all of its obligations under this Agreement and all other agreements between Company and Sub-franchisor including but not limited to the Area Development Agreements and all Franchise Agreements between Company, or an affiliate of Company, and Sub-franchisor, or an affiliate of Sub-franchisor.

(b) Sub-franchisor shall have demonstrated to Company's entire satisfaction, Sub-franchisor’s financial capacity to perform the additional development obligations set forth in the new Master Franchise agreement.

(c) Sub-franchisor and its Sub-franchisees shall collectively continue to operate, in the Development Area, an aggregate number of [FRANCHISED BUSINESSES] equal to or greater than the number required by the Minimum Development Obligation to be owned and operated by Sub-franchisor and the Sub-franchisees at the expiration of the Term.

1. **MASTER FRANCHISEE'S DEVELOPMENT OBLIGATION**

# Minimum Development Obligation

(a) Sub-franchisor shall construct, equip, open and continue to operate, and procure, screen, qualify, train and assist Sub-franchisees to construct, equip, open and operate, within the Development Area, not less than the cumulative number of [FRANCHISED BUSINESSES] set forth in Annexure “B”, which is annexed hereto and by this reference made a part hereof, in the manner and within each of the time periods (the “Development Periods”) specified therein (the “Minimum Development Obligation”).

(b) Each Franchise opened within the Development Area shall be the subject of a separate agreement. In the case of Sub-franchisor franchises, the Company and Sub-franchisor shall enter into a Franchise Agreement. In the case of [FRANCHISED BUSINESSES] operated by Sub-franchisees who are procured, qualified, trained and assisted by Sub-franchisor pursuant hereto, Sub-franchisor and such third-party Sub-franchisees shall enter into a Sub-franchise Agreement.

(c) Franchises which are the subject of a Franchise Agreement or Sub-franchise Agreement executed pursuant hereto, whether by Sub-franchisor or by a Sub-franchisee, shall be counted in determining whether the Minimum Development Obligation shall have been met within the applicable Development Period.

# 3.2 Force Majeure

The duties and obligations of the parties hereunder may be suspended upon the occurrence and continuation of any "Event of Force Majeure" which inhibits or prevents performance hereunder, and for a reasonable start-up period thereafter. An "Event of Force Majeure" shall mean any act, cause, contingency or circumstance beyond the reasonable control of such party (whether or not reasonably foreseeable), including, without limitation, to the extent beyond the reasonable control of such party, any governmental action, nationalisation, expropriation, confiscation, seizure, allocation, embargo, prohibition of import or export of goods or products, regulation, order or restriction (whether foreign, national or state), war (whether or not declared), civil commotion, disobedience or unrest, insurrection, public strike, riot or revolution, lack or shortage of, or inability to obtain, any labor, machinery, materials, fuel, supplies or equipment from normal sources of supply, strike, work stoppage or slowdown, lockout or other labour dispute, fire, flood, earthquake, drought or other natural calamity, weather or damage or destruction to plants and/or equipment, commandeering of vessels or other carriers resulting from acts of God, or any other accident, condition, cause, contingency or circumstances including (without limitation, acts of God) within or without [COUNTRY]. Neither party shall, in any manner whatsoever, be liable or otherwise responsible for any delay or default in, or failure of, performance resulting from or arising out of or in connection with any Event of Force Majeure and no such delay, default in, or failure of, performance shall constitute a breach by either party hereunder. As soon as reasonably possible following the occurrence of an Event of Force Majeure, the affected party shall notify the other party, in writing, as to the date and nature of such Event of Force Majeure and the effects of same. If any Event of Force Majeure shall prevent the performance of a material obligation of either party hereunder, and if the same shall have continued for a period of longer than [SPECIFY] days, then either party hereto shall have the right to terminate this Agreement by written notice to the other party hereto.

1. **EXCLUSIVITY**

For so long as this Agreement shall remain in effect, Company shall not operate, or grant a franchise to any person other than Sub-franchisor to operate any Franchise in the Development Area.

1. **ADDITIONAL COMMITMENTS OF COMPANY AND MASTER FRANCHISEE**

# 5.1 Training

(a) Within one (1) year following the effective date hereof, Sub-franchisor shall construct, equip, open and commence to operate at least one (1) Franchise, which shall function as both a Franchise and as a training facility for Sub-franchisor’s employees, and for the owners and employees of Sub-franchisees. Thereafter, Sub-franchisor shall continuously open, own and operate the number of Franchises required to be opened by Sub-franchisor (“Sub-franchisor Franchises”) as described in Annexure “B”, and at least one (1) of such Franchises shall be a training facility for the first ten (10) Franchises operating in the Development Area with an additional Sub-franchisor Franchise being designated as a training facility on each occasion that Sub-franchisor commences to develop each successive group of ten (10) Franchises. Sub-franchisor shall train Sub-franchisees' and Sub-franchisor’s employees in accordance with the terms of the individual Franchise Agreement or Sub-franchise Agreement for each Franchise in the Development Area and shall operate such training facility or facilities according to the standards, policies and procedures prescribed by Company in the Operations Manual and any other written communications from Company to Sub-franchisor from time to time.

(b) Not later than one hundred and twenty (120) days after the date of this Agreement, Company shall instruct Sub-franchisor in the Company's System by providing an initial training programme at an existing Franchised Business and/or at the Company's corporate offices, or at such other location as the parties may mutually agree, for such of Sub-franchisor’s management and supervisory personnel as Sub-franchisor may reasonably designate. Sub-franchisor shall bear all travel and living expenses of its said personnel in connection with such initial training. The number and type of personnel to be used by Company to provide training shall be wholly within the discretion of Company, provided, however, that such persons (“Company Trainers”) shall be sufficiently knowledgeable and capable, individually or together with other such persons, to provide instruction and training regarding sales promotion, and methods of operating the Franchised Business. Such initial training programme shall be of such duration, as Company shall determine to be necessary to enable Sub-franchisor to perform its obligations and to operate the Franchised Business pursuant hereto.

(c) Prior to the opening of Sub-franchisor’s first Franchise, at no additional charge to Sub-franchisor, Company shall cause one or more Company Trainers to visit the Franchise and provide additional training and operating assistance to Sub-franchisor in connection therewith, provided, however, that the timing and schedule of any such visit, as well as the number of Company Trainers, shall be subject to the mutual consent of the parties.

(d) Sub-franchisor shall have the right at any time after the first visit described in subsection (c) above to request Company to provide training or operating assistance in the Development Area; when so requested, Company shall provide personnel for such purposes, subject to their prior commitments, in such number and pursuant to such schedule as Company and Sub-franchisor may mutually agree.

(e) In connection with any of the visits to the Development Area described in this Section, Sub-franchisor shall advance or reimburse Company, at Company's election, for all travel, lodging, meals, and other living expenses, reasonably incurred by Company and its employees.

(f) Any visits by Company to Sub-franchisor’s business locations in addition to those requested by Sub-franchisor shall be at Company's own expense.

# Initial Materials

Company shall provide to Sub-franchisor, at no additional cost, within ninety (90) days after Sub-franchisor’s completion of the initial training programme described in Section 5.1, an initial package of materials described in Annexure “C” which is attached hereto and incorporated herein by reference. The initial materials to be provided by Company pursuant to this Section 5.2 do not constitute all of the materials, supplies, and services that will be necessary in order to conduct the Franchised Business.

# Sub franchising Manual

(a) Company shall provide to Sub-franchisor, concurrently with the commencement of Sub-franchisor’s training programme described in Section 5.1, one (1) copy of Company's sub franchising manual (the “Sub franchising Manual”), one (1) copy of the Policies and Procedures Manual (the “Operations Manual”), and (collectively referred to as the “Manuals”). Sub-franchisor shall conduct all sub franchising activities and all business activities and shall cause its Sub-franchisees to conduct their business activities, in strict accordance with Company's standard operational methods and procedures as prescribed from time to time in the Manuals. As used herein, the term “Manuals” shall be deemed to include the Manuals so delivered to Sub-franchisor, all amendments thereto, and all supplemental bulletins, notices and memoranda which prescribe standard methods or techniques of operation, and which Company may from time to time deliver to Sub-franchisor. The provisions and requirements set forth in the Manuals, and any additions, deletions or revisions thereto, shall not, in any event, alter Sub-franchisor's fundamental/material rights and obligations under this Agreement.

(b) Company shall have the right to modify or supplement the Manuals. Such modifications and supplements, which may include, without limitation, requirements to upgrade computer equipment, shall become effective and binding on Sub-franchisor fifteen (15) days after notice thereof is mailed or otherwise delivered to Sub-franchisor.

(c) The Manuals are the property of Company, and may not be duplicated, copied, disclosed or disseminated in whole or in part in any manner except with Company's express prior written consent. Sub-franchisor shall maintain the confidentiality and contents of the Manuals. Upon the termination of this Agreement, Sub-franchisor shall return to Company all copies of the Manuals in its possession or control.

# Sub franchising, Compliance with Laws

In connection with Sub-franchisor's solicitation of Sub-franchisees to operate Franchises in the Development Area, and the execution and performance of all Sub-franchise agreements entered into in connection therewith, Sub-franchisor shall comply with, and conduct all franchise promotion, advertising and other activities in accordance with [COUNTRY] laws relating to the offer and sale of franchises, and all other applicable laws, rules and regulations, and all of Company's standards, rules, policies and procedures in effect from time to time. Sub-franchisor shall prepare its own Uniform Franchise Offering Circular, shall register and maintain proper registrations as a Sub-franchisor in all states and jurisdictions where such registration is or shall be required, and shall at all times comply with all of the provisions of all other applicable national, state or local statutes, rules or ordinances. Sub-franchisor shall not file or use any offering circulars, prospectuses and other disclosure documents, whether related to sub franchising, securities offerings or other matters, without first having obtained the written consent thereto from Company, which it may grant or withhold in its sole discretion. Such consent shall not constitute a warranty or representation by Company that said document complies with any applicable law or that the disclosures therein made by Sub-franchisor are truthful and accurate, nor shall its review or consent with respect thereto in any way waive, reduce or impair the Company's right to be indemnified by Sub-franchisor pursuant to Section 12.2.

# Investigation and Qualification of Prospective Franchisees

(a) Each Franchise opened by a Sub-franchisee pursuant to this Agreement shall be the subject of a separate Sub-franchise Agreement between Sub-franchisor and such Sub-franchisee, upon Company's then current form. Sub-franchisor shall have no right to modify or offer to modify any Sub-franchise Agreement or other contract without Company's prior written approval.

(b) If Company shall approve a Sub-franchisee and a prospective franchise location, Sub-franchisor shall transmit to such Sub-franchisee for execution, copies of Company's then current Sub-franchise Agreement pertaining to the approved site and providing for an exclusive territory surrounding said Franchise, as determined by Company.

(c) Sub-franchisor shall investigate the qualifications of each prospective Sub-franchisee and the suitability of each prospective franchise location in the Development Area in accordance with Company's standards, policies, and procedures relating to qualification of franchisees and franchise sites then in effect and shall obtain all information required of prospective franchisees by Company.

(d) After Sub-franchisor is satisfied that a prospective Sub-franchisee and prospective franchise location meet the standards established by Company, Sub-franchisor may recommend to Company the approval of such prospective Sub-franchisee and a prospective location or locations for such Sub-franchisee. Sub-franchisor shall then furnish to Company all information relating to the prospective Sub-franchisee and any prospective franchise locations (including the terms and conditions of the proposed lease or purchase of each such location), which shall be required by Company in the form and manner customarily required by Company.

(e) The company may approve or reject a prospective Sub-franchisee or prospective franchise location for any reason and may seek further information with respect to the prospective Sub-franchisee and any such location or locations. Sub-franchisor shall cooperate with Company in any further investigation of the prospective Sub-franchisee or any such locations. If Company rejects a prospective Sub-franchisee or franchise location, Company shall provide Sub-franchisor with a written explanation of its reasons therefor.

(f) Sub-franchisor shall deliver to Company a copy of all correspondence with Sub-franchisees which asserts a breach or termination of a Sub-franchise Agreement, and all other correspondence with Sub-franchisees which is material to the franchise relationship, concurrently with its being sent or received by Sub-franchisor.

(g) Sub-franchisor shall not terminate any Sub-franchise Agreement with any Sub-franchisee without the prior consent of Company. Sub-franchisor shall, upon the request of Company, terminate any Sub-franchise Agreement with respect to which the Sub-franchisee has engaged in a gross, repeated, or continuous failure to comply with the terms of the Sub-franchise Agreement.

# Approval of Sub-franchisor's Franchise Sites, and Execution of the Franchise Agreement

(a) Each Sub-franchisor Franchise opened by Sub-franchisor pursuant to this Agreement shall be the subject of a separate Franchise Agreement between Sub-franchisor and Company upon the Company's then-current form. A copy of the form of Franchise Agreement which is currently in effect is attached hereto as Annexure “D”. Notwithstanding the then current terms being offered by Company:

(i) The initial franchise fees and continuing royalties payable by Sub-franchisor shall be determined in accordance with sections 6.2 and 6.3 below; and

(ii) Company shall not have the continuing obligation to provide to the Sub-franchisor any training, service and assistance to the extent that such training, service and assistance is customarily provided or required to be provided by Sub-franchisor to Sub-franchisees in the Development Area.

(b) After Sub-franchisor has located a site (for construction) of a proposed Sub-franchisor Franchise, Sub-franchisor shall submit to Company such information regarding the proposed site as Company shall require, in the form which Company shall from time to time require, together with the terms and conditions of any proposed lease or purchase relating to such site. The company may seek such additional information as it deems necessary within thirty (30) days of submission of the prospective site, and Master Franchise shall respond promptly to such request for additional information. If Company shall not reject the site in writing within thirty (30) days, or within thirty (30) days after a receipt of such additional information, the site shall be deemed approved. Company shall not unreasonably reject a proposed site nor unreasonably delay its approval or disapproval thereof.

(c) Promptly after approval of any site, Company shall deliver to Sub-franchisor two (2) execution copies of its then current Franchise Agreement pertaining to the approved site and providing for an exclusive territory surrounding said Franchise, as determined by Company in good faith, in accordance with Company's then-current policies and standards for exclusive territories for similarly situated Franchises. Sub-franchisor shall promptly execute and return two copies each of said Franchise Agreement together with the initial franchise fee payable pursuant to Section 6.1 below. Sub-franchisor shall then procure the site by purchase or lease as submitted and return an executed copy of the lease or other evidence of Sub-franchisor's right to occupy the approved site.

(d) Company shall, promptly upon receipt of said documents and initial franchise fee, execute and return to Sub-franchisor one copy each of the Franchise Agreement. Sub-franchisor shall then commence construction and operation of the Franchise pursuant to the terms of the Franchise Agreement.

# 5.7 Condition Precedent to Company's Obligations

It shall be a condition precedent to Company's obligations pursuant to Section 5.6, that (a) Sub-franchisor shall have performed all of its obligations under and pursuant to this Agreement and all other agreements between Sub-franchisor and Company, including but not limited to the Area Development Agreements and all Franchise Agreements entered into between Company and Sub-franchisor; and (b) Sub-franchisor shall cause such individuals who are the ultimate shareholders of Sub-franchisor or its parent company(s) to execute Company's standard form of unconditional guarantee of all of the obligations of Sub-franchisor or any subsidiary, as applicable, under any such Franchise Agreement.

# Inspection of Franchises and Operations

Sub-franchisor shall conduct inspections of all of the Franchises in the Development Area, and of its operations and the operations of all Sub-franchisees, in accordance with the standards from time to time established by Company, upon such schedules and according to such procedures as shall be agreed upon by Company and Sub-franchisor, acting in good faith, but, in any event, at least once during each calendar quarter, Sub-franchisor shall provide reports to Company with respect to the findings of such inspections, in such form and at such times as Company shall require.

# 5.9 Marketing and Promotion

Sub-franchisor shall participate in all promotion and marketing activities required by Company of its area developers, as required in the Franchise Agreements or otherwise.

# 5.10 Additional Assistance and Services

(a) Sub-franchisor shall provide all Sub-franchisees with such assistance and services as Company shall reasonably request and require from time to time in connection with the construction, equipping and opening of the Franchises within the Development Area, the sourcing of equipment, fixtures, furnishings, inventory and supplies for such Franchises, the advertising and promotion of such Franchises, and the supervision of the use, and compliance with Company's quality control standards in the use, of the Trademarks at such Franchises.

(b) The company will make available to Sub-franchisor the benefits of Company's information, experience, advice, guidance, and know-how, and, upon Sub-franchisor's reasonable request, Company shall counsel and assist Sub-franchisor with respect to the management and operations of its Franchised Business.

1. **PAYMENTS BY MASTER FRANCHISEE AND COMPENSATIONS FOR SERVICES**

# 6.1 Master Franchise Fee

Sub-franchisor shall pay to Company a non-refundable Master Franchise Fee of [R] payable upon the execution hereof.

# 6.2 Sub-franchisor Franchises—Initial Franchise Fees

Sub-franchisor shall pay to Company an initial franchise fee upon execution of each Franchise Agreement entered into between Company and Sub-franchisor equal to the (i) greater of [R], or (ii) [%] percent of the initial franchise fee then being charged by Sub-franchisor to its Sub-franchisees.

# 6.3 Sub-franchisor Franchises—Continuing Royalty

Sub-franchisor shall pay a monthly Continuing Royalty pursuant to each Franchise Agreement entered into between Company and Sub-franchisor in an amount equal to percent [%] of the “Gross Sales” (as such term is defined in the Franchise Agreement) of the Franchise which is the subject of such Franchise Agreement, during the period for which such fee is payable.

# 6.4 Sub franchising Fees

(a) Sub-franchisor shall pay to Company within five (5) days following the execution of each Sub-franchise Agreement, an amount equal to (i) [%] percent of the amount payable by Sub-franchisees to Sub-franchisor as the initial franchise fee under each Sub-franchise Agreement entered into between Sub-franchisor and a Sub-franchisee, or (ii) [**R**], whichever is greater.

(b) In addition, on or before the tenth (10th) day of each month, Sub-franchisor shall pay to Company an amount equal to (i) [%] percent of the monthly continuing royalties paid during the preceding month by all Sub-franchisees pursuant to Sub-franchise Agreements entered into pursuant to Section 5.4. or (ii)
[%] percent of the Gross Sales of all Sub-franchisees; whichever is greater.

(c) In the event any Sub-franchisee who enters into a Sub-franchise Agreement pursuant to Section 5.4 pays a transfer fee thereunder, Sub-franchisor shall pay Company a sum equal to [%] percent of the amount of the transfer fee paid by such Sub-franchisee.

(d) Any amounts not paid to Company when due shall bear interest until paid at the rate of [%] percent per annum. Sub-franchisor shall take all necessary steps promptly to collect sums due from Sub-franchisees pursuant to Sub-franchise Agreements.

# 6.5 Management Agreement

If Company and Sub-franchisor shall not have entered into a new Master Franchise agreement prior to the expiration of the Term hereof pursuant to Paragraphs 2.2 and 2.3 hereof, and if Sub-franchisor otherwise has strictly performed all of its obligations under this Agreement and all other agreements between Company and Sub-franchisor, upon the expiration of this Agreement, Company shall offer Sub-franchisor the right to enter into a management agreement, effective as of the expiration of the Term hereof, pursuant to which Sub-franchisor shall have the continuing right to supervise and provide services to Sub-franchisees within the Development Area and to receive compensation therefore upon the terms described therein.

1. **TRADEMARKS**

# 7.1 Ownership

Company shall own all right, title, and interest to the Trademarks, and to all applications, registrations, and other filings or notices which may be made with respect thereto in any jurisdiction, provided that Sub-franchisor shall be a licensee pursuant to individual Franchise Agreements in accordance with the terms and conditions set forth herein.

# 7.2 Acts in Derogation of the Trademarks

Sub-franchisor shall not do or permit any act or thing to be done in derogation of any of the rights of Company in connection with the Trademarks, either during the term of this Agreement or after, and Sub-franchisor shall use the Trademarks only for the uses and in the manner licenced or franchised or both under, and as provided in, this Agreement.

# 7.3 Prohibition Against Disputing Rights

During or after the term of this Agreement, Sub-franchisor shall not in any way dispute or impugn the validity of the Trademarks, or the rights of Company to them, or the rights of Company or other franchisees of Company to use them.

# 7.4 Termination of Trademark Use

Upon the termination of this Agreement for any reason, Sub-franchisor shall forthwith deliver and surrender up to Company each and all of the Trademarks, and any physical objects are bearing or containing any of the Trademarks. Alternatively, at Company's election, Sub-franchisor shall obliterate or destroy any Trademarks in Sub-franchisor's possession.

# 7.5 Non-Use of Trade Name

If Sub-franchisor is a company, it shall not use any of the Trademarks or Company's trade name, or any words or symbols that are confusingly similar to them, in whole or in part, in Sub-franchisor's corporate name without Company's prior written consent. In particular, Sub-franchisor shall not use the words [FRANCHISE NAME] or any variant as part of Sub-franchisor's corporate name without first obtaining Company's express written consent.

# 7.6 Assumed Name Registration

If Sub-franchisor is required to do so by any statute or ordinance, Sub-franchisor shall act promptly upon the execution of this Agreement file with applicable government agencies or offices, a notice of Sub-franchisor's intent to conduct Sub-franchisor's business under the name [FRANCHISE NAME]. Promptly upon the termination of this Agreement for any reason whatsoever Sub-franchisor shall execute and file such documents as may be necessary to revoke or terminate such assumed name registration, and if Sub-franchisor fails to promptly execute and file such documents as may be necessary to effectively revoke and terminate such assumed name registration, Sub-franchisor hereby irrevocably appoints Company as Sub-franchisor's attorney-in-fact to do so for and on the behalf of Sub-franchisor.

# 7.7 Yellow Page Telephone Listing

Sub-franchisor acknowledges that there shall be substantial confusion among the public if, after the termination of this Agreement, Sub-franchisor continues to use the telephone number listed in and telephone directory under the name [FRANCHISE NAME], or some other name confusingly similar thereto. Accordingly, effective upon the expiration or termination of this Agreement for any reason whatsoever, Sub-franchisor shall direct the telephone company servicing Sub-franchisor to disconnect the telephone number listed under the Company name in the then-current telephone directory or transfer such number to Company or to such person and location as Company directs. If Sub-franchisor fails to promptly so direct the telephone company in accordance with Company’s instructions, Sub-franchisor hereby irrevocably appoints Company as attorney-in-fact to direct the telephone company to make such transfer. Sub-franchisor understands and agrees that notwithstanding any billing arrangements with any telephone company or yellow pages directory company, Company shall be deemed for purposes hereof to be the subscriber of such telephone numbers, with full authority to instruct the applicable telephone or yellow pages directory company as to the use and disposition of telephone listings and numbers. Sub-franchisor hereby agrees to release, indemnify and hold such companies harmless from any damages or loss on account of following Company's said instructions.

# 7.8 Trademark Changes

From time to time, in the Manuals, or in directives or bulletins supplemental to the Company may change, improve or modify the Trademarks. Sub-franchisor shall accept, use, and display, as may be applicable, such modified Trademarks in accordance with the procedures, policies, rules and regulations contained in the Manuals, as though they were specifically set forth in this Agreement.

# 7.9 Conflicting and Alternative Names

Company and the Sub-franchisor agree that in the event that the Sub-franchisor or any of its Sub-franchisees shall be enjoined, restrained, or otherwise prevented from operating under the Company name or service marks or associated logotypes in the Development Area as a result of a binding order entered by any court of competent jurisdiction, the Sub-franchisor and/or its Sub-franchisees may thereafter operate under such alternative names, service marks and/or associated logotypes as are reasonably acceptable to Company. Such right shall be the sole remedy of the Sub-franchisor and its Sub-franchisees in such event, and the Sub-franchisor shall hold Company harmless from any claims by the Sub-franchisor or its Sub-franchisees with respect thereto.

# 7.10 Prosecution of Infringers

If Sub-franchisor receives notice or is informed or learns that any third party, which Sub-franchisor believes to be unauthorised to use the Trademarks, is using the Trademarks or any variant of them, Sub-franchisor shall promptly notify Company of the facts relating to such alleged infringing use. Thereupon, Company, in its sole discretion, shall determine whether or not it wishes to take any action against such third person on account of such alleged infringement. Sub-franchisor shall have no right to make any demand against any such alleged infringer or to prosecute any claim of any kind or nature whatsoever against such alleged infringer for or on account of such infringement.

# 7.11 Non-Ownership of Trademarks

Sub-franchisor has no right, title or interest in or to any of the Trademarks, except as granted to it in this Agreement. Sub-franchisor acknowledges that Sub-franchisor now asserts no claim and later shall assert no claim to any goodwill, reputation or ownership of the Trademarks by virtue of Sub-franchisor's licenced or franchised use or both of them, or otherwise.

1. **ASSIGNABILITY**

# 8.1 Assignability by Company

(a) Company shall have the right, but not the obligation, to cause a Company subsidiary or affiliate to perform any or all of its obligations and exercise any or all of Company's rights hereunder and under any Franchise Agreement, and to require Sub-franchisor to perform any or all of its obligations hereunder or under any Franchise Agreement, in favour of such subsidiary or affiliate, by delivery of written notice thereof to Sub-franchisor and Sub-franchisee. Company hereby guarantees those obligations it causes the subsidiary or affiliate to perform.

(b) Company shall have the right to assign this Agreement, or any of its rights and privileges hereunder to any other person, firm or company, other than a Company subsidiary or affiliate, without Sub-franchisor's prior consent, and Company shall not be liable for any obligations accruing hereunder after the effective date of such assignment; provided the assignee shall expressly assume and agree to perform Company's obligations under this Agreement and is reasonably capable of performing them.

# 8.2 Assignment by Sub-franchisor

(a) This Agreement has been entered into by Company *in re*liance upon and in consideration of the singular personal skills and qualifications of Sub-franchisor and the trust and confidence reposed in Sub-franchisor or, in the case of a corporate or partnership Sub-franchisor, the principal officers or partners thereof who will actively and substantially participate in the ownership and operation of the area development franchise as contemplated by this Agreement. Therefore, neither Sub-franchisor's interest in this Agreement nor any of its rights or privileges hereunder shall be assigned or transferred, voluntarily or involuntarily, in whole or in part, by operation of law or otherwise, in any manner, without the prior written approval of Company.

(b) The company may impose any reasonable condition(s) to the granting of its consent to such assignment. Without limiting the generality of the foregoing, the imposition by Company of any or all of the following conditions to its consent to any such assignment shall be deemed to be reasonable:

(i) that the assignee (or the principal officers, shareholders, directors or general partners of the assignee in the case of a corporate or partnership assignee) demonstrate that it has the skills, qualifications and economic resources necessary, in Company's judgment, reasonably exercised, to own and operate the area development Franchised Business contemplated by this Agreement, and by all other agreements which may then be in effect between Company and such assignee, and by all other agreements proposed to be assigned to such assignee including but not limited to all Franchise Agreements and Franchise Agreements;

 (ii) that such assignment shall include an assignment of all of the assignor's rights and interest in each and every then existing Franchise Agreement and Sub-franchise Agreement to the same assignee, and that the assignee shall expressly assume in writing for the benefit of Company all of the obligations of Sub-franchisor under this Agreement and all other agreements proposed to be assigned to such assignee;

(iii) that the assignee shall have completed the Company's training programme to Company's satisfaction, exercised in good faith;

(iv) that as of the date of any such assignment, the assignor shall have strictly complied with all of its obligations to Company, whether under this Agreement or any other agreement, arrangement or understanding with Company;

(v) that the assignee is not then in default of any of obligation to Company under any agreement between such assignee and Company;

(vi) that the assignor or assignee shall pay to Company a transfer fee of [R] which is reasonably required to cover Company's expenses relating to said assignment and a training fee of [R].

(c) Sub-franchisor shall not, in any event, have the right to pledge, encumber, charge, hypothecate or otherwise give any third party a security interest in this Agreement in any manner whatsoever without the express prior written permission of Company, which permission may be withheld for any reason whatsoever in Company's sole subjective judgment.

1. **NON-COMPETITION**

# 9.1 In Term

Except as expressly set forth in Annexure “E” hereto, during the term of this Agreement, neither Sub-franchisor, nor any officer, director, controlling shareholder, or direct or indirect parent or subsidiary company, or general or limited partner of a corporate or partnership Sub-franchisor, shall either directly or indirectly, own, operate, advise, be employed by, or have any interest in any business whether located within or outside the Development Area that features [PRODUCT/SERVICE DESCRIPTION], unless Company shall first consent thereto in writing.

# 9.2 Post-Term

Except as expressly set forth in Annexure “E” hereto, following the assignment, expiration or termination hereof, for any reason, neither Sub-franchisor, nor any officer, director, shareholder, direct or indirect parent or subsidiary company, or general or limited partner of a corporate or partnership Sub-franchisor, shall either directly or indirectly, own, operate, advise, be employed by, or have any interest in any business whether located within or outside the Development Area that features [PRODUCT/SERVICE DESCRIPTION], or use any of the Company's System, procedures, or trade secrets. Sub-franchisor will have the burden of establishing that any such activity by it will not involve the use of benefits provided under this Agreement or constitute unfair competition with Company or other franchisees of Company.

# 9.3 Scope

The parties have attempted in Sections 9.1 and 9.2 above to limit the Sub-franchisor's right to compete only to the extent necessary to protect the Company from unfair competition. The parties hereby expressly agree that if the scope or enforceability of Sections 9.1 or 9.2 is disputed at any time by Sub-franchisor, a court or arbitrator, as the case may be, may modify either or both of such provisions to the extent that it deems necessary to make such provisions enforceable under applicable law. In addition, the Company reserves the right to reduce the scope of either, or both, of said provisions without the Sub-franchisor's consent, at any time or times, effective immediately upon notice to Sub-franchisor.

1. **TERMINATION**

The following transactions or occurrences shall constitute material events of default (each an "Event of Default") by the applicable party (the "defaulting party") hereunder such that, in addition to and without prejudice to or limiting any other rights and remedies available to the non-defaulting party at law or in equity the non-defaulting party may elect to immediately and prospectively terminate this Agreement at the sole discretion of the non-defaulting party by giving written notice thereof to the other party at any time after the occurrence of an Event of Default setting forth sufficient facts to establish the existence of such Event of Default.

**10.1 Material Breach**

A material breach by a party of any material covenant, material warranty, or material representation contained herein, where such defaulting party fails to cure such breach within [NUMBER] calendar days after receipt of written notice thereof, or within such specific cure period as is expressly provided for elsewhere in this Agreement; or

**10.2 Insolvency and/or Bankruptcy**

A party makes an attempt to make any arrangement for the benefit of creditors, or a voluntary or involuntary bankruptcy, insolvency or assignment for the benefit of creditors of a party or in the event any action or proceeding is instituted relating to any of the foregoing, and the same is not dismissed within [NUMBER] calendar days after such institution; or

**10.3 Failure to Make Payment**

A failure by either party to make payment of any monies payable pursuant to this Agreement, as and when payment is due. Except as otherwise provided herein, no termination of this Agreement for any reason shall relieve or discharge any party hereto from any duty, obligation or liability hereunder which was accrued as of the date of such termination.

1. **ARBITRATION**

Any controversy or claim arising out of or relating to this Agreement, or any breach thereof, including, without limitation, any claim that said Agreement, or any part thereof, is invalid, illegal or otherwise voidable or void, or the enforcement of any right or obligation which by its nature survives the expiration or termination hereof, shall be submitted to arbitration; provided, however, that this clause shall not be construed to limit Company from bringing any action in any court of competent jurisdiction for injunctive, or other provisional relief as Company deems to be necessary or appropriate to protect its trademarks, trade names, service marks, logotypes, insignia, trade dress and designs, or to enjoin or restrain Sub-franchisor from otherwise causing immediate and irreparable harm to Company. This arbitration provision shall be deemed to be self-executing, and in the event that either party fails to appear at any properly noticed arbitration proceeding, an award may be entered against such party notwithstanding said failure to appear.

In any arbitration held pursuant to this Section, (a) any and all pre-trial discovery devices, including, but not limited to, depositions, written interrogatories and requests for production, inspection and copying of documents, and (b) any and all pre-judgment remedies, including, but not limited to, attachments, claim and delivery proceedings, temporary protective orders, injunctions and receiverships, will be available to the parties hereto as if the subject matter of the arbitration were pending in a civil action before a Superior Court of [COUNTRY].

1. **GENERAL PROVISIONS AND CONDITIONS**

# 12.1 Relationship of Sub-franchisor to Company

It is expressly agreed that the parties intend by this Agreement to establish between Company and Sub-franchisor the relationship of franchisor and franchisee. Except as expressly provided herein, it is further agreed that Sub-franchisor has no authority to create or assume in Company's name or on behalf of Company, any obligation, express or implied, or to act or purport to act as agent or representative on behalf of Company for any purpose whatsoever. In no event shall either party be deemed to be fiduciaries of the other. Neither Company nor Sub-franchisor is the employer, employee, agent, partner or co-venturer of or with the other, each being independent contractors. Sub-franchisor agrees that he will not hold himself out as the agent, employee, partner or co-venturer of Company, or as having any of the aforesaid authority. All employees hired by or working for Sub-franchisor shall be the employees of Sub-franchisor and shall not, for any purpose, be deemed employees of Company or subject to Company control.

# 12.2 Indemnity

Each party (the "Indemnifying Party") shall indemnify and hold the other party and its affiliates and their respective employees, officers, agents, attorneys, stockholders and directors, and their respective permitted successors, licensees and assigns (the "Indemnified Party(ies)") harmless from and against (and shall pay as incurred) any and all claims, proceedings, actions, damages, costs, expenses and other liabilities and losses (whether under a theory of strict liability, or otherwise) of whatsoever kind or nature

("Claim(s)") incurred by, or threatened, imposed or filed against, any Indemnified Party (including, without limitation, (a) actual and reasonable costs of defense, which shall include without limitation court costs and reasonable attorney and other reasonable expert and reasonable third-party fees; and (b) to the extent permitted by Law, any fines, penalties and forfeitures) in connection with any proceedings against an Indemnified Party caused by any breach (or, with respect to third-party claims only, alleged breach) by the Indemnifying Party of any representation, term, warranty or agreement hereunder. Neither party shall settle, compromise or consent to the entry of any judgement  in or otherwise seek to terminate any pending or threatened Claim *in re*spect of which the Indemnified Party is entitled to indemnification hereunder (whether or not the Indemnified Party is a party thereto), without the prior written consent of the other party hereto; provided, however, that the Indemnifying Party shall be entitled to settle any claim without the written consent of the Indemnified Party so long as such settlement only involves the payment of money by the Indemnifying Party and in no way affects any rights of the Indemnified Party.

# 12.3 No Consequential Damages for Legal Incapacity

Neither party shall be liable to the other for any consequential damages, including but not limited to lost profits, increased construction or occupancy costs, or other losses, costs and expenses by reason of any legal incapacity during the Term, or other conduct not due to the gross negligence or misfeasance of such party.

# 12.4 Waiver and Delay

Except as otherwise expressly provided to the contrary, no waiver by Company of any breach or series of breaches or defaults in performance by the Sub-franchisor, and no failure, refusal or neglect of Company to exercise any right, power or option given to it hereunder or under any other agreement between Company and Sub-franchisor, whether entered into before, after or contemporaneously with the execution hereof (and whether or not related hereto) or to insist upon strict compliance with or performance of the Sub-franchisor's obligations under this Agreement or any other agreement between Company and Sub-franchisor, whether entered into before, after or contemporaneously with the execution hereof (and whether or not related hereto), shall constitute a novation, or a waiver of the provisions of this Agreement with respect to any subsequent breach thereof or a waiver of Company's right at any time thereafter to require exact and strict compliance with the provisions thereof.

# 12.5 Survival of Covenants

The covenants contained in this Agreement which, by their terms, require performance by the parties after the expiration or termination of this Agreement, shall be enforceable notwithstanding said expiration or other termination of this Agreement for any reason whatsoever.

# 12.6 Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the legal representatives, successors and assigns of Company and Sub-franchisor.

# 12.7 Joint and Several Liability

If either party consists of more than one person or entity, or a combination thereof, the obligations and liabilities of each such person or entity to the other hereunder are joint and several.

# 12.8 Governing Law

This Agreement shall be governed by, and construed under, the laws of [Country] of [COUNTRY].

# 12.9 Entire Agreement

This Agreement and the Annexures incorporated herein contain all of the terms and conditions agreed upon by the parties hereto with reference to the subject matter hereof. Except as may be described in Annexure “F,” which is annexed hereto and made a part hereof by this reference, no other agreements, written or oral, shall be deemed to exist or to bind any of the parties hereto and all prior agreements, understandings and representations, are merged herein and superseded hereby. Each party represents to the other that there are no contemporaneous agreements or understandings between the parties relating to the subject matter of this Master Franchise Agreement that are not contained herein. No officer or director, employee or agent of Company has any authority to make any representation or promise not contained in this Agreement or any Offering Circular for prospective Master Franchisees required by applicable law, and the parties agree that each has executed this Agreement without reliance upon any such representation or promise. This Agreement cannot be modified or changed except by written instrument signed by all of the parties hereto.

# 12.10 Titles for Convenience

Article and Section titles used in this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any of the terms, provisions, covenants, or conditions of this Agreement.

# 12.11 Gender

All terms used in any one number or gender shall extend to mean and include any other number and gender as the facts, context, or sense of this Agreement or any article or paragraph hereof may require.

# 12.12 Severability

Nothing contained in this Agreement shall be construed as requiring the commission of any act contrary to law. Whenever there is any conflict between any provisions of this Agreement and any present or future statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the provisions of this Agreement thus affected shall be curtailed and limited only to the extent necessary to bring them within the requirements of the law. In the event that any part, article, paragraph, sentence or clause of this Agreement shall be held to be indefinite, invalid or otherwise unenforceable, the indefinite, invalid or unenforceable provision shall be deemed deleted, and the remaining part of this Agreement shall continue in full force and effect.

# 12.13 Fees and Expenses

Should any party hereto commence any action or proceeding for the purpose of enforcing, or preventing the breach of, any provision hereof, whether by arbitration, judicial or *quasi*-judicial action or otherwise, or for damages for any alleged breach of any provision hereof, or for a declaration of such party's rights or obligations hereunder, then the prevailing party shall be reimbursed by the losing party for all costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorneys' fees for the services rendered to such prevailing party.

# 12.14 Notices

Except as otherwise expressly provided herein, all written notices and reports permitted or required to be delivered by the parties pursuant hereto shall be deemed so delivered at the time delivered by hand, one (1) business day after transmission by facsimile, telegraph, email or other electronic system; three (3) days after deposit via registered or certified mail, return receipt requested; or one (1) business day after placement with National Express, or other reputable air courier service, requesting delivery on the most expedited basis available, postage prepaid and addressed as follows:

[ADDRESS]

1. **COMPANY'S REPRESENTATIONS AND WARRANTIES**

The company represents and warrants that:

* + 1. It is a company organised and existing under the laws of [SPECIFY COUNTRY AND/OR COUNTRY] with its principal place of business in [SPECIFY COUNTRY];
		2. The undersigned has the full right, power and authority to sign this Agreement on behalf of Company;
		3. The execution, delivery and performance of this Agreement does not and will not, violate any provisions of [COUNTRY] articles or certificates or in company and bylaws, or any contract or other Agreement to which Company is a party;
		4. There is no broker, finder or intermediary involved in connection with the negotiations and discussions incident to the execution of this Agreement, and no broker, finder, agent or intermediary who might be entitled to a fee, commission or any other payment upon the consummation of the transactions contemplated by this Agreement;
		5. This Agreement has been duly executed and delivered and constitutes a legal, valid and binding obligation, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganisation, moratorium or other similar laws now or hereinafter in effect, affecting the enforcement of creditors' rights in general and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.
1. **SUB-FRANCHISOR'S REPRESENTATIONS AND WARRANTIES**

Sub-franchisor represents and warrants that:

* + - 1. It is a company organised and existing under the laws of the [SPECIFY COUNTRY AND/OR COUNTRY] with its principal place of business in the [SPECIFY COUNTRY];
			2. The undersigned has the full right, power and authority to sign this Agreement on behalf of Sub-franchisor;
			3. There is no broker, finder or intermediary involved in connection with the negotiations and discussions incident to the execution of this Agreement, and no broker, finder, agent or intermediary who might be entitled to a fee, commission or any other payment upon the consummation of the transactions contemplated by this Agreement;
			4. This Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of Sub-franchisor enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganisation, moratorium or other similar laws now or hereinafter in effect, affecting the enforcement of creditors' rights in general and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law; and
			5. The execution, delivery and performance of this Agreement does not, and will not, violate any provisions of Sub-franchisor's articles or certificates of in company and bylaws, or any contract or other Agreement to which Sub-franchisor is a party.

# 15. TIME OF THE ESSENCE

Time shall be of the essence for all purposes of this Agreement.

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

COMPANY SUB-FRANCHISOR

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**ANNEXURE A**

DEVELOPMENT AREA

**ANNEXURE B**

MINIMUM DEVELOPMENT OBLIGATIONS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Development Period Ending | Cumulative Franchises in operation | Total Franchises to be opened during period | Number of Sub-Franchises to be opened during this period | Number of Sub-Franchises to be opened during period |
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**ANNEXURE C**

INITIAL MATERIALS

**ANNEXURE D**

FRANCHISE AGREEMENT

**ANNEXURE E**

TERM & POST TERM COMPETITION

**ANNEXURE F**