**MASTER FRANCHISE AGREEMENT**

This Agreement of Master Franchise ("Agreement") is made and effective this [DATE],

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

[YOUR COMPLETE ADDRESS]

**AND: [SUBFRANCHISOR NAME]** (the "Subfranchisor"), an individual with his main address located at OR a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

[COMPLETE ADDRESS]

WHEREAS, the 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 COMPANIES OR GOVERNMENT]; and

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

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

WHEREAS, the Subfranchisor desires to build and operate [FRANCHISE NAME], and procure, qualify, train and assist Subfranchisees to build and operate [FRANCHISED BUSINESS], and Company desires to grant to the Subfranchisor the right to build and operate, and procure, qualify, train and assist the Subfranchisees 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**

The Company hereby grants to the Subfranchisor, and the Subfranchisor hereby accepts, the right during the Term to open and operate [FRANCHISED BUSINESS], and to procure, screen, qualify, train and assist Subfranchisees to open and operate [FRANCHISED BUSINESS], in the Development Area more fully described in Appendix “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 will 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 the Company will determine that further development of the Development Area following the Term is desirable, the Company will notify the Subfranchisor 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, the Subfranchisor will have a prior right to undertake the additional development which the Company will have set forth in its notice to the Subfranchisor, which right of additional development will be exercised only in accordance with Section 2.3. Such right of additional development by the Subfranchisor will arise upon the expiration of each successive Master Franchise agreement between the Company and the Subfranchisor for so long as the 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 the Subfranchisor, the 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 the Company will have notified the Subfranchisor prior to the expiration of the Term that further development of the Development Area is not then desirable, the 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, will be subject to the Subfranchisor's right of first refusal with respect thereto, which will be exercised, if at all, in the following manner:
       1. In the case any additional [FRANCHISED BUSINESSES] are to be developed by the Company, the Company will serve upon the Subfranchisor 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. The Subfranchisor will 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 the Subfranchisor fails to exercise its said right of first refusal, as aforesaid, the Company may thereafter open [FRANCHISED BUSINESS] at such location.
       2. With respect to any proposed area development agreement (pursuant to which the Company grants the right to open, but not the subfranchise, 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 the subfranchise others to open, two (2) or more Franchises within a defined development area), the Company will serve upon the Subfranchisor 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. The Subfranchisee will have the right, thirty (30) days following the Company's service of such notice, to execute and return to the Company both copies of the proposed area development or Master Franchise agreement, together with any fees payable to the Company pursuant to the terms thereof. If the Subfranchisor has satisfied the conditions described in Section 2.2, the Company will execute and return one (1) copy of the area development or Master Franchise agreement to the Subfranchisor. If the Subfranchisor fails to exercise its right of first refusal as aforesaid or fails to satisfy the conditions described in Section 2.3, the Company may thereafter enter into an area development or Master Franchise agreement, with such third party.
       3. The Subfranchisor's rights of first refusal described herein will be effective only if, and for so long as, a management agreement is in effect between the Company and the Subfranchisor pursuant to Section 6.5 below.

# 2.2 Exercise of Right of Additional Development

At the time the Company delivers to the Subfranchisor the Company's written notice of its intention to undertake additional development in the Development Area, the Company will also deliver to the Subfranchisor two (2) copies of the then-current Master Franchise agreement. The new Master Franchise agreement, which may vary substantially from this Agreement, will reflect the Subfranchisor's new development obligation consistent with the Company's plan for additional development set forth in its notice to the Subfranchisor. Within thirty (30) days after the Subfranchisor's receipt of the new Master Franchise agreement, the Subfranchisor will execute two (2) copies of the Master Franchise agreement and return them to the Company. If the Subfranchisor has so executed and returned the copies and has satisfied the conditions set forth in Section 4.5, the Company will execute the copies and return one fully executed copy to the Subfranchisor.

# 2.3 Conditions to Exercise of Right of Additional Development

The Subfranchisor's right to additional development described in Section 2.2 will be subject to the Subfranchisor's fulfilment of the following conditions precedent:

2.3.1 The Subfranchisor will have strictly performed all of its obligations under this Agreement and all other agreements between the Company and the Subfranchisor including but not limited to the Area Development Agreements and all Franchise Agreements between the Company, or an affiliate of the Company, and the Subfranchisor, or an affiliate of the Subfranchisor.

2.3.2 The Subfranchisor will have demonstrated to the Company's entire satisfaction, the Subfranchisor's financial capacity to perform the additional development obligations set forth in the new Master Franchise agreement.

2.3.3 The Subfranchisor and its Subfranchisees will collectively continue to operate, in the Development Area, a total number of [FRANCHISED BUSINESSES] equal to or greater than the number required by the Minimum Development Obligation to be owned and operated by the Subfranchisor and the Subfranchisees at the expiration of the Term.

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

# Minimum Development Obligation

3.1.1 The Subfranchisor will construct, equip, open and continue to operate, and procure, screen, qualify, train and assist the Subfranchisees to construct, equip, open and operate, within the Development Area, not less than the cumulative number of [FRANCHISED BUSINESSES] set forth in Appendix “B”, which is appended 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”).

3.1.2 Each Franchise opened within the Development Area will be the subject of a separate agreement. In the case of the Subfranchisor franchises, the Company and the Subfranchisor will enter into a Franchise Agreement. In the case of [FRANCHISED BUSINESSES] operated by the Subfranchisees who are procured, qualified, trained and assisted by the Subfranchisor pursuant hereto, the Subfranchisor and such third party Subfranchisees will enter into a Subfranchise Agreement.

3.1.3 Franchises which are the subject of a Franchise Agreement or Subfranchise Agreement executed pursuant hereto, whether by the Subfranchisor or by a Subfranchisee, will be counted in determining whether the Minimum Development Obligation will have been met within the applicable Development Period.

# 3.2 Force Majeure

The responsibities 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" will 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 labour, 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 will, 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 will constitute a breach by either party hereunder. As soon as reasonably possible following the occurrence of an Event of Force Majeure, the affected party will 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 will prevent the performance of a material obligation of either party hereunder, and if the same will have continued for a period of longer than [SPECIFY] days, then either party hereto will have the right to end this Agreement by written notice to the other party hereto.

1. **EXCLUSIVITY**

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

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

# 5.1 Training

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

5.1.2 Not later than one hundred and twenty (120) days after the date of this Agreement, the Company will instruct the Subfranchisor 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 the Subfranchisor's management and supervisory personnel as the Subfranchisor may reasonably designate. The Subfranchisor will 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 the Company to provide training will be wholly within the discretion of the Company, provided, however, that such persons (“Company Trainers”) will 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 will be of such duration, as the Company will determine to be necessary to enable the Subfranchisor to perform its obligations and to operate the Franchised Business pursuant hereto.

5.1.3 Prior to the opening of the Subfranchisor's first Franchise, at no additional charge to the Subfranchisor, the Company will cause one or more Company Trainers to visit the Franchise and provide additional training and operating assistance to the Subfranchisor in connection therewith, provided, however, that the timing and schedule of any such visit, as well as the number of Company Trainers, will be subject to the mutual consent of the parties.

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

5.1.5 In connection with any of the visits to the Development Area described in this Section, the Subfranchisor will advance or reimburse the Company, at the Company's election, for all travel, lodging, meals, and other living expenses, reasonably incurred by the Company and its employees.

5.1.6 Any visits by the Company to the Subfranchisor's business locations in addition to those requested by the Subfranchisor will be at the Company's own expense.

# Initial Materials

The Company v provide to the Subfranchisor, at no additional cost, within ninety (90) days after the Subfranchisor's completion of the initial training programme described in Section 5.1, an initial package of materials described in Appendix “C” which is attached hereto and incorporated herein by reference. The initial materials to be provided by the 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.

# Subfranchising Manual

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

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

5.3.3 The Manuals are the property of the Company, and may not be duplicated, copied, disclosed or disseminated in whole or in part in any manner except with the Company's express prior written consent. The Subfranchisor will preserve the confidentiality and contents of the Manuals. Upon the termination of this Agreement, the Subfranchisor will return to the Company all copies of the Manuals in its possession or control.

# 5.4 Subfranchising, Compliance with Laws

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

# Investigation and Qualification of Prospective Franchisees

5.5.1 Each Franchise opened by a Subfranchisee pursuant to this Agreement will be the subject of a separate Subfranchise Agreement between the Subfranchisor and such Subfranchisee, upon Company's then-current form. The Subfranchisor will have no right to modify or offer to modify any Subfranchise Agreement or other contract without the Company's prior written approval.

5.5.2 If the Company approves a Subfranchisee and a prospective franchise location, the Subfranchisor will transmit to such Subfranchisee for execution, copies of the Company's then current Subfranchise Agreement pertaining to the approved site and providing for an exclusive territory surrounding said Franchise, as determined by the Company.

5.5.3 The Subfranchisor will investigate the qualifications of each prospective Subfranchisee and the suitability of each prospective franchise location in the Development Area in accordance with the Company's standards, policies, and procedures relating to qualification of franchisees and franchise sites then in effect, and will obtain all information required of prospective franchisees by the Company.

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

5.5.5 The Company may approve or reject a prospective Subfranchisee or prospective franchise location for any reason and may seek further information with respect to the prospective Subfranchisee and any such location or locations. The Subfranchisor will cooperate with the Company in any further investigation of the prospective Subfranchisee or any such locations. If the Company rejects a prospective Subfranchisee or franchise location, the Company will provide the Subfranchisor with a written explanation of its reasons therefor.

5.5.6 The Subfranchisor will deliver to the Company a copy of all correspondence with the Subfranchisees which asserts a breach or termination of a Subfranchise Agreement, and all other correspondence with the Subfranchisees which is material to the franchise relationship, concurrently with its being sent or received by the Subfranchisor.

5.5.7 The Subfranchisor will not end any Subfranchise Agreement with any Subfranchisee without the prior consent of the Company. The Subfranchisor will, upon the request of the Company, end any Subfranchise Agreement with respect to which the Subfranchisee has engaged in a gross, repeated, or continuous failure to comply with the terms of the Subfranchise Agreement.

# Approval of Subfranchisor's Franchise Sites, and Execution of Franchise Agreement

5.6.1 Each Subfranchisor Franchise opened by the Subfranchisor pursuant to this Agreement will be the subject of a separate Franchise Agreement between the Subfranchisor and the 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 Appendix “D”. Notwithstanding the then current terms being offered by the Company:

5.6.1.1 The initial franchise fees and continuing royalties payable by the Subfranchisor will be determined in accordance with sections 6.2 and 6.3 below; and

5.6.1.2 The Company will not have the continuing obligation to provide to the Subfranchisor any training, service and assistance to the extent that such training, service and assistance is customarily provided or required to be provided by the Subfranchisor to the Subfranchisees in the Development Area.

5.6.2 After the Subfranchisor has located a site (for construction) of a proposed Subfranchisor Franchise, the Subfranchisor will submit to the Company such information regarding the proposed site as the Company will require, in the form which the Company will 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 the Master Franchise will respond promptly to such request for additional information. If the Company will not reject the site in writing within thirty (30) days, or within thirty (30) days after a receipt of such additional information, the site will be deemed approved. The Company will not unreasonably reject a proposed site nor unreasonably delay its approval or disapproval thereof.

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

5.6.4 The Company will, promptly upon receipt of said documents and initial franchise fee, execute and return to the Subfranchisor one (1) copy each of the Franchise Agreement. The Subfranchisor will 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 will be a condition precedent to the Company's obligations pursuant to Section 5.6, that (a) the Subfranchisor will have performed all of its obligations under and pursuant to this Agreement and all other agreements between the Subfranchisor and the Company, including but not limited to the Area Development Agreements and all Franchise Agreements entered into between the Company and the Subfranchisor; and (b) the Subfranchisor will cause such individuals who are the ultimate shareholders of the Subfranchisor or its parent company(ies) to execute the Company's standard form of unconditional guarantee of all of the obligations of the Subfranchisor or any subsidiary, as applicable, under any such Franchise Agreement.

# Inspection of Franchises and Operations

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

# 5.9 Marketing and Promotion

The Subfranchisor will participate in all promotion and marketing activities required by the Company of its area developers, as required in the Franchise Agreements or otherwise.

# 5.10 Additional Assistance and Services

5.10.1 The Subfranchisor will provide all Subfranchisees with such assistance and services as the Company will 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 the Company's quality control standards in the use, of the Trademarks at such Franchises.

5.10.2 The Company will make available to the Subfranchisor the benefits of the Company's information, experience, advice, guidance, and know-how, and, upon the Subfranchisor's reasonable request, the Company will counsel and assist the Subfranchisor 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

The Subfranchisor will pay to the Company a non-refundable Master Franchise Fee of [R] payable upon the execution hereof.

# 6.2 Subfranchisor Franchises—Initial Franchise Fees

The Subfranchisor will pay to the Company an initial franchise fee upon execution of each Franchise Agreement entered into between the Company and the Subfranchisor equal to the (i) greater of [R], or (ii) [%] per cent of the initial franchise fee then being charged by the Subfranchisor to its Subfranchisees.

# 6.3 Subfranchisor Franchises—Continuing Royalty

The Subfranchisor will pay a monthly Continuing Royalty pursuant to each Franchise Agreement entered into between the Company and the Subfranchisor in an amount equal to per cent [%] 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 Subfranchising Fees

6.4.1 The Subfranchisor will pay to the Company within five (5) days following the execution of each Subfranchise Agreement, an amount equal to (i) [%] per cent of the amount payable by the Subfranchisees to the Subfranchisor as the initial franchise fee under each Subfranchise Agreement entered into between the Subfranchisor and a Subfranchisee, or (ii) [R], whichever is greater.

6.4.2 In addition, on or before the tenth (10th) day of each month, the Subfranchisor will pay to the Company an amount equal to (i) [%] per cent of the monthly continuing royalties paid during the preceding month by all Subfranchisees pursuant to Subfranchise Agreements entered into pursuant to Section 5.4. or (ii)   
[%] per cent of the Gross Sales of all Subfranchisees; whichever is greater.

6.4.3 In the event any Subfranchisee who enters into a Subfranchise Agreement pursuant to Section 5.4 pays a transfer fee thereunder, the Subfranchisor will pay Company a sum equal to [%] per cent of the amount of the transfer fee paid by such Subfranchisee.

6.4.4 Any amounts not paid to the Company when due will bear interest until paid at the rate of [%] per cent per annum. The Subfranchisor will take all necessary steps promptly to collect sums due from Subfranchisees pursuant to Subfranchise Agreements.

# 6.5 Management Agreement

If the Company and the Subfranchisor will 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 the Subfranchisor otherwise has strictly performed all of its obligations under this Agreement and all other agreements between the Company and the Subfranchisor, upon the expiration of this Agreement, the Company will offer the Subfranchisor the right to enter into a management agreement, effective as of the expiration of the Term hereof, pursuant to which the Subfranchisor will have the continuing right to supervise and provide services to Subfranchisees within the Development Area and to receive compensation therefore upon the terms described therein.

1. **TRADEMARKS**

# 7.1 Ownership

The Company will 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 the Subfranchisor will 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

The Subfranchisor will not do or permit any act or thing to be done in derogation of any of the rights of the Company in connection with the Trademarks, either during the term of this Agreement or after, and the Subfranchisor will 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, the Subfranchisor will not in any way dispute or impugn the validity of the Trademarks, or the rights of the Company to them, or the rights of the Company or other franchisees of the Company to use them.

# 7.4 Termination of Trademark Use

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

# 7.5 Non-Use of Trade Name

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

# 7.6 Assumed Name Registration

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

# 7.7 Yellow Page Telephone Listing

The Subfranchisor acknowledges that there will be substantial confusion among the public if, after the termination of this Agreement, the Subfranchisor continues to use the telephone number listed in the 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, the Subfranchisor will direct the telephone company servicing the Subfranchisor to disconnect the telephone number listed under the Company name in the then-current telephone directory or transfer such number to the Company or to such person and location as the Company directs. If the Subfranchisor fails to promptly so direct the telephone company in accordance with the Company’s instructions, the Subfranchisor hereby irrevocably appoints the Company as attorney-in-fact to direct the telephone company to make such transfer. The Subfranchisor understands and agrees that notwithstanding any billing arrangements with any telephone company or yellow pages directory company, the Company will 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. The Subfranchisor hereby agrees to release, indemnify and hold such companies harmless from any damages or loss on account of following the Company's said instructions.

# 7.8 Trademark Changes

From time to time, in the Manuals, or in directives or bulletins supplemental to them, the Company may change, improve or modify the Trademarks. The Subfranchisor will 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

The Company and the Subfranchisor agree that in the event that the Subfranchisor or any of its Subfranchisees will 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 Subfranchisor and/or its Subfranchisees may thereafter operate under such alternative names, service marks and/or associated logotypes as are reasonably acceptable to the Company. Such right will be the sole remedy of the Subfranchisor and its Subfranchisees in such event, and the Subfranchisor will hold the Company harmless from any claims by the Subfranchisor or its Subfranchisees with respect thereto.

# 7.10 Prosecution of Infringers

If the Subfranchisor receives notice or is informed or learns that any third party, which the Subfranchisor believes to be unauthorised to use the Trademarks, is using the Trademarks or any variant of them, the Subfranchisor will promptly notify the Company of the facts relating to such alleged infringing use. Thereupon, the Company, in its sole discretion, will determine whether or not it wishes to take any action against such third person on account of such alleged infringement. The Subfranchisor will 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

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

1. **ASSIGNABILITY**

# 8.1 Assignability by Company

8.1.1 The Company will 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 the Company's rights hereunder and under any Franchise Agreement, and to require the Subfranchisor 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 the Subfranchisor and Subfranchisee. The Company hereby guarantees those obligations it causes the subsidiary or affiliate to perform.

8.1.2 The Company will 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 the Subfranchisor's prior consent, and the Company will not be liable for any obligations accruing hereunder after the effective date of such assignment; provided the assignee will expressly assume and agree to perform the Company's obligations under this Agreement and is reasonably capable of performing them.

# 8.2 Assignment by Subfranchisor

8.2.1 This Agreement has been entered into by the Company *in re*liance upon and in consideration of the singular personal skills and qualifications of the Subfranchisor and the trust and confidence reposed in the Subfranchisor or, in the case of a company or partnership subfranchisor, 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 the Subfranchisor's interest in this Agreement nor any of its rights or privileges hereunder will 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 the Company.

8.2.2 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 the Company of any or all of the following conditions to its consent to any such assignment will be deemed to be reasonable:

8.2.2.1 that the assignee (or the principal officers, shareholders, directors or general partners of the assignee in the case of a company or partnership assignee) demonstrate that it has the skills, qualifications and economic resources necessary, in the 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 the 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;

8.2.2.2 that such assignment will include an assignment of all of the assignor's rights and interest in each and every then existing Franchise Agreement and the Subfranchise Agreement to the same assignee, and that the assignee will expressly assume in writing for the benefit of the Company all of the obligations of the Subfranchisor under this Agreement and all other agreements proposed to be assigned to such assignee;

8.2.2.3 that the assignee will have completed the Company's training programme to the Company's satisfaction, exercised in good faith;

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

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

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

8.2.3 The Subfranchisor will 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 the Company, which permission may be withheld for any reason whatsoever in the Company's sole subjective judgment.

1. **NON-COMPETITION**

# 9.1 In Term

Except as expressly set forth in Appendix “E” hereto, during the term of this Agreement, neither the Subfranchisor, nor any officer, director, controlling shareholder, or direct or indirect parent or subsidiary company, or general or limited partner of a company or partnership the Subfranchisor, will 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 the Company will first consent thereto in writing.

# 9.2 Post-Term

Except as expressly set forth in Appendix “E” hereto, following the assignment, expiration or termination hereof, for any reason, neither the Subfranchisor, nor any officer, director, shareholder, direct or indirect parent or subsidiary company, or general or limited partner of a company or partnership the Subfranchisor, will 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. The Subfranchisor 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 the Company or other franchisees of the Company.

# 9.3 Scope

The parties have attempted in Sections 9.1 and 9.2 above to limit the Subfranchisor'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 the Subfranchisor, 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 Subfranchisor's consent, at any time or times, effective immediately upon notice to the Subfranchisor.

1. **TERMINATION**

The following transactions or occurrences will 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 choose to immediately and prospectively end 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 will 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, will be submitted to arbitration; provided, however, that this clause will not be construed to limit the Company from bringing any action in any court of competent jurisdiction for injunctive, or other provisional relief as the 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 the Subfranchisor from otherwise causing immediate and irreparable harm to the Company. This arbitration provision will 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 [STATE/PROVINCE].

1. **GENERAL PROVISIONS AND CONDITIONS**

# 12.1 Relationship of Subfranchisor to Company

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

# 12.2 Indemnity

Each party (the "Indemnifying Party") will 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 will 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,

12.2.1 actual and reasonable costs of defense, which will include without limitation court costs and reasonable attorney and other reasonable expert and reasonable third-party fees; and

12.2.2 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 will settle, compromise or consent to the entry of any judgement  in or otherwise seek to end 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 will 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 will 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 the Company of any breach or series of breaches or defaults in performance by the Subfranchisor, and no failure, refusal or neglect of the Company to exercise any right, power or option given to it hereunder or under any other agreement between the Company and the Subfranchisor, whether entered into before, after or contemporaneously with the execution hereof (and whether or not related thereto) or to insist upon strict compliance with or performance of the Subfranchisor's obligations under this Agreement or any other agreement between the Company and the Subfranchisor, whether entered into before, after or contemporaneously with the execution hereof (and whether or not related thereto), will constitute a novation, or a waiver of the provisions of this Agreement with respect to any subsequent breach thereof or a waiver of the 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, will be enforceable notwithstanding said expiration or other termination of this Agreement for any reason whatsoever.

# 12.6 Successors and Assigns

This Agreement will be binding upon and inure to the benefit of the legal representatives, successors and assigns of the Company and the Subfranchisor.

# 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 will be governed by, and construed under, the laws of [STATE/PROVINCE] of [COUNTRY].

# 12.9 Entire Agreement

This Agreement and the Appendices 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 Appendix “F,” which is appended hereto and made a part hereof by this reference, no other agreements, written or oral, will 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 the 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 a 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 will 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 will 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 will 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 will prevail, but in such event the provisions of this Agreement thus affected will 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 will be held to be indefinite, invalid or otherwise unenforceable, the indefinite, invalid or unenforceable provision will be deemed deleted, and the remaining part of this Agreement will 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 will 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 will 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 FedEx, 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 STATE/PROVINCE] 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 the Company;
  3. The execution, delivery and performance of this Agreement does not and will not, violate any provisions of [COUNTRY] articles or certificates of incorporation and bylaws, or any contract or other Agreement to which the 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. **SUBFRANCHISOR'S REPRESENTATIONS AND WARRANTIES**

The Subfranchisor represents and warrants that:

* 1. It is a company organised and existing under the laws of the [SPECIFY COUNTRY AND/OR STATE/PROVINCE] 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 the Subfranchisor;
  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 the Subfranchisor 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 the Subfranchisor's articles or certificates of incorporation and bylaws, or any contract or other Agreement to which the Subfranchisor 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 SUBFRANCHISOR

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**APPENDIX A**

DEVELOPMENT AREA

**APPENDIX 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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**APPENDIX C**

INITIAL MATERIALS

**APPENDIX D**

FRANCHISE AGREEMENT

**APPENDIX E**

TERM & POST TERM COMPETITION

**APPENDIX F**