

## FRANCHISE DISCLOSURE DOCUMENT



Tikiz Franchising, LLC  
(a Florida limited liability company)  
1021 S. Rogers Circle, Suite 1  
Boca Raton, FL 33487  
407.383.3872  
email: [info@tikiz.com](mailto:info@tikiz.com)  
website: [www.tikiz.com](http://www.tikiz.com)

Tikiz Franchising, LLC offers franchises for the operation of offering retail businesses which offer for sale frozen desserts such as shaved ice, ice cream, and related products operating from mobile trucks under the trade name "Tikiz Shaved Ice and Ice Cream."

The total investment necessary to begin operation of a Tikiz franchised business is from \$172,500 to \$185,250. This includes an estimated \$166,999 to \$167,499 that must be paid to the franchisor or affiliate.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no government agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Tikiz Franchising, LLC at 1021 S. Rogers Circle, Suite 1, Boca Raton, FL 33487.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read your entire contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "*A Consumer's Guide to Buying a Franchise*," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

**ISSUANCE DATE:** October 10, 2023.

## How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information.

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibits D and E.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit F includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Tikiz Shaved Ice and Ice Cream business in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Tikiz Shaved Ice and Ice Cream franchisee?</b>	Item 20 or Exhibits D and E list current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## What You Need to Know About Franchising *Generally*

**Continuing responsibility to pay fees.** You may have to pay royalties and other fees even if you are losing money.

**Business model can change.** The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

**Supplier restrictions.** You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

**Operating restrictions.** The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

**Competition from franchisor.** Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

**Renewal.** Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

**When your franchise ends.** The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

### Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit A.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

## Special Risks to Consider About *This* Franchise

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by litigation only in Florida. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in Florida than in your own state.
2. **Negative Net Worth.** The franchisee will be required to make an estimated initial investment ranging from \$172,500 to \$185,250. This amount exceeds the Franchisor's member's equity as of December 31, 2022, which is reported to be a deficit of \$669,900. The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.
3. **Mandatory Minimum Payments.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

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## **EXHIBITS**

FDD - Exhibit A –	State Administrators/Agents for Service of Process
FDD - Exhibit B –	Franchise Agreement
FDD - Exhibit C –	Table of Contents of Confidential Operating Manual
FDD - Exhibit D –	List of Franchisees
FDD - Exhibit E –	List of Franchisees Who Have Left the System
FDD - Exhibit F –	Financial Statements
FDD - Exhibit G –	Sample Copy of General Release
FDD – Exhibit H -	Agreement to Reserve Additional Territory
FDD - Exhibit I –	Franchisee Disclosure Acknowledgment Statement
FDD - Exhibit J –	State Addenda

**ITEM 1**  
**THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES**

**The Franchisor**

To simplify the language in this disclosure document, "Tikiz" means Tikiz Franchising, LLC, the franchisor. "We", "us", and "our" also refer to Tikiz Franchising, LLC. "You" and "your" mean the person or entity who buys the franchise, the franchisee. If the purchaser of the franchise is a partnership, corporation, limited liability company, or other entity, "you" includes the franchisee's owners. (In this Disclosure Document, we use the term "you" to refer to individuals, partnerships, corporations and limited liability companies, and the direct and indirect owners of partnerships, corporations and limited liability companies.)

All initially capitalized terms appearing in this disclosure document have the meanings given to them in your Franchise Agreement, unless otherwise defined.

**Franchisor's Information**

We maintain our principal place of business at 1021 S. Rogers Circle, Suite 1, Boca Raton, FL 33487. We are a Florida limited liability company formed on December 7, 2012, and we do business under the name and mark "Tikiz Shaved Ice & Ice Cream" and no other names. We are a franchising company which promotes and sells franchises for businesses known as "Tikiz Shaved Ice & Ice Cream," which operate from mobile trucks. We do not own or operate businesses of the types being franchised, however, our affiliate Tikiz Enterprises, LLC has operated a Tikiz Shaved Ice & Ice Cream mobile truck in Florida since November 2011. After purchasing from a franchisee, Tikiz Enterprises, LLC began operating its second Tikiz Shaved Ice & Ice Cream mobile truck in Florida in December 2015. We have offered franchises since December 21, 2012. We do not offer and have not previously offered franchises in any other line of business. We are not engaged in any other line of business.

Our agents for service of process are listed in Exhibit A to this disclosure document.

**Our Parents, Affiliates and Predecessors**

We have no predecessors or parents.

We do not have any affiliates that provide products or services to our franchisees.

**The Franchise Offered**

**Franchise Agreement**

If we approve your application to become a franchisee, you will sign a franchise agreement ("Franchise Agreement"). Under a Franchise Agreement, we will grant you the right, and you will accept the responsibility, to establish and operate a "Tikiz Shaved Ice & Ice Cream" mobile truck ("Tikiz Business") within an agreed upon territory. "You" means the person to whom we grant a franchise. If you are a corporation, partnership, limited liability company, or other entity, each present and future owner (or real person who owns an entity) must sign our Guaranty, under which all owners of you agree to be jointly and severally liable for all the obligations to us under the Franchise Agreement and expressly agree to be bound by all the terms, conditions and covenants of the Franchise Agreement. Our current form of the Franchise Agreement is attached as Exhibit B to this disclosure document.

## **The System**

We have developed and own a unique system for establishing and operating retail businesses which serve shaved ice, ice cream, and other frozen dessert and beverage products from a mobile truck, as well as a mobile cart and mini cart (the "System"). The System's distinguishing characteristics include distinctive exterior and interior design, décor, color scheme; uniform standards, specifications and procedures for operations; quality and uniformity of products and services offered; procedures for management and inventory control; training and assistance all of which may be periodically changed, improved and further developed by us.

The System is identified by the trademark "Tikiz Shaved Ice & Ice Cream", and any other trade names, service marks, logos and trademarks that we may designate otherwise in writing for use with the System (the "Proprietary Marks"). You must conduct the Tikiz Business according to our Confidential Operating Manual (the "Manual"), a copy of which we will lend to you for the term of the Franchise Agreement. You may offer only those services and sell only those items and products that we specify or approve in writing.

## **Competition**

Our concept is targeted to the general public. We are one of many franchisors and retail operators in this highly competitive industry. Your Tikiz Business will offer shaved ice, ice cream, soft drinks and related products to the general public. Your customers will be principally those individuals who patronize the event or location which you are located. Fluctuations in the taste and habits of the public, local and national economic conditions, population density, and general traffic conditions affect this industry and are generally difficult to predict. Your competition will include mobile food businesses, fast casual restaurants and other retail stores within the trade area in which you operate offering shaved ice and ice cream items. You will face competition from other similar businesses and restaurants offering similar food and beverage items, as well as those which offer dissimilar beverages and food items. You may also encounter competition from other Tikiz Businesses operated by other franchisees.

## **Industry Specific Regulations**

You must comply with all local, state and federal laws that apply to your Tikiz Business operations, including health, sanitation, no smoking, EEOC, OSHA, discrimination, employment, and sexual harassment laws. The Americans with Disabilities Act of 1990 requires readily accessible accommodations for disabled people and may affect the construction, design, and facilities of your mobile truck. You may also be required to obtain real estate permits, licenses and operational licenses. Some of the licenses and permits you may need are: Zoning or Land Use Approvals, Sunday Sale Permits, Sales and Use Tax Permits, Special Tax Stamps, Fire Department Permits, Food Establishment Permits, Health Permits, Alarm Permits, County Occupational Permits, Retail Sales Licenses, and Wastewater Discharge Permits. There may be other laws, rules or regulations which affect your Tikiz Business, including minimum wage and labor laws along with ADA, OSHA and EPA considerations.

The U.S. Food and Drug Administration, the U.S. Department of Agriculture and state and local health departments administer and enforce regulations that govern food preparation and service and restaurant sanitary conditions. State and local agencies inspect restaurants to ensure that they comply with these laws and regulations.

The federal Clean Air Act and various state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide and particulate matters, including caps

on emissions from commercial food preparation. Some state and local governments have also adopted, or are considering proposals, that would regulate indoor air quality, including the limitation of smoking tobacco products in public places such as restaurants.

There may other laws and regulations regarding your operation of a Tikiz Business. You must comply with all laws and regulations that apply generally to all food services businesses and any other laws or regulations relevant to your franchised business. You should investigate these laws and regulations. We recommend that you consult with your attorney for an understanding of any laws, regulations, ordinances, rules or restrictions which may affect your Tikiz Business.

## **ITEM 2** **BUSINESS EXPERIENCE**

### **Brian Tollefson: Chief Executive Officer and President**

Mr. Tollefson serves as our Chief Executive Officer and President, and has held these positions since our incorporation in December 2012.

### **David Tollefson: Chief Operating Officer**

Mr. Tollefson serves as our Chief Operating Officer and has held this position since our incorporation in December 2012.

### **Daniel Rodriguez: Director of Operations and Training**

Mr. Rodriguez has served as our Director of Operations and Training since August 2018 to present. From September 2018 to present, Mr. Rodriguez manages our affiliated-owned Tikiz Businesses in Palm Beach and Broward County, Florida. From September 2014 to July 2017, Mr. Rodriguez was the Operations Manager for DAR Medical Group located in Boca Raton, Florida. From June 2013 to September 2017, Mr. Rodriguez was the Office Manager for Level Hormone Therapy located in Boca Raton, Florida.

### **Jareth Navarre: Franchise Development**

Mr. Navarre has served in the position of Franchise Development from May 2018 to the present. From December 2015 to the present, Mr. Navarre has owned a Tikiz franchised business in Sulphur, Louisiana.

### **Roshard Rolle: Marketing Manager**

Mr. Rolle has served as our Marketing Manager from December 2021 to present. Prior to joining Tikiz Franchising, Mr. Rolle owned and operated a videography/photography company in West Palm Beach, Florida from December 2016 – December 2021.



### **ITEM 3**

### **LITIGATION**

#### **Pending Actions**

*Tikiz Franchising, LLC and Tikiz Enterprises, LLC v. Kona Ice, Inc.*, Case No. 0:18-md-02832-KMM (United States District Court for the Southern District of Florida; filed February 2, 2018 under Case No. 0:18-cv-60237-KMM)

Tikiz Franchising, LLC and Tikiz Enterprises, LLC (collectively, "Tikiz Parties") filed an action against Kona Ice, Inc. for Declaratory Judgment of Non-Infringement Based on Settlement Agreement, U.S. Patent Nos. 9,751,447 and 9,321,387, Declaratory Judgment of Non-Infringement Based on Patent Law U.S. Patent No. 9,751,447, Declaratory Judgment of Patent Invalidity U.S. Patent Nos. 9,751,447 and 9,321,387, Declaratory Judgment of Inequitable Conduct U.S. Patent Nos. 9,751,447 and 9,321,387, and Breach of Settlement Agreement. In sum, our complaint seeks a declaratory judgment that Tikiz's truck design does not infringe upon Kona Ice's two patents, that Kona Ice's patents are invalid and/or unenforceable and that Kona Ice's infringement lawsuits against our franchisees breaches a 2012 settlement agreement between Tikiz and Kona Ice. In response to our complaint, on April 16, 2018, Kona Ice, Inc. filed a counterclaim against the Tikiz Parties, alleging infringement of U.S. Patent No. 9,751,447 and 9,321,387. This dispute relates to Kona Ice's claims that the Tikiz truck infringes upon two of its patents. In September 2017, Kona Ice filed 18 patent infringement actions against our franchisees based on the same claims Kona Ice has asserted against the Tikiz Parties in its counterclaim. Of these 18 actions filed, 13 remain pending, which were transferred in April 2018 to the U.S. District Court for the Southern District of Florida and consolidated with this action for pretrial proceedings. We and our franchisees have resolved with Kona Ice all claims regarding U.S. Patent No. 9,321,387. On July 31, 2023, the Court entered summary judgment in favor of Kona Ice with respect to its counterclaim and the Tikiz Parties' equitable defenses. That decision is still subject to appeal. The Court also determined that Kona Ice and the Tikiz Parties alone, without the franchisees, may proceed with the remainder of the issues in the case. As of the issuance date of this disclosure document, a trial date has not been set in this action. Since September 2021, Tikiz changed the design feature subject of this litigation, and Kona Ice has not asserted any legal claims relating to the revised feature.

#### **Prior Actions**

*Tikiz Franchising, LLC v. Eric Piddington*, Case No. 0:17-cv-60552 (United States District Court for the Southern District of Florida; filed February 2, 2017 in the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida; removed to U.S. District Court March 17, 2017).

We filed an action against a former franchisee for breach of the franchise agreement (abandonment and failure to pay royalty fees) and for declaratory relief. In response, the former franchisee filed an amended counterclaim against us, and added Brian Tollefson and David Tollefson as counter-defendants, alleging breach of the franchise agreement, breach of covenant of good faith and fair dealing, fraud, negligent misrepresentation, conversion, unjust enrichment and violations of California and Florida franchise laws. The former franchisee's claims for conversion, unjust enrichment and violation of Florida franchise law were dismissed by the Court. The claims and counterclaims were dismissed with prejudice on October 24, 2017, pursuant to the parties' joint stipulation of voluntary dismissal with prejudice and settlement

agreement, wherein we agreed to pay the former franchisee \$15,000 in 10 monthly payments and both parties denied any liability or wrongdoing.

Other than these actions, no litigation is required to be disclosed in this Item.

#### **ITEM 4** **BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

#### **ITEM 5** **INITIAL FEES**

##### **Initial Franchise Fee**

You must pay us an Initial Franchise Fee of \$20,000 ("Initial Franchise Fee") (for the first franchise). If you purchase more than one Tikiz franchise at the same time, the Initial Franchise Fee for the second Tikiz franchise will be \$20,000 and the Initial Franchise Fee for the third Tikiz franchise that you purchase at the same time will only be One Dollar (\$1). The Initial Franchise Fee for any additional Tikiz franchises that you purchase at the same time, will be reduced to \$10,000 each. If you purchase additional Tikiz franchises at a later date, the initial franchise fee for each such franchise will be our then-current Initial Franchise Fee. The Initial Franchise Fee is paid in a lump sum when you sign the Franchise Agreement. The Initial Franchise Fee is fully-earned and non-refundable upon payment.

##### **Mobile Truck**

You will be required to purchase your mobile truck, as well as certain parts and equipment, from us. Currently, we estimate your cost to purchase the mobile truck, parts and equipment from us will be approximately \$145,000. These costs are not refundable and are payable either in lump sum, or may be financed through Ford Motor Credit, before your Tikiz Business commences operations.

##### **Syrup Equipment**

You must also purchase from us a piece of equipment used for flavor syrup making. Currently, we estimate your cost to purchase this equipment from us to be approximately \$499. This cost is not refundable and is payable in lump sum before your Tikiz Business commences operations.

##### **Initial Inventory**

You will also be required to purchase an initial inventory of merchandise, uniforms, syrups, paper products and/or marketing materials from us or our designated vendor before you commence operation of your Tikiz Business. We estimate the cost of this initial inventory of items that you must purchase from us to be approximately \$1,500 to \$2,500. These costs are not refundable.

You are not required to pay us or our affiliates any other fees or payments for goods or services before your Tikiz Business commences operations.

**ITEM 6**  
**OTHER FEES**

<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Continuing Royalty Fee	\$500 per month	Due on the 1st day of each month for the preceding month.	See note 2.  If, within six (6) months of the effective date of the Franchise Agreement, you fail to commence operation of your Tikiz Business, we will begin charging you the monthly Royalty Fee and, if the Advertising Fund is established, the monthly Advertising Fund Fee.
Additional Equipment Royalty Fee	For each Tikiz mobile cart, \$500 per month  For each Tikiz mini cart, \$500 per month  For each Tikiz mobile trailer, \$500 per month  For the Hot Beverage Package, \$200 per month	Due on the 1st day of each month for the preceding month.	If you purchase Additional Equipment, you will be required to pay these additional royalty fees for the Additional Equipment. If we offer other Additional Equipment than as stated above, you will be required to pay the then-current Additional Equipment Royalty Fee rate for such Additional Equipment. The Additional Equipment Royalty Fee will be due for as long as you own the Additional Equipment.
Advertising Fund Fee	We do not currently collect this fee.	If collected, due on the 1st day of each month for the preceding month.	We presently do not collect this fee, but reserve the right to in the future. If we establish the Advertising Fund, you must contribute \$250 per month.
E-Mail Address Fee	Currently, \$100.00 per tikiz.com email address assigned to you	Annually	We will charge you an annual fee of no more than Two Hundred Dollars (\$200), as set forth in the Manual or otherwise, for each tikiz.com e-mail address we assign to you. These e-mail addresses shall only be assigned to and used by you, your owners, and your manager.

<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Transfer	\$10,000	A non-refundable \$2,000 deposit is due to us at the time you request the proposed transfer. If we consent to the proposed transfer, the balance of the \$10,000 transfer fee will be due upon our consent to the proposed transfer	No fee is imposed for transfers to a corporation you form for the convenience of ownership.
Interest on Overdue Payments	Lesser of 1.5% per month or highest contract rate of interest allowed by law	15 days after billing	Applies to all Royalty Fees, Advertising Fund Fees, and all other amounts due to us.
Returned Check or Non-Sufficient Funds Fee	\$100 per incident	Upon invoice	In the event any Electronic Funds Transfer is not honored by your bank for any reason, we will charge you this fee, subject to applicable state law.
Service Fee	3% of the total charge	Upon payment by credit card	If we allow you to and you make any payment to us or our affiliate by credit card for any fee or required payment to us or our affiliate, we or our affiliate may charge you this service fee.
Customer Software Program	Currently, \$150 per month	Due on the 1 <sup>st</sup> of each month	You must utilize our Customer Software Program and pay our designee a monthly fee to use the software program. Currently, you pay this fee directly to our designated vendor. This fee is subject to change.
Insurance Policies	Amount of unpaid premiums. Estimated between \$200 to \$300 per month.	As invoiced	Payable only if you fail to maintain required insurance coverage and we elect to obtain coverage for you.

<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Costs and Attorneys' Fees	Will vary under circumstances	Upon request	You must reimburse us for any expenses we incur, including attorneys' fees, to enforce the terms of the Franchise Agreement.
Indemnification	Will vary under circumstances	Upon request	You must reimburse us for the costs we incur if we are sued or held liable for claims that arise from your operation of the Franchised Business or in connection with any offer of your securities, or for costs associated with defending claims that you used the trademarks in an unauthorized manner.
Renewal Fee	25% of the then-current initial franchise fee	Upon renewal	You must enter into the then-current form of franchise agreement.
Sale of Prohibited Product or Service Fee	If you do not cease the offer and sale of an unauthorized product or service within 24 hours of notice to you, \$250 per day until you cease such offering	If incurred	In addition to other remedies available to us.
Non-Compliance Fine	\$250 for the first violation; and \$500 if violation is not corrected within 30 days; and \$100 per day if violation not corrected within 30 more days.	If incurred	In addition to other remedies available to us.

<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Training (for additional trainees beyond 3 people at time of your Initial Training)	Current rates, but not to exceed \$250 per day, per additional trainee; currently, we charge \$150 per day, per additional trainee, plus your trainees' travel, lodging and meal expenses.	Prior to training	<p>We provide approximately 3 days of initial training for you and 2 other employees at no additional cost.</p> <p>If you want to send additional trainees, we will charge a fee not to exceed \$250 per day for each additional person (beyond 3 people) you send to training.</p>
Repeat Initial Training	Current rates; currently, \$500 per person, per day, plus your and your trainees' travel, lodging and meal expenses.	Before repeat training	If you or your designated manager fail to satisfactorily complete our initial training we may, in our sole discretion, allow you to repeat training at the current rate.
Training for replacement managers, assistants or other employees	Current rates; currently, \$1,500 per person, plus your trainees' travel, lodging and meal expenses.	Prior to training	You may, but are not required to, send replacement managers, assistants or other employees to our Initial Training Program.
On-Site Opening Assistance	Current rates as published in the Manual, currently \$500 per day per person, plus our expenses	Time of assistance if we, in our sole discretion, agree to provide it.	We have no obligation to provide you with any on-site opening training or assistance. However, if you request it, and we agree to provide such assistance, which will be in our sole and absolute discretion, we will charge you our then current rates for each day of on-site assistance we agree to provide, plus our expenses.
Truck, Trailer or Cart resale commission fee	\$10,000	At time of sale	We may, in our sole discretion, assist you with selling your old truck, trailer or cart for a fee. If you request this assistance and if we agree, you must pay us this commission fee.

<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Mutual Termination Fee	\$10,000	Upon your notice of intent to terminate	The Franchise Agreement may be terminated by the written agreement of both parties; provided, however, you must provide us with at least six (6) months' prior written notice of your intent to terminate and must: (i) immediately pay us \$10,000; (ii) have your financial statements up to date through the termination date; (iii) sign (along with your guarantors) a general release in our favor; and (iv) comply with your post-termination obligations.
Breach of Covenants	\$500 each week that the breach continues	On demand	Payable if you fail to comply with the covenants not to compete contained in Article XIV of the Franchise Agreement.
Annual National Convention Fee	Up to \$500 per person each year if we hold an annual convention, plus your and your designated manager's travel, lodging and meal expenses	At least 30 days prior to annual convention	If we hold a national annual convention for Tikiz franchisees, you and your designated manager must attend at your expense. You will also be responsible for your travel, meals, living and lodging expenses.
Change of Territory Fee	\$2,500	At time we approve your request to change your Territory	You may not change your Territory without our prior written approval, which may be withheld for any or no reason. If we approve your request to change your Territory, then you shall, upon our written approval, complete a new Exhibit A to the Franchise Agreement and pay us this fee.

<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Territory Infringement Fee	(a) for your first violation, \$1,000, plus the invoice amount for the products or services sold; and (b) for your second and subsequent violations \$5,000, plus the invoice amount for the products or services performed.	Upon demand, within 5 days after the territory infringement is proven	If you infringe upon another Tikiz franchisee's territory by generating income from a customer for goods and/or services provided and/or rendered within such other Tikiz franchisee's territory without first obtaining that franchisee's and our prior written permission, you shall be required to pay us these fees.
Territory Reservation Fee	\$10,000 per territory	Upon your signing of a Territory Reservation Agreement	You may, only if we approve, in our sole discretion, reserve available territories for six (6) months by paying us a territory reservation fee and signing the Agreement to Reserve Additional Territory in the form attached to this disclosure document as Exhibit H. The Territory Reservation Fee will be applied to the Initial Franchise Fee of the additional Tikiz franchise at the time you sign the corresponding franchise agreement. The Territory Reservation Fee is not refundable under any circumstances, even if you do not open an additional Tikiz franchise.



<b>Name of Fee <sup>1</sup></b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks</b>
Customer Refund Reimbursement	The amount of any refund we, in our sole discretion, provide to a customer of your Tikiz Business to remedy a customer complaint or issue with your Tikiz Business.	Upon demand	In the event a customer of your Tikiz Business contacts us to lodge a complaint, we reserve the right to address the customer's complaint to preserve goodwill and prevent damage to the Tikiz brand. Our right to address customer complaints may include refunding money to the complaining customer, in which case you must reimburse us for these amounts upon demand.

**Notes:**

1. Unless otherwise states, all fees are uniformly imposed and collected by us. All fees are non-refundable.

2. We may require payment by other than automatic debit, and you must comply with our payment instructions. You agree to keep a minimum balance in your operating account of \$1,500.

**ITEM 7**  
**ESTIMATED INITIAL INVESTMENT**

<b>YOUR ESTIMATED INITIAL INVESTMENT</b>				
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is to Be Made</b>
Initial Franchise Fee See Note (1)	\$20,000	Lump Sum	On signing Franchise Agreement	Us
Real Estate/Truck Storage See Note (2) (only if you elect to lease a truck docking station)	\$0 - \$500	As Incurred	Before Beginning Operations	Lessor
Stationary Equipment for storing product and syrup preparation	\$1,500	As Arranged	Before Beginning Operations	Approved Suppliers, Third Parties, Us
Truck, truck buildout, and equipment See Note (3)	\$145,000	Lump Sum, Financed, or As Arranged	Before Beginning Operations	Us, Approved Suppliers

<b>YOUR ESTIMATED INITIAL INVESTMENT</b>				
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is to Be Made</b>
Shipping/Delivery of Truck	\$0 - \$1,500	As Arranged	Before Beginning Operations	Third Parties
Tax, title and licensing of the truck (4)	\$2,000 - \$7,000	As Arranged	Before Beginning Operations	Third Parties
Vehicle Insurance See Note (5)	\$750 - \$1,500	As Arranged	Before Beginning Operations	Insurance Company
Initial Inventory See Note (6)	\$1,500 - \$2,500	As Arranged	Before Beginning Operations	Us, Approved Suppliers, Third Parties
Travel and Living Expense while in Training See Note (7)	\$250 - \$500	As Arranged	Before Beginning Training	Employees or staff, airlines, rental car agencies, restaurants, hotels, etc.
Licenses and Permits See Note (8)	\$250 - \$750	As Arranged	Before Beginning Operations	Licensing Authority
Legal and Accounting See Note (9)	\$250 - \$500	As Arranged	Before Beginning Operations	Attorney, Accountant
Additional Funds – 3 months See Note (10)	\$1,000 - \$4,000	As Arranged	As Necessary	Third Parties and Us
<b>TOTAL (11)</b>	<b>\$172,500 – \$185,250</b>			

**Notes:** Amounts paid to suppliers or third parties (other than us) may or may not be refundable, depending on the arrangement you make with the supplier.

1. Initial Franchise Fee. The initial franchise fee is discussed in detail in Item 5 above. It is not refundable. If you purchase more than one Tikiz franchise at the same time, the Initial Franchise Fee for the second Tikiz franchise will be \$20,000 and the Initial Franchise Fee for the third Tikiz franchise that you purchase at the same time will only be One Dollar (\$1). The Initial Franchise Fee for any additional Tikiz franchises that you purchase at the same time, will be reduced to \$10,000 each. If you purchase additional Tikiz franchises at a later date, the initial franchise fee will be our then-current fee charged to new franchisees.

2. Real Estate/Truck Storage. You will need a suitable site of approximately 400 to 500 square feet to store your Tikiz truck. However, most franchisees store their Tikiz truck at their residences and do not elect to rent an RV parking space, storage area or docking station for their truck. It is extremely difficult to estimate storage costs because of the wide variation in these costs between various locations. Rental costs will vary based upon variance in square footage, cost per square foot and required maintenance costs. We assume the landlord will require the first month's rent and a security deposit equal to one month's rent. The amounts paid are typically not refundable except for a security deposit which may be refunded. Because most franchisees will operate their Tikiz Business from home and do not acquire a separate office space, estimates for leasehold improvements, construction, furniture, fixtures, or utility deposits are not included in the above initial investment chart.

3. Truck, Equipment and Related Items. You must purchase from us a built-out mobile truck, as well as certain parts and equipment. The cost of the built-out truck is payable either in lump sum to us, or may be financed through Ford Motor Credit, before your Tikiz Business commences operations. Currently, the base truck will be a new Ford E350 Econoline cutaway van chassis with a new custom build 12 foot box along with equipment and décor to outfit and equip the Tikiz Business according to our specifications. The cost of the truck, equipment, buildout materials, labor and related items will vary according to local market conditions, suppliers and other related factors. We require each Tikiz truck to have a GPS tracking system installed and in operation at all times. You may opt to have your truck delivered to you from Florida (which location is subject to change), or you may pick up your truck yourself. If you opt to have your truck delivered to you, you will incur additional fees depending on the destination for delivery. This estimated cost does not include the optional Hot Beverage Package, which includes, coffee equipment, an air conditioning system, generator, additional supply racks, and a custom-built box wrapped with Tikiz graphics to house the generator, wiring, electronics breaker box, truck sidewall plugin and installation. You may elect to purchase this Hot Beverage Package, which would add approximately \$15,000 to this cost. This estimate does not include the cost of additional equipment, such as a trailer, mobile cart and/or a mini cart, which you may, but are not required to, purchase.

4. Tax, Title and Licensing of the Truck. You are required to pay all state and federal tax, title licenses and costs associated with titling the truck. The higher estimate includes sales tax of an estimated 6% of the purchase price of the truck. The actual dollar amount may be more or less depending on the tax rate in the location of your territory where the vehicle will be titled. You are responsible for any tax, title and licenses for your truck so you should check with your local governmental and county clerk's office for your state's tax rate and the costs associated with titling and licensing the truck.

5. Vehicle Insurance. Requirements are described in greater detail in Item 8. Factors that may affect your cost of insurance include, but is not limited to, the location from which the Tikiz Business is based, value of the truck and equipment, amount of inventory, number of employees, your driving record, as well as the driving record of any of your employees who will operate the Tikiz truck, and other factors.

6. Initial Inventory. You must purchase an initial supply of product and paper goods inventory, as well as merchandise, uniforms and marketing materials. These costs will vary based upon the size of the orders, suppliers, shipping costs and other related factors.

7. Travel and Living Expense While in Training. We provide 3 days of initial training for you and one other employee at no additional cost. Most franchisees, however, do not send another employee to initial training. Therefore, this estimate assumes only you will attend the initial training. If you send more than two people to initial training, you must pay us \$250 per day for each additional person you send to training. You will incur all costs and expenses incurred by you and any other trainees associated with the initial training. These costs include, but are not limited to, airfare, transportation, meals and

lodging, and your employees' salaries while attending training. The total cost will vary depending on the number of people attending, how far you travel and the type of accommodations you choose.

8. Licenses & Permits. These amounts will be incurred for costs such as city, county, state, food operating licenses and permits. Your actual costs may vary from the estimates based on the requirements of local state, county, city, and government agencies.

9. Legal & Accounting. You may need to employ an attorney, an accountant and other consultants to assist you in establishing your Tikiz Business. These fees may vary from location to location depending upon the prevailing rate of attorneys', accountants' and consultants' fees.

10. Additional Funds. This is an estimate of the minimum funds needed to cover operating expenses for the start-up phase of the Tikiz Business, which we calculate as three months. However, we cannot guarantee that this amount will be sufficient. Additional working capital may be required if sales are low or fixed costs are high. If your intentions are to hire employees which create payroll cost, you should add the additional expected payroll or salary amounts to your additional funds dollar figure. This estimate does not include any allowance for an owner's draw. The amount will vary substantially depending on your situation and must be determined by you. The actual amount of additional funds you will need depends on a variety of factors, including: how closely you follow methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for ice cream and shaved ice; how often you operate the Tikiz Business; the time of year/weather during the initial period; how many events you book, if any, for the Tikiz Business; prevailing wage rate (if applicable); and the sales levels achieved during the initial period. You may have to put additional cash into the business.

11. Total. This total is an estimate of your initial investment and the expenses you will incur during the first three months of operations. In compiling these charts, we relied on our management's experience in operating similar businesses. The amounts shown are estimates only and may vary for many reasons including the size of your Tikiz Business, the capabilities of you and your management, where your Tikiz Business is located and your business experience and acumen. You should review these estimates carefully with an accountant or other business advisor before making any decision to buy a franchise.

## **ITEM 8**

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

#### **Required Purchases**

You must operate your Tikiz Business in accordance with our System Standards in order to preserve the goodwill embodied in the Proprietary Marks. Our System Standards may regulate, among other things, goods, services, supplies, equipment, inventory products, or services relating to the establishment or operation of the Tikiz Business. You must purchase the truck, parts, equipment, our Proprietary Products, other products and supplies, uniforms, syrups, marketing materials, print material, a computer or tablet, and our proprietary software program from us, our affiliate, required or approved suppliers, or by brand name or specification. These products, vendors and specifications are identified periodically in the Operations Manual or in notices from us. We may modify these standards and specifications periodically.

#### **Proprietary Products**

The "Proprietary Products" are those products specifically designed for use in the operation of a Tikiz Business, including, but not limited to, Tikiz branded marketing materials, clothing and products. We and our affiliates may in the future develop additional Proprietary Products, including, but not limited to, flavor syrups, equipment, paper products, and other materials, and expressly reserve the right to revise

the definition of "Proprietary Products" at any time. You must purchase all of your required Proprietary Products exclusively from us, our affiliate or a supplier designated by us and must not obtain any competing product or substitute from any other source of supply. We will make the Proprietary Products available to you in reasonable quantities in accordance with the procedures for ordering, handling and shipping that we may establish and at prices and on credit terms, if any, that we may determine, provided that you are in compliance with the Franchise Agreement and all other agreements with us and any Affiliate. We may make any changes to these products that we wish, and there are no limits on our right to do so. For those products supplied by us or our affiliates, we and our affiliates have the right to earn a reasonable profit on your purchase of our Proprietary Products or any other items you are required to purchase from us or our affiliates.

### **Required and Approved Suppliers**

All products and equipment necessary for the operation of the Tikiz Business shall comply with our specifications and quality standards, and if required by us, shall be purchased only from "Approved Suppliers" that we designate or approve, which may be us, an affiliate, or with whom we may or may not have negotiated volume discounts. We will provide you, in the Operations Manual or by other written or electronic form, with a list of items you will need to purchase for resale or to operate your Tikiz Business and, if required, a list of Approved Suppliers for some or all of these items, and shall occasionally issue revisions.

Currently, we require you to purchase from us the Tikiz mobile trucks, mobile carts, mobile trailers and mini carts, as well as certain parts and equipment. For these items, we are the only source for these purchases. We will sell you these items at the same price paid by other similarly situated Tikiz franchisees.

In addition, we require you to use our proprietary computer software program, which is an application for the management of your customers, scheduled events, and rental/service items. You must pay a monthly fee to us or our designated vendor for your use of this software program. If you do not already have a computer or tablet, or one that is compatible with our proprietary computer software program, then you must purchase one.

We also require you to purchase Tikiz branded print materials, merchandise, uniforms, clothing and other marketing materials and paper products from us and our designated suppliers. For items you must purchase from us, we are the only source for these purchases.

You are required to purchase specialty ice cream and syrups from our Approved Suppliers, and will be required to purchase syrups from us in the future.

You may also offer coffee products, but if you do, you must purchase certain coffee products by brand name and from a supplier we approve. We may in the future require you to purchase these or other coffee products from us or our affiliate.

We may require you to purchase any of these or other products from us, our affiliate or an Approved Supplier.

We may, in our sole discretion, approve other suppliers of required non-Proprietary Products who are not then designated by us as an approved supplier. You must notify us in writing of the product, material or supplies and of the proposed supplier. You must submit samples of the product and any other information as we may require for testing or to otherwise determine whether the product, material or supplies, or the proposed supplier meets our specifications and quality standards. You will be responsible

for all costs associated with such testing. We will send you written notice of supplier or product approval or disapproval within 5 to 10 days of our receipt of all the information and samples we request. If we approve the supplier, you may contract with the alternative supplier. If we do not approve the supplier, we will provide you with the reasons why such supplier proposal was not approved. Approval of alternative suppliers may be revoked if we determine that the product, material or supplies fail to satisfy our specification requirements identified periodically in the Operations Manual, or in notices from us. Currently, we do not make available to franchisees our criteria for approving suppliers.

We do not grant approval for alternate suppliers for the Tikiz truck, certain equipment and parts, and any Proprietary Products.

We also require you to purchase and maintain for your Tikiz Business comprehensive general liability insurance of at least \$1 Million in case of damage or injury to one or more persons, including indemnification coverage and property damage insurance of \$1 Million; worker's compensation and disability insurance as may be required by state law, as well as employer liability coverage with a minimum limit of \$100,000 or the statutory minimum limit if required by law; automobile liability coverage with a combined single limit of not less than \$1 Million; all risk property insurance, including business interruption insurance in amounts not less than is sufficient to meet the co-insurance requirements of your policies, and which covers at least 6 months' rent, royalties and advertising fees, contains a full replacement value endorsement and naming us as an additional loss payee; and any other insurance required under federal, state, or local law applicable to the Tikiz Business. You must use our designated vendor to obtain the insurance coverage we require for your Tikiz Business.

### **Miscellaneous**

None of our officers own an interest in any other required or approved suppliers.

We, or our affiliates, will derive revenue, or other material consideration, from required purchases or leases by you and other franchisees. During the 2022 fiscal year, we received \$952,211 in revenue, from the sale of the mobile trucks, related parts and equipment, as well as other items, to franchisees, or approximately 61% of our total revenues of \$1,568,420.

We do not currently receive any payments or other benefits from any suppliers based on purchases made by our franchisees. However, we reserve the right to receive financial incentives, rebates, or other forms of remuneration, including fees and payments from our manufactures, suppliers, and other third parties in the future, based on the amount of purchases made by our franchisees. We will retain for ourselves and for our benefit alone, any and all fees and payments received.

We estimate that approximately 90% to 95% of your expenditures for purchases in establishing your Tikiz Business and approximately 15% to 25% of your expenditures on an ongoing basis will be for goods and services which must be purchased from either us, our affiliates, an Approved Supplier or in accordance with our standards and specifications.

There currently are no purchasing or distribution cooperatives that offer you products or equipment used in your Tikiz Business. While we may, at our discretion, negotiate purchase agreements with suppliers or manufacturers (including price terms) for the benefit of the franchise system, we have no obligation to do so, and any discounts or other purchasing arrangements are not guaranteed by us and may be terminated by the supplier/manufacturer at any time. Presently, there are no such purchase or supply agreements in effect. We do not provide material benefits to you (for example, renewal or granting additional franchises) based on your purchase of a particular product or services or use of particular suppliers.

**ITEM 9**  
**FRANCHISEE'S OBLIGATIONS**

**This Table Lists Your Principal Obligations Under The Franchise And Other Agreements. It Will Help You Find More Detailed Information About Your Obligations In These Agreements And In Other Items Of This Disclosure Document.**

<b>Obligation</b>	<b>Article in Agreement</b>	<b>Item(s) in Disclosure Document</b>
a. Site selection and lease	Franchise Agreement: I and II	6, 7, 11
b. Pre-opening purchases/ leases	Franchise Agreement: II, VIII and IX	7, 8, 11
c. Site development and other pre-opening requirements	Franchise Agreement: II, VII, VIII and IX	7, 8, 11
d. Initial and ongoing training	Franchise Agreement: VI and VIII	7, 11
e. Opening	Franchise Agreement: II	11
f. Fees	Franchise Agreement: II, V, VI, VIII, IX, XI and XX	5, 6, 7, 11
g. Compliance with standards and policies/Operating Manual	Franchise Agreement: I, II, III, VI, VIII, IX, X, XI, XII, XV, and XIX	8, 11, 16
h. Trademarks and proprietary information	Franchise Agreement: III, VIII, XI, and XVIII	13, 14
i. Restrictions on products/ services offered	Franchise Agreement: VII, VIII	8, 16
j. Warranty and customer service requirements	Not applicable	Not applicable
l. Ongoing product/service purchases	Franchise Agreement: VIII, and XV	8, 16
m. Maintenance, appearance and remodeling requirements	Franchise Agreement: VIII and XV	11

<b>Obligation</b>	<b>Article in Agreement</b>	<b>Item(s) in Disclosure Document</b>
n. Insurance	Franchise Agreement: XII	7, 8
o. Advertising	Franchise Agreement: IX	6, 7, 11
p. Indemnification	Franchise Agreement: XIII	6
q. Owner's participation/management/staffing	Franchise Agreement: VIII and XIX	15
r. Records/reports	Franchise Agreement: X	6
s. Inspection/audits	Franchise Agreement: VII, VIII, and X	6, 11
t. Transfer	Franchise Agreement: XX	6, 17
u. Renewal	Franchise Agreement: IV	6, 17
v. Post-termination obligations	Franchise Agreement: XVIII	17
w. Non-competition covenants	Franchise Agreement: XIV	17
x. Dispute resolution	Franchise Agreement: XXIX	17
y. Other: Guarantee of franchisee obligations (note 1)	Franchise Agreement: XIV	22

**Note 1:** If Franchisee is a corporation, limited liability company, partnership, limited partnership or any other type of legal entity formed in compliance with applicable law, then all owners of the Franchisee entity must sign a personal guaranty agreement, under which all owners of Franchisee entity agree to be jointly and severally liable for all the obligations to us under the Franchise Agreement, and expressly agree to be bound by all the terms, conditions and covenants of the Franchise Agreement. (Exhibit B to Franchise Agreement).

## **ITEM 10** **FINANCING**

We do not offer direct or indirect financing. We do not guarantee your notes, leases or other obligations.



**ITEM 11**  
**FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS**  
**AND TRAINING**

**Except as listed below, we are not required to provide you with any assistance.**

**Pre-Opening Obligations**

Except as listed below, we need not provide any assistance to you. Before you open the Tikiz Business we will:

- a. Consent to a territory that meets our requirements. We may require you to submit to us a complete territory report (containing demographic, commercial, and other information as we may reasonably require) for the territory in which you propose to establish and operate the Tikiz Business. You may propose a specific territory for our consideration. We may consent to your proposed territory after we have evaluated it. In approving or disapproving any proposed territory, we will consider such matters as we may deem material, including, without limitation, demographic characteristics of the proposed territory, traffic patterns, the predominant character of neighborhoods, competition from other businesses providing similar services within the area (including other Tikiz Businesses), the proximity to other businesses, the exclusivity granted to any developers we may have, if any, the nature of other businesses in proximity to the territory, and other commercial characteristics of the proposed Territory. (Franchise Agreement – Section 1.2) However, our approval is in no way a representation or warranty of your success in that or in any other territory.
- b. Provide you with access to our Confidential Operations Manual (Franchise Agreement – Sections 7.2, 11.1).
- c. Provide initial training for up to two individuals at no additional charge. (Franchise Agreement – Section 6.1). This training is described in detail later in this Item.
- d. Provide you with specifications and/or names of approved and/or designated suppliers for required products, services, signs, fixtures and supplies for your Tikiz Business. (Franchise Agreement – Sections 2.3 and 7.1)
- e. Buildout your Tikiz mobile truck, which services are required to be performed by us, our affiliate or our designee (Franchise Agreement – Section 2.1)
- f. Sell to you the Tikiz mobile truck and certain parts and equipment you are required to purchase from us. (Franchise Agreement – Section 2.1)

**Continuing Obligations**

During the operation of the Tikiz Business, we will:

- a. Furnish you with those support services we consider advisable. We may provide these services on-site, off-site, by telephone or through other means. Timing will depend on the availability of our personnel. (Franchise Agreement – Section 7.4)

- b. Review and approve or disapprove of proposed advertising materials prepared by you for use in local advertising. (Franchise Agreement – Section 9.3)
- c. Inspect the operations of the Tikiz Business from time to time, as we may deem appropriate, to determine whether your Tikiz Business is being operated in compliance with the Franchise Agreement and all System standards. (Franchise Agreement – Article VII and VIII)

### **Advertising Fund**

We are not obligated to conduct advertising on your behalf or for the System. We are not required to spend any amount on advertising in any geographic area.

We do not currently have an advertising fund, but have the right to establish and administer an Advertising Fund for the marketing, advertising, and promotion of Tikiz businesses. If we establish an Advertising Fund, we may collect from you a monthly fee of \$250, and we, or our designee, will administer the Advertising Fund as we deem appropriate, as follows:

- (i) We will at our sole discretion direct all advertising programs and control the creative concepts, materials and media used, media placement and allocation. We need not make expenditures for advertising or promotions for you which are equivalent or proportionate to your pro rata contributions. We need not attempt to or are required to ensure that you benefit directly or proportionately from the Fund. The Fund is not a trust and we are not a fiduciary in any capacity.
- (ii) The Fund may, but is not required to, be used to meet all costs of administering, directing, preparing, placing and paying for regional or local advertising. This may include the cost of preparing and conducting television, radio, magazine and newspaper advertising campaigns and other public relations activities; the cost of employing advertising agencies; paying interest on monies borrowed by the Fund from third parties unaffiliated with us; providing customer service comment cards to you and other franchisees; and, sponsoring sporting, charitable or other special promotional events, if we choose to do so at our sole discretion. We need not maintain the money paid by you to the Fund and income earned by the Fund in a separate account. But we may not use this money for any purposes other than those provided for in the Franchise Agreement. We can spend up to 15% of the Fund's contributions for its reasonable administrative costs and overhead for activities reasonably related to the administration of the Fund and advertising programs for you and other franchisees. This 15% charge does not include any advertising agency fees which the Fund must expend to secure the services of an advertising agency or to have print or broadcast advertising placed by an agency or service.
- (iii) The Fund will not be used to solicit the sale of franchises. We will have no obligation to prepare or distribute audited or unaudited statements detailing Fund income and expenses to you. If you send us a written request, we will provide you with an accounting of the income and expenditures of the Fund during our last fiscal year within a reasonable time after we receive your request, but never earlier than forty-five (45) days from when such information is made available.

- (iv) We will spend most contributions to the Fund for advertising purposes during the fiscal year in which the contributions are made. If we spend more than the amount the Fund collects in any fiscal year (not including any money we had to spend because we did not spend all the money in the Fund during the year before), then we can reimburse ourselves from the Fund during the next fiscal year for all excess expenditures during the preceding fiscal year. If we spend less than the total in the Fund during any fiscal year, we can either spend the unused money during the next fiscal year, or roll it over to be used at the appropriate time as determined by us.
- (v) We have no obligation in administering the Fund to make expenditures for you which are equivalent or proportionate to your contributions, or to ensure that you benefit directly or proportionately from the placement of advertising, or to ensure that such advertising impacts or penetrates your territory at any level. If we receive any promotional allowances with respect to your purchases of goods or services from vendors other than us, then we will be under no obligation to contribute the promotional allowances to the Fund.
- (vi) Although we intend the Fund to be perpetual, we have the right to terminate the Fund at any time upon thirty (30) days' notice from us. We will not terminate the Fund until we have spent all money in the Fund for advertising and promotional purposes.

### **Local Advertising**

We recommend that you spend at least \$500 on Local Advertising each month. You may not solicit business through a toll-free number, direct mail, internet, or other advertising method without our prior written consent. (Franchise Agreement – Article IX)

Any advertising, promotion and marketing you do must be clear and not misleading and must conform to the highest standards of ethical marketing and any promotion policies we may prescribe from time to time. You must submit to us, in the form and manner we prescribe, for prior approval, all advertising and promotional materials you wish to use for local advertising that have not been prepared or previously approved by us. If you do not receive written or oral disapproval within 10 days from the date of our receipt of such materials, we will be deemed to have approved the submitted materials. You shall withdraw and/or discontinue use of any materials or advertising within five (5) days after receipt of notice to withdraw and/or discontinue their use. You may not use any advertising or promotional materials that we have not approved, have disapproved or that do not include the copyright registration notices and trademark registration notices we designate (Franchise Agreement - Article IX).

### **Advertising Cooperatives**

Although we are not obligated to do so, we may create a Cooperative Advertising program for the benefit of our franchisees. We have the right to determine the composition of all geographic territories and market areas for the implementation of Cooperative Advertising. However, you will not be required to participate in the Cooperative Advertising program or advertising cooperative if one is established. If a Cooperative Advertising program is implemented on behalf of a particular region, we reserve the right to establish an advertising cooperative for a particular region to enable the cooperative to self-administer the Cooperative Advertising program. There currently are no advertising cooperatives.

### **Advertising Council**

There is no Advertising Council composed of franchisees that advises us on advertising.

## **Internet Marketing**

We have established and maintain an Internet website at the uniform resource locator ("URL") www.Tikiz.com that provides information about the System and the products that we and our franchisees provide. We may include at the website an interior page containing information about your Tikiz Business. If we include this information on the website, we may require you to prepare all or a portion of the page, at your expense, using a template that we provide. All this information shall be subject to our approval before posting. We retain the sole right to market on the Internet, including all use of websites, social media applications, domain names, URLs, linking, meta-tags, marketing, auction sites, e-commerce and co-branding arrangements. You may be requested to provide us content for our Internet marketing and shall be required to follow our Intranet and Internet usage requirements. We also retain the sole right to use the Proprietary Marks on the Internet, including on websites, as domain names, directory addresses, meta-tags, and in connection with linking, marketing, co-branding and other arrangements. We retain the right to approve any linking or other use of our website. You shall not maintain a World Wide Website or otherwise maintain a presence or advertise on the Internet or any other public computer network in connection with the Tikiz Business without our prior written approval, which shall be in our sole discretion, and subject to our policies or specifications. The requirement for our prior written approval applies to all activities on the Internet, including without limitation, postings on a social media website such as Facebook, Myspace, Instagram, Twitter, YouTube, etc., conducting email blasts and/or email marketing, advertising, marketing or promoting your Tikiz Business using any web-based media. You may not use the Marks, without our prior written approval, to maintain any presence on the Internet whatsoever. You are solely responsible for full compliance with the federal CAN-SPAM Act. In the event we approve an independent franchisee website, this site shall be accessed only through our home page.

## **Confidential Operations Manual**

The table of contents from our Confidential Operations Manual is appended to this Disclosure Document as Exhibit C. Currently, there are 138 total pages in our Confidential Operations Manual.

## **Opening the Franchised Business**

We estimate that there will be an interval of two to five months between the execution of the Franchise Agreement and the opening of the Tikiz Business, but the interval may vary based upon such factors as the location and condition of the territory, the build-out schedule for your Tikiz mobile truck, the construction or build-out of a docking and storage space, the delivery schedule for the truck, equipment and supplies, delays in securing financing arrangements and completing training and your compliance with local laws and regulations. You may not open the Tikiz Business for business until: (1) we consent to the opening of the Tikiz Business; (2) pre-opening training has been completed to our satisfaction; (3) the Initial Franchise Fee and all other amounts then due to us or our affiliates have been paid; and (4) we have been furnished with copies of all required insurance policies, or such other evidence of insurance coverage and payment of premiums as we request. You must begin operations of your Tikiz Business within 6 months after the effective date of the Franchise Agreement and no later than 10 days after the receipt of our written consent to commence operations. If you fail to commence operation of your Tikiz Business within 6 months of the effective date of the Franchise Agreement, we will begin charging you the monthly Royalty Fee and, if the Advertising Fund is established, the monthly Advertising Fund Fee. If, however, you purchase multiple Tikiz franchises at the same time, you will have 12 months to commence operation of your second Tikiz franchise and 18 months to commence operation of any additional Tikiz franchises. If you purchase multiple Tikiz franchises at the same time, these same time

periods will also apply for the date we will begin to charge you monthly Royalty Fees and, if applicable, Advertising Fund fees, if you fail to commence operation within such periods of time. (See Exhibit G to the Franchise Agreement).

### **Computer System**

We require you to install and utilize our Computer Software Program which is an easy to use application for the management of your customers, event, and rental/service items. The Computer Software Program provides monthly calendar and the ability to generate estimates and invoices and currently is a web based program with versions available for your smart phone or an iPad, tablet, laptop and/or a desktop. The Computer Software System will also maintain your customers' information such as names, emails and phone numbers, event addresses and billing addresses. You can use your cell phone to operate the Computer Software Program. At your option, you may, but are not required to, purchase separately a desktop computer, laptop, tablet or iPad which has a modern web browser and the ability to run flash applications. The Computer Software Program must be purchased from the vendor we designate. Currently, the subscription fee for use of the program is \$150.00 per month and is paid directly to our designated vendor. There is no other cost to purchase or lease the Computer Software Program. We, our affiliate, or our designated vendor may provide ongoing maintenance, repairs, upgrades and updates, although we are not obligated to. Currently, we do not anticipate any updating or upgrading requirements. However, if we require you to, you must pay for any replacement, upgrades, updates, or installations for the existing Computer Software Program or for a different program at the then current cost. We will have unfettered and independent access to all data generated by you through the Computer Software Program, including without limitation, customer, event, and accounting information.

The current cost of purchasing the computer hardware and software required is \$0. Once you commence operations, you must pay our designated vendor the monthly fee stated above.

### **Initial Training Program**

We will provide an initial training program for you (or your Designated Manager, if you are a business entity) and up to one other assistant or employee. You or your Designated Manager, if applicable, must attend and complete to our satisfaction the initial training program to our satisfaction before beginning operations of the Tikiz Business. If you send more than two people to initial training, we will charge you an additional fee of up to \$250.00 per day for each additional person. Should you or your assigned manager fail to satisfactorily complete the initial training program, we may, in our sole discretion, allow you or your assigned manager to repeat training at the current training fee of \$500.00 per person, per day. Training fees are payable before you begin initial training, and are uniform and non-refundable. The initial training program consists of approximately 3 days of classroom and on-the-job instruction and is structured to provide practical training in the operation of the Tikiz Business, including food and beverage preparation specifications and techniques, marketing and merchandising methods, inventory control, equipment maintenance, opening and closing procedures, financial controls and other like topics. We will conduct the initial training program at our Corporate Office in Boca Raton, Florida or another location that we designate. Additional on-the-job training will be conducted on a Tikiz truck in Boca Raton, Florida or another location that we designate.

You must pay all expenses incurred in connection with the initial training program including your and your trainees' travel, lodging and meal expenses. See Item 7. If you cannot successfully complete the initial training program after your second attempt, we may terminate your Franchise Agreement without providing you with any opportunity to cure.

### **TRAINING PROGRAM**

<b>SUBJECT</b>	<b>HOURS OF CLASSROOM TRAINING</b>	<b>HOURS OF ON THE JOB TRAINING</b>	<b>LOCATION</b>
Pre-Phase: Home Study - Takes one through the foundational information needed for an individual to be ready for General Operations training	4	N/A	N/A
Phase I: General operations Station training (all stations) Open, mid, close checklists Review of all training tools Customer service	4	4	Boca Raton, Florida
Phase II: Owner/manager training P&L management Inventory training Audit process Scripts Classroom Introduction Tikiz philosophy Business planning & reporting P&L review accounting	4	4	Boca Raton, Florida
Phase III: On the truck training Storage room Stocking Product preparation	N/A	8	Boca Raton, Florida

As part of the training you will receive Instructional Materials, including the Training and Operations Manual. Trainees are provided a home study manual, an operations manual, and a welcome kit binder once they have scheduled a training session. They are expected to complete the Tikiz home study Manual and the online ServSafe Manager Certification course by the National Restaurant Association prior to their arrival at the training location.

Training instructors:

Daniel Rodriguez – Director of Operations and Training. Mr. Rodriguez has served as our Director of Operations and Training since August 2018 to present. From September 2018 to present, Mr. Rodriguez manages our affiliate-owned Tikiz Businesses in Palm Beach and Broward County, Florida.

**On-Site Training and Assistance.** We have no obligation to furnish you with any on-site training and assistance. However, should you request on-site assistance from us in order to facilitate the opening of the Tikiz Business, which we shall have no obligation to provide, but if we provide such assistance, we will charge you our then current standard rates for each day of on-site assistance we agree to provide, plus our expenses.

**Ongoing Training.** We periodically may provide and require that you and/or your Designated Manager attend seminars or refresher training programs. Ongoing operational weekly/biweekly conference calls are mandatory. All ongoing refresher or supplemental training programs will be made available at no cost to you. However, all expenses incurred by you in attending such refresher training programs or seminars, including, but not limited to, travel costs, room and board and employee salaries, shall be your sole responsibility. We do not anticipate requiring you to attend such seminars or refresher training programs more than two times per year or which exceed two days. (Franchise Agreement, Article VI)

You are responsible for the recruitment and hiring of all of your employees. You are also responsible for the training of all your employees in compliance with the standards and specifications of the Tikiz System. You may, but are not required to, send new managers or other employees to our training program at our Corporate Office in Boca Raton, Florida, or another location that we designate. We will charge you our then current fee, which is currently \$1,500 per person.

## **ITEM 12** **TERRITORY**

The Franchise Agreement grants you the right to operate a Tikiz Truck within a specific territory we approve ("Territory"), which will be described in Exhibit A to the Franchise Agreement.

You may propose a specific territory for our consideration. We may consent to your proposed territory after we have evaluated it. The Territory must be agreed upon prior to the time you sign the Franchise Agreement.

You will operate your Franchised Business only within your Territory. You must receive our written permission before relocating or operating in another territory. We are not obligated to grant you permission to relocate your Territory under any circumstances, but if we approve your request to change your Territory, then you shall, upon our written approval, complete a new Exhibit A to the Franchise Agreement and pay a \$2,500 fee. Although we may assist you in selecting a territory, and we must approve the Territory, you are solely responsible for selecting the Territory. You may not solicit customers, service customers, market or advertise outside of your Territory without our prior written consent, which we may give or withhold in our absolute discretion. If we consent to the operation or marketing of your Tikiz Business outside of your Territory, we may, at any time thereafter, revoke our consent and you must immediately cease operating and marketing your Tikiz Business outside of your Territory.

We will grant you an exclusive territory. During the term of the Franchise Agreement, and provided that you remain in full compliance with your obligations under the Franchise Agreement, we will not modify, establish, operate or grant another person the right to establish or operate another Tikiz Business in your Territory. Your Territory will be delineated by streets, highways, zip codes, counties or other boundaries and will generally include an area consisting of approximately 200,000 people. However, there are certain types of trade areas, including but not limited to, central business districts which will have a more restricted Territory. Population figures will be based upon the most recent available U.S. Census data available at the time the Territory is designated.


Except as expressly limited by the terms of your Franchise Agreement, we and our affiliates retain all rights with respect to Tikiz Businesses, the Proprietary Marks, and any goods and services anywhere in the world including: (a) to produce, offer and sell and to grant others the right to produce, offer and sell the services and/or goods offered at the Tikiz Business and any other goods and services through similar or dissimilar channels of distribution, both within and outside the Territory, under trade and service marks other than the Proprietary Marks and under any terms; (b) to produce, offer and sell and to grant others the right to produce, offer and sell the services and/or goods offered at the Tikiz Business and any other goods and services through dissimilar channels of distribution, both within and outside the Territory, under the Proprietary Marks and under any terms; (c) the right to operate or grant others the right to operate Tikiz Businesses located outside of the Territory, including within close proximity to your Territory and on such terms as we deem appropriate; and (d) offer and sell products and services that are not part of the System through any distribution method, both within and outside the Territory.

We are not required to pay you if we exercise any of the rights specified above inside your Territory.


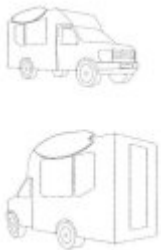
The continuation of your Territory rights are not dependent on achieving a certain sales volume, market penetration, or other contingency. You will not have the right of first refusal or any similar rights in the contiguous territories or areas surrounding or near your Territory unless we otherwise agree in writing, in our sole discretion. You will not have the right to amend or modify your Territory unless we otherwise agree to in writing, in our sole discretion.



### **ITEM 13** **TRADEMARKS**

Under the Franchise Agreement, we grant you the right and license to use our principal "TIKIZ SHAVED ICE & ICE CREAM" Proprietary Marks and other current or future Proprietary Marks solely in connection with the operation of your Tikiz Business. The following Proprietary Marks are registered on the Principal Register of the United States Patent and Trademark Office:

<b>MARK</b>	<b>REGISTRATION</b>	<b>REGISTRATION DATE</b>
TIKIZ Shaved Ice & Ice Cream	4,168,953	July 3, 2012 Renewed June 23, 2022
	4,443,092	December 3, 2013



MARK	REGISTRATION	REGISTRATION DATE
	4,666,582	January 6, 2015
<p>"BRINGING SWEETS TO THE STREETS!"</p>	4,436,110	November 19, 2013
<p>TIKIZ HAWAIIAN COFFEEZ</p>	4,751,526	June 9, 2015
<p>SURV-BOARD</p>	4,866,895	December 8, 2015
	5,917,671	Nov. 26, 2019

MARK	REGISTRATION	REGISTRATION DATE
 <p>The image shows the TikiZ World logo, which includes a stylized tiki character and the text 'TikiZ World'. Below the logo are three vehicle graphics: a side view of a yellow and blue tiki-themed car, a front view of the same car, and a 'Hood Decal' for the car. The car graphics also feature the TikiZ World logo and tropical-themed illustrations.</p>	6,016,113	March 24, 2020
 <p>The image shows three different styles of backpacks, each featuring the TikiZ World logo and tropical-themed illustrations. The backpacks are shown in a vertical arrangement, with the top one being a larger backpack and the two below it being smaller, more compact designs.</p>	6,171,516	October 6, 2020

We have filed all required affidavits in connection with the federally registered trademarks.

There are no currently effective determinations of the Patent and Trademark Office, the Trademark Trial and Appeal Board, the Trademark Administrator of this state or any court. There is no pending infringement, opposition or cancellation proceeding. There is no pending material litigation involving the trademarks which may be relevant to their use in this state or in any other state. We do not know of any infringing uses that could materially affect your use of the Proprietary Marks in this state or elsewhere.

You must promptly notify us of the use of, or claims of rights to, a trademark identical to or confusingly similar to the Proprietary Marks. We have the sole discretion to take any action, including taking no action, if we deem appropriate. We have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks.

In the event you receive notice, or are informed of any claim, suit, or demand against your use of any Proprietary Mark, you are obligated to promptly notify us. We will take any action we may consider necessary to protect and defend you against the claim and indemnify you against any actual damages and reasonable costs or expenses incurred in connection with the claim, so long as the claim is based solely on any alleged infringement, unfair competition, or similar matter relating to your proper use of the Proprietary Marks. We will have no obligation to defend or indemnify you if the claim arises out of or relates to your use of any of the Proprietary Marks in violation of the terms of the Franchise Agreement. If there is any litigation due to your use of the Proprietary Marks, you must complete all documents and do all things as may be necessary to carry out a defense or prosecution, including becoming a nominal party to any legal action. You may not settle or compromise such claim by a third party without our prior written consent. We will have the right to defend, compromise and settle the claim at our sole cost and expense, using our own counsel. We may, in our sole discretion, prosecute or defend any other actions or proceeding, which we deem necessary or desirable for the protection of the Proprietary Marks. You agree not to contest our right, title, or interest in the Proprietary Marks.

There are no agreements currently in effect which limit our rights to use or license the use of any Proprietary Mark. We reserve the right to substitute different proprietary marks for use in identifying the System and businesses operating under it if we, in our sole discretion, determine that substitution of

different marks as Proprietary Marks will be beneficial to the System. You must promptly implement any substitution of new Proprietary Marks.

If it becomes advisable at any time in our sole discretion for us and/or you to modify or discontinue the use of any Proprietary Marks and/or use one or more additional or substitute trade or service marks, you must comply with our directions within a reasonable period of time after receiving notice. You must adopt, use and display only such new or modified Proprietary Marks and must promptly discontinue the use and display of outmoded or superseded marks, at your expense. We will also not be obligated to reimburse you for any loss of revenue attributable to any modified or discontinued Proprietary Marks or for any expenditure you make to promote a modified or substitute trademark or service mark.

You cannot use the word "Tikiz" as a part of the legal name of any business entity. You are prohibited (except as expressly provided in the Franchise Agreement) from using any Proprietary Mark with any prefix, suffix, or other modifying words (other than logos licensed by us to you). You must obtain fictitious or assumed name registration as required by local law. You may not use any Proprietary Mark in connection with the sale of any unauthorized product, service or program or in any other manner not explicitly authorized in writing by us.

## **ITEM 14**

### **PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

#### **Patents and Copyrights**

We have the following patents:

1. We have a design patent for our topping dispensing assembly which allows customers to apply flavorings to shaved ice or the like. The patent, Patent No. US D704,493 S, was issued on May 13, 2014 and has a term of 14 years. The title of the patent is "Dispensing Assembly."

2. We have a utility patent for a stationary or mobile kiosk and topping dispenser which allows customers to apply flavorings to shaved ice or the like. The patent, Patent No. US 9,352,679, was issued on May 31, 2016 and has a term of 20 years from the application date of July 27, 2012 (estimated as the term is subject to several factors). The title of the patent is "Frozen confection kiosk and liquid-dispensing assembly for use therewith."

3. We have a utility patent for a kiosk for selling frozen confections such as shaved ice or ice cream and may include with a liquid-topping dispenser assembly having liquid-dispensing faucets which are operable by a customer outside the kiosk to dispense liquid toppings onto the frozen confections. The patent, Patent No. US 10,112,522, was issued on October 30, 2018 and has a term of 20 years from September 25, 2016 (estimated as the term is subject to several factors). The title is "Frozen confection kiosk and liquid-dispensing assembly for use therewith." This patent is a continuation-in-part of Patent No. US 9,352,679.

4. We have a utility patent for a kiosk for selling frozen confections such as shaved ice or ice cream and may include with a liquid-topping dispenser assembly having liquid-dispensing faucets which are operable by a customer outside the kiosk to dispense liquid toppings onto the frozen confections. The patent, Patent No. US 10,231,471, was issued on March 19, 2019 and has a term of 20 years from February 25, 2016 (estimated as the term is subject to several factors). The title of the patent is "Frozen confection kiosk and liquid-dispensing assembly for use therewith." This patent is a continuation-in-part of Patent No. US 9,352,679.

5. We have a design patent for our trailer. The patent, Patent No. US D879,665, was issued on March 31, 2020 and has a term of 14 years. The title of the patent is "Trailer."

6. We have a utility patent for, generally, a kiosk for selling frozen confections such as shaved ice or ice cream and may include a liquid-topping dispenser assembly having liquid-dispensing faucets allowing customers outside the kiosk to dispense liquid toppings on the frozen confections. The patent, Patent No. US 10,617,132, was issued on April 14, 2020 and has a term of 20 years from May 17, 2018 (estimated as the term is subject to several factors). The title of the patent is "Frozen confection kiosk and liquid-dispensing assembly for use therewith." This patent is a continuation of Patent No. 10,231,471, which is a continuation-in-part of Patent No. 9,352,679.

7. We have a utility patent for, generally, a kiosk for selling frozen confections such as shaved ice or ice cream and may include a liquid-topping dispenser assembly having liquid-dispensing faucets allowing customers outside the kiosk to dispense liquid toppings on the frozen confections. The patent, Patent No. US 10,682,942, was issued on June 16, 2020 and has a term of 20 years from October 8, 2018 (estimated as the term is subject to several factors). The title of the patent is "Frozen confection kiosk and liquid-dispensing assembly for use therewith." This patent is a continuation of Patent No. 10,112,522, which is a continuation-in-part of Patent No. 9,352,679.

8. We have a utility patent for, generally, a kiosk for selling frozen confections such as shaved ice or ice cream and includes a liquid-topping dispenser assembly having liquid-dispensing faucets allowing customers outside the kiosk to dispense liquid toppings on the frozen confections, and with a liquid topping dispenser mounted onto a sidewall of the kiosk such that an open space is formed and a gasket assembly is positioned within the open space. The patent, Patent No. US 10,874,117, was issued on December 29, 2020 and has a term of 20 years from August 9, 2019 (estimated as the term is subject to several factors). The title of the patent is "Frozen confection kiosk and liquid-dispensing assembly for use therewith." This patent is a continuation-in-part of Patent No. 10,617,132, which is a continuation of Patent No. 10,231,471, which is a continuation-in-part of Patent No. 9,352,679.

9. We have a utility patent for, generally, a kiosk for selling frozen confections such as shaved ice or ice cream and may include a liquid-topping dispenser assembly having liquid-dispensing faucets allowing customers outside the kiosk to dispense liquid toppings on the frozen confections. The patent, Patent No. US 10,980,247, was issued on April 20, 2021 and has a term of 20 years from June 4, 2019 (estimated as the term is subject to several factors). The title of the patent is "Frozen confection kiosk and liquid-dispensing assembly for use therewith." This patent is a continuation of Patent No. 10,617,132, which is a continuation of Patent No. 10,231,471, which is a continuation-in-part of Patent No. 9,352,679.

We claim copyright protection of our Confidential Operations Manual and other proprietary materials, including without limitation, our trade secrets, formulas, customer lists, and recipes (the "Proprietary Materials"), although these materials have not been registered with the United States Registrar of Copyrights. The Operations Manual and related materials are considered proprietary and confidential and are considered our property and may be used by you only as provided in the Franchise Agreement. You may not use our confidential information in any unauthorized way and you must take reasonable steps to prevent its disclosure to others.

There are no currently effective determinations of the Patent and Trademark Office, Copyright Office, or any court regarding any of our patents or copyrights. There are no currently effective agreements according to which we derive our rights in the patents or copyrights which could limit your use of them.

We are not obligated under the Franchise Agreement to protect any of the rights that you have to use any patent or copyright, and we do not have any other obligation under the Franchise Agreement regarding the patents and copyrights. We are not aware of any infringements of our patents or copyrighted materials that could materially affect you. However, as disclosed in Item 3, Kona Ice filed a counterclaim against us and Tikiz Enterprises, LLC, alleging infringement of U.S. Patent No. 9,751,447 and 9,321,387, and filed patent infringement actions against our franchisees alleging the same infringement claims. The franchisee actions were consolidated with the matter of *Tikiz Franchising, LLC and Tikiz Enterprises, LLC v. Kona Ice, Inc.*, Case No. 0:18-md-02832-KMM (United States District Court for the Southern District of Florida), 13 of which remain pending as of the issuance date of this disclosure document. Kona Ice claims that the Tikiz truck infringes upon two of its patents, which we deny. We, along with Tikiz Enterprises, Inc., have filed a complaint against Kona Ice seeking a declaratory judgment that Tikiz's truck design does not infringe upon Kona Ice's two patents, that Kona Ice's two patents are invalid and/or unenforceable, and that Kona Ice's infringement lawsuits against our franchisees breaches a 2012 settlement agreement between us and Kona Ice. We and our franchisees have resolved with Kona Ice all claims regarding U.S. Patent No. 9,321,387.

On May 6, 2020, Kona Ice filed another patent infringement action against 13 of our franchisees in the matter of *Kona Ice, Inc. v. Dubbs Enterprises, LLC, et al.*, Case No. 0:20-cv-60911-RAR (United States District Court for the Southern District of Florida). Kona Ice claims that these franchisees' trucks infringe upon its U.S. Patent No. 9,751,447, which we deny. This action was administratively closed pending matters in the first-filed consolidated action mentioned above. As of the issuance date of this disclosure document, trial has not been scheduled in this or the above action.

### **Confidential Operations Manual**

We will lend you a copy of the Manual for the term of the Franchise Agreement (see table of contents as Exhibit C). You must treat the Manual, any other manuals created for or approved for use in the operation of the Franchised Business, and the information contained in them, as confidential, and must use reasonable efforts to maintain this information as secret and confidential. You must not reproduce these materials or otherwise make them available to any unauthorized person. The Manual will remain our sole property. You must keep it in a secure place on the Tikiz Business premises.

We may revise the contents of the Manual, and you must comply with each new or changed standard. You must ensure that the Manual is kept current at all times. If there is a dispute as to the contents of the Manual, the terms of the master copy which we maintain at our home office will control.

In the event of expiration or termination of your Franchise Agreement, you must return the Manual to us.

### **Confidential Information**

We may reveal certain proprietary and confidential information to you, which includes, without limitation, formulas, recipes, customer lists, identities of suppliers, price lists, procedures and techniques, advertising and marketing techniques, operational and quality assurance procedures, information in the manuals provided to you, and any and all information, knowledge, and other data which we designate as confidential. You must not, during or after the term of the Franchise Agreement, divulge or use for the benefit of anyone else any confidential information concerning the System and the methods of operation of the Tikiz Business. You may divulge confidential information only to those employees who must have access to it in order to operate the Tikiz Business. You agree to take all necessary precautions to ensure that your employees retain all confidential information in confidence, including, but not limited

to, requiring your employees who have access to confidential information, to sign, at the time of employment, the Non-Disclosure and Non-Competition Agreement attached to the Franchise Agreement as Exhibit C.

**ITEM 15**  
**OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF**  
**THE FRANCHISE BUSINESS**

**Franchise Agreement**

You or your Designated Manager must at all times directly supervise the operation of the Tikiz Business. If franchisee is a business entity, you must appoint a Designated Manager to directly supervise the operation of the Tikiz Business. We recommend that you conduct direct, on-premises supervision of the Tikiz Business and not delegate this duty to third parties. If you do appoint a Designated Manager for these duties, you must train him or her, and the Designated Manager must complete our initial training program to our satisfaction. Also, you must inform us of your Designated Manager's identity, and each Designated Manager must sign an agreement not to divulge any trade secret or confidential or proprietary information, or to engage in any other business, in the form of the Non-Disclosure and Non-Competition Agreement attached to the Franchise Agreement as Exhibit C. Your Designated Manager need not have an ownership interest in the franchised Tikiz Business, but he or she must demonstrate strong management abilities and promote the "Tikiz Shaved Ice and Ice Cream" image to the public.

You must devote your full time and efforts to managing the general business matters of the Tikiz Business. Further, you may not, during the term of the Franchise Agreement, engage in any conflicting or competing enterprises. Also, you are bound by confidentiality requirements discussed in Article VIII of the Franchise Agreement and non-competition covenants discussed in Article XIV of the Franchise Agreement.

If you are a corporation, limited liability company or partnership, each present and future owner must personally guarantee your obligations under the Franchise Agreement and also agree to be personally bound by, and personally liable for the breach of, every provision of the Franchise Agreement. The Guaranty is attached to the Franchise Agreement as Exhibit B.

**ITEM 16**  
**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must confine your business to the operation of a Tikiz Business; must keep the Tikiz Business open and in normal operation as specified in the Manual; must refrain from conducting any other business or activity at or from the Tikiz Business; and must operate the Tikiz Business in strict conformity with the methods, standards and specifications in the Manual and as we may require otherwise in writing. In addition, you must offer for sale at the Tikiz Business all of the products that we prescribe, as specified in the Manual or as designated in writing by us. You may not sell, offer or make available at or from or through the Tikiz Business any unauthorized or unapproved services or products. You must prepare and serve all authorized products in strict accordance with the recipes, methods and procedures, as prescribed in the Manual. We may periodically change required or authorized products and services. There are no limits on our right to do so.

We may, but are not required to, designate certain products not otherwise authorized for general use as a part of the System, to be offered locally or regionally based upon factors as we may determine, including your qualifications, test marketing, regional or local differences and climate. You may be

required to participate in test marketing programs to determine the marketability of proposed new food products. In connection with any such test marketing, we may require you to purchase a reasonable quantity of the tested products and require you to promote and make a reasonable effort to sell such products. We may, in our sole discretion, give our consent to one or more franchisees to provide certain products not authorized for general use as part of the System, based upon the foregoing factors. This consent, with respect to any other franchisee, will not create any rights for you to provide the same products.

If we offer them for sale to you, you must purchase certain products from us, Tikiz Development Group or our designee.

You may not solicit customers, service customers, market or advertise outside of your Territory without our prior written consent, which we may give or withhold in our absolute discretion.

## **ITEM 17**

### **RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**These tables list certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

<b>THE FRANCHISE RELATIONSHIP</b>		
<b>Provision</b>	<b>Article in Franchise Agreement</b>	<b>Summary</b>
a. Length of the Franchise Term	IV	10 years
b. Renewal or extension of the term	IV	One (1) additional consecutive term of 10 years
c. Requirements for you to renew or extend	IV	A renewal means you will be required to sign our then-current franchise agreement, which may contain materially different terms and conditions than your original franchise agreement. In addition, to renew your franchise agreement you must be in substantial compliance with the franchise agreement, have timely satisfied all monetary obligations due to us or our affiliates during the term of the agreement, given written notice of your intention to renew not less than 12 months, but no more than 18 months, prior to the expiration of the initial term of the franchise agreement, sign a general release, pay a renewal fee of 25% of the then-current initial franchise fee being charged by us to new

<b>THE FRANCHISE RELATIONSHIP</b>		
<b>Provision</b>	<b>Article in Franchise Agreement</b>	<b>Summary</b>
		franchisees. We may require you, in our sole discretion, to purchase a new Tikiz truck and/or any Additional Equipment from us, our affiliate or our designee. If we do not, you will have to modify, improve or repair your Tikiz truck or any Additional Equipment, at your expense, and comply with our then-current reasonable qualification and training requirements.
d. Termination by franchisee	Not applicable	Not applicable.
e. Termination by franchisor without cause	Not applicable	Not applicable
f. Termination by franchisor with cause	XVII	We can terminate your franchise agreement if you breach the franchise agreement.
g. "Cause" defined – curable defaults	XVII	All defaults, except those defaults for which there is no cure period, may be cured within 15 days from the posted day of the notice, including, but not limited to, failure to pay any fees due to us or our affiliates, failure to participate in advertising and marketing activities, failure to forward copies of health or sanitation reports to us immediately you're your receipt, failure to purchase required items from approved vendors, failure to sell required items to the public using your best efforts, the sale of food items to anyone other than the retail customer without our prior consent, interference with or prevention of our inspection of your franchised business, failure to remain open and operating during the days and hours required by our operations manual.



<p>h. "Cause" defined – non-curable defaults</p>	<p>XVII</p>	<p>Misrepresentation of any material fact in any report or document furnished to us; engaging in conduct that is a fraud upon consumers or is an unfair or deceptive trade practices, the misuse or unauthorized disclosure of confidential information; failure to comply with the U.S. Patriot Act or Anti-Terrorism laws; failure to satisfy civil judgments for more than 30 days or which will have an adverse effect on the Tikiz Business; conviction of a felony or other crime we deem to be detrimental to the goodwill of our Marks; abandonment of the Tikiz Business; loss of any necessary licenses or permits to continue business, any unapproved transfers or assignments; bankruptcy, assignment for benefit of creditors; you receive 3 or more notices of default within any 12 month period, or you receive 2 or more health code violations or citations within any prior 12 month period; failure to correct any local, state, or municipal health or sanitation law or code violation within 24 hours after being cited for such violation; engaging in any conduct or practice that, in our reasonable determination, is detrimental or harmful to the good name, goodwill or reputation of Tikiz, our products, our franchisees or the public; dissolution or liquidation of the franchisee business entity; unauthorized or improper use of the Marks; failure to complete the initial training program to our satisfaction after your second attempt; 3 or more insufficient funds or returned checks within any 12 month period; termination of any other franchise agreement or other agreement between you and us or our affiliates; or you infringe upon another franchisee's territory on more than 1 occasion.</p>
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<b>THE FRANCHISE RELATIONSHIP</b>		
<b>Provision</b>	<b>Article in Franchise Agreement</b>	<b>Summary</b>
i. Franchisee's obligations on termination/non-renewal	XVIII	Pay outstanding amounts, de-identification, cease display and use of all Marks, refrain from taking any action indicating or implying that you are an authorized franchisee, maintain all financial records and reports required by the franchise agreement for at least 3 years, permit us to make a final inspection of your financial records and reports required, return all of our confidential information and manuals, cease using the telephone numbers used by you while conducting business as a Tikiz franchisee and take such steps to remove your listing under Tikiz from the Yellow pages and all other directories, cancel all permits, licenses, registrations, certifications required for the Tikiz Business, and, at our option, sell us any or all signs, supplies, equipment, advertising material, the mobile truck, any Additional Equipment, or any item bearing the Marks, at your cost or at fair market value, whichever is less. Unless we exercise our right to purchase the Tikiz mobile truck and/or any Additional Equipment, or if we approve your request to sell the Tikiz mobile truck or any Additional Equipment to a Tikiz franchisee, you must de-identify the truck and any Additional Equipment by removing all of our trade dress (i.e. colors and designs) and the Tikiz name and Marks, and modifying the truck and any Additional Equipment, so that they are no longer identifiable as related to the Tikiz Business.
j. Assignment of contract by franchisor	XX	No restriction on our right to assign. However, no assignment will be made except to an assignee who agrees to assume our obligations under the Franchise Agreement.

<b>THE FRANCHISE RELATIONSHIP</b>		
<b>Provision</b>	<b>Article in Franchise Agreement</b>	<b>Summary</b>
k. "Transfer" by franchisee – definition	XX	Includes transfer of any interest in the Franchise Agreement, in the assets of the Tikiz Business, or any ownership change.
l. Franchisor approval of transfer by franchisee	XX	We have the right to approve all transfers, our consent not to be unreasonably withheld.
m. Conditions for franchisor approval of transfer	XX	Transferee qualifies and is approved by us, you must pay in full all amounts due , transferee completes training, you sign a general release, you pay the transfer fee, the transferee signs the then-current franchise agreement, you are not in default of the Franchise Agreement or any lease, you agree to make any of transferee's obligations to you subordinate to transferee's obligations to us, and the material terms and conditions of the transfer must not contradict any terms of the then-current form of the Franchise Agreement.
n. Franchisor's right of first refusal to acquire franchisee's business	XX	We can match any offer you receive for the sale of your Tikiz Business.
o. Franchisor's option to purchase franchisee's business	XVIII	We have the right, upon termination or expiration of the Franchise Agreement, to purchase the assets of your Tikiz Business that bear the Marks at your cost or fair market value, whichever is less.
p. Death or disability of franchisee	XXI	Franchise must be assigned to approved buyer within six months or transferred to an heir or representative.

THE FRANCHISE RELATIONSHIP		
Provision	Article in Franchise Agreement	Summary
q. Non-competition covenants during the term of the franchise	XIV	You shall not directly or indirectly own, maintain, engage in, participate or have any interest in the operation of any enterprise which is the same or substantially similar to the franchised Tikiz Business, or any other business which distributes, produces or sells shaved ice, ice cream, and other similar frozen dessert products sold at Tikiz Businesses.
r. Non-competition covenants after the franchise is terminated or expires	XIV	You shall not, for a period of 2 years following termination, transfer, expiration or non-renewal of the Franchise Agreement, (i) engage, employ or compensate or seek to employ any person who is operating or employed at another Tikiz Business, or otherwise induce such person to leave his or her employment; (ii) directly or indirectly own, maintain, engage in, participate or have any interest in the operation of any enterprise which is the same or substantially similar to the franchised Tikiz Business, or any other business which distributes, produces or sells shaved ice, ice cream, and other similar frozen dessert products sold at Tikiz Businesses, in the Territory, , or in any other Tikiz Business Territory, or within a 25 mile radius from your former Territory.
s. Modification of the agreement	XV and XXXI	No modifications to the Franchise Agreement unless in writing, but the Tikiz System is subject to modification through the Operations Manual.
t. Integration/merger clause	XXXI	Only the terms of the Franchise Agreement are binding (subject to state law). <i>Any representations or promises outside this disclosure document and franchise agreement may not be enforceable.</i>

<b>THE FRANCHISE RELATIONSHIP</b>		
<b>Provision</b>	<b>Article in Franchise Agreement</b>	<b>Summary</b>
u. Dispute resolution by arbitration or mediation	Not applicable.	Not applicable.
v. Choice of forum	XXVIII, XXIX	Broward County, Florida (subject to state law)
w. Choice of law	XXVIII	Florida law applies (subject to state law)

See the State Addenda attached to the Franchise Agreement as Exhibit F and the State Addenda attached to this Disclosure Document as Exhibit J for special state disclosures.

### **ITEM 18** **PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

### **ITEM 19** **FINANCIAL PERFORMANCE REPRESENTATION**

The FTC's Franchise Rule permits a franchisor to provide information about the actual, or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of future income, you should report it to our management by contacting Brian Tollefson, Tikiz Franchising, LLC, 1021 S. Rogers Circle, Suite 1, Boca Raton, Florida, 33487, (407) 383-3872, the Federal Trade Commission and any appropriate state regulatory agencies.

**ITEM 20**  
**OUTLETS AND FRANCHISEE INFORMATION**

**TABLE NO. 1**

**SYSTEMWIDE OUTLET SUMMARY FOR  
YEARS 2020 TO 2022**

Outlet Type (Note 1)	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2020	25	30	+5
	2021	30	31	+1
	2022	31	38	+7
Company-Owned (Note 2)	2020	2	2	0
	2021	2	2	0
	2022	2	2	0
Total Outlets	2020	27	32	+5
	2021	32	33	+1
	2022	33	40	+7

Note 1: Because of the nature of a Tikiz Business, there are no “outlets.” Therefore, we are counting each Tikiz truck opened and operating as an “outlet” for purposes of these Item 20 tables.

Note 2: Our affiliate, Tikiz Enterprises, LLC, owns and operates the “Company-Owned” Tikiz businesses in Florida, which is similar to the franchise offered in this disclosure document.

**TABLE NO. 2**

**TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS  
(OTHER THAN FRANCHISOR OR AN AFFILIATE)  
FOR YEARS 2020 TO 2022**

State	Year	Number of Transfers
All States Total	2020	0
	2021	0
	2022	0

**TABLE NO. 3****STATUS OF FRANCHISED OUTLETS  
FOR YEARS 2020 TO 2022**

State	YR	Outlets at start of Year	Outlets Opened	Terminations	Non- Renewals	Reacquired by Franchisor	Ceased Operations other reasons	Outlets at End of the Year
Alabama	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Arizona	2020	1	0	0	0	0	1	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Arkansas	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
California	2020	4	1	0	0	0	0	5
	2021	5	1	0	0	0	0	6
	2022	6	3	0	0	0	0	9
Colorado	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Florida	2020	5	5	0	0	0	0	10
	2021	10	0	0	0	0	3	7
	2022	7	2	0	0	0	0	9
Georgia	2020	1	1	0	0	0	0	2
	2021	2	1	0	0	0	2	1
	2022	1	0	0	0	0	1	0
Kentucky	2020	1	0	0	0	0	0	1
	2021	1	1	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Louisiana	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Maryland	2020	1	0	0	0	0	1	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Mississippi	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2

	2022	2	0	0	0	0	1	1
Missouri	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Montana	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	2	0
North Carolina	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
Ohio	2020	0	0	0	0	0	0	0
	2021	0	2	0	0	0	0	2
	2022	2	0	0	0	0	0	2
South Carolina	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
Tennessee	2020	2	0	0	0	0	2	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Texas	2020	5	2	0	0	0	1	6
	2021	6	1	0	0	0	0	7
	2022	7	2	0	0	0	0	9
Total	2020	25	10	0	0	0	5	30
	2021	30	6	0	0	0	5	31
	2022	31	11	0	0	0	4	38

**TABLE NO. 4**

**STATUS OF COMPANY-OWNED OUTLETS  
FOR YEARS 2020 TO 2022**

State	YR	Outlets at start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Florida	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
Total	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2



**TABLE NO. 5****PROJECTED OPENINGS AS OF DECEMBER 31, 2022**

State	Franchise Agreements Signed But Outlets Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
Arizona	0	2	0
California	0	4	0
Georgia	0	1	0
Indiana	0	2	0
Louisiana	2	0	0
Montana	1	0	0
Mississippi	0	1	0
North Carolina	0	2	0
Ohio	2	2	0
Pennsylvania	0	2	0
South Carolina	2	1	0
Texas	6	5	0
Tennessee	1	2	0
Total	14	24	0

Exhibits D-1 and D-2 lists the name of all our currently operating franchisees as of December 31, 2022 and the addresses and telephone numbers of their territories, and lists the franchisees who have currently signed Franchise Agreements for units which are not yet operational as of December 31, 2022. Exhibit E lists the name, city and state, and business telephone number (or, if unknown, the last known home telephone number) of every franchisee who had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year, or who has not communicated with us within 10 weeks of the issuance date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the Tikiz franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

There is no trademark-specific franchisee organization associated with the Tikiz Franchising system

created, sponsored or endorsed by us.

**ITEM 21**  
**FINANCIAL STATEMENTS**

Our audited financial statements, which comprise the balance sheets as of December 31, 2022, 2021, and 2020 and the related statements of operations and members' deficit and cash flows for the years then ended are attached to this Disclosure Document as Exhibit F. Also attached as Exhibit F is our unaudited balance sheet as of August 31, 2023 and the related unaudited statement of profit and loss for the period from January 1, 2023 to August 31, 2023.

**ITEM 22**  
**CONTRACTS**

The following agreements are attached to this Disclosure Document:

Exhibit B: Franchise Agreement and Exhibits

A: Territory

B: Guaranty

C: Non-Disclosure and Non-Competition Agreement

D: Transfer of Franchise to a Corporation or Limited Liability Company

E: Telephone Number Assignment and Power of Attorney

F: State Specific Addenda

G: Additional Franchise Addendum

H: Additional Equipment Addendum

I: Electronic Funds Transfer Authorization

Exhibit G: Sample Copy of General Release

Exhibit H: Agreement to Reserve Additional Territory

Exhibit I: Franchisee Disclosure Acknowledgment Statement

**ITEM 23**  
**RECEIPT**

Two copies of an acknowledgment of your receipt of this Disclosure Document appear at the end of the Disclosure Document. Please return one signed copy to us and retain the other for your records.

**FDD - EXHIBIT A****LIST OF STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

<b>STATE</b>	<b>STATE ADMINISTRATOR</b>	<b>AGENT FOR SERVICE OF PROCESS</b>
<b>CALIFORNIA</b>	Department of Financial Protection and Innovation One Sansome Street, Suite 600 San Francisco, CA 94104 415-972-8559 1-866-275-2677	Commissioner of Financial Protection and Innovation 320 West 4th Street, Suite 750 Los Angeles, CA 90013-2344 1-866-275-2677
<b>CONNECTICUT</b>	Securities and Business Investment Division Connecticut Department of Banking 260 Constitution Plaza Hartford, CT 06103 860-240-8230	Connecticut Banking Commissioner Same Address
<b>FLORIDA</b>	Department of Agriculture & Consumer Services Division of Consumer Services Mayo Building, Second Floor Tallahassee, FL 32399-0800 850-245-6000	Same
<b>GEORGIA</b>	Office of Consumer Affairs 2 Martin Luther King Drive, S.E. Plaza Level, East Tower Atlanta, GA 30334 404-656-3790	Same
<b>HAWAII</b>	State of Hawaii Business Registration Division Securities Compliance Branch Dept. of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 808-586-2722	Commissioner of Securities of the State of Hawaii Same Address
<b>ILLINOIS</b>	Franchise Division Office of the Attorney General 500 South Second Street Springfield, IL 62706 217-782-4465	Illinois Attorney General Same Address
<b>INDIANA</b>	Securities Commissioner Indiana Securities Division 302 West Washington Street, Room E 111 Indianapolis, IN 46204 317-232-6681	Indiana Secretary of State 201 State House 200 West Washington Street Indianapolis, IN 46204
<b>IOWA</b>	Iowa Securities Bureau Second Floor Lucas State Office Building	Same

STATE	STATE ADMINISTRATOR	AGENT FOR SERVICE OF PROCESS
	Des Moines, IA 50319 515-281-4441	
<b>KENTUCKY</b>	Kentucky Attorney General's Office Consumer Protection Division 1024 Capitol Center Drive Frankfort, KY 40602 502-696-5389	Same
<b>LOUISIANA</b>	Department of Urban & Community Affairs Consumer Protection Office 301 Main Street, 6th Floor One America Place Baton Rouge, LA 70801 504-342-7013 (gen. info.) 504-342-7900	Same
<b>MAINE</b>	Department of Business Regulations State House - Station 35 Augusta, ME 04333 207-298-3671	Same
<b>MARYLAND</b>	Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202 410-576-6360	Maryland Securities Commissioner Same Address
<b>MICHIGAN</b>	Michigan Department of Attorney General Consumer Protection Division Antitrust and Franchise Unit Williams Building, 1 <sup>st</sup> Floor 525 W. Ottawa Street Lansing, MI 48909 517-373-7117	Michigan Department of Commerce Corporations and Securities Bureau Same Address
<b>MINNESOTA</b>	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 280 St. Paul, MN 55101 651-539-1631	Minnesota Commissioner of Commerce Same Address
<b>NEBRASKA</b>	Department of Banking and Finance 1526 K Street, Suite 300 Lincoln, NE 68508 P.O. Box 95006 Lincoln, Nebraska 68509-5006 402-471-2171	Same
<b>NEW HAMPSHIRE</b>	Attorney General Consumer Protection and Antitrust Bureau State House Annex Concord, NH 03301 603-271-3641	Same
<b>NEW YORK</b>	New York State Department of Law Investor Protection Bureau 28 Liberty Street, 21st Floor New York, NY 10005 212-416-8285	Secretary of State 99 Washington Avenue Albany, New York 12231

<b>STATE</b>	<b>STATE ADMINISTRATOR</b>	<b>AGENT FOR SERVICE OF PROCESS</b>
<b>NORTH CAROLINA</b>	Secretary of State's Office/Securities Division 2 South Salisbury Street Raleigh, NC 27601 919-733-3924	Secretary of State Secretary of State's Office Same Address
<b>NORTH DAKOTA</b>	North Dakota Securities Department 600 East Boulevard Avenue State Capitol, Fifth Floor, Dept. 414 Bismarck, ND 58505-0510 701-328-4712; Fax: 701-328-0140	North Dakota Securities Commissioner Same Address
<b>OHIO</b>	Attorney General Consumer Fraud & Crime Section State Office Tower 30 East Broad Street, 15th Floor Columbus, OH 43215 614-466-8831 or 800-282-0515	Same
<b>OKLAHOMA</b>	Oklahoma Securities Commission 2915 Lincoln Blvd. Oklahoma City, OK 73105 405-521-2451	Same
<b>OREGON</b>	Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, OR 96310 503-378-4387	Director Department of Insurance and Finance Same Address
<b>RHODE ISLAND</b>	Rhode Island Department of Business Regulation Securities Division John O. Pastore Center – Building 69-1 1511 Pontiac Avenue Cranston, RI 02920 401-222-3048	Director, Rhode Island Department of Business Regulation Same address
<b>SOUTH CAROLINA</b>	Secretary of State 1205 Pendleton St., Ste. 525 Columbia, SC 29201 803-734-1728	Same
<b>SOUTH DAKOTA</b>	Department of Labor and Regulation Division of Securities 124 S. Euclid Ave., Ste. 104 Pierre, SD 57501 605-773-4823	Director of South Dakota Division of Securities Same Address
<b>TEXAS</b>	Secretary of State Registrations Unit P.O. Box 13550 Austin, TX 78711-3550 512-475-0775	Same
<b>UTAH</b>	Utah Department of Commerce Consumer Protection Division 160 East 300 South (P.O. Box 45804)	Same

STATE	STATE ADMINISTRATOR	AGENT FOR SERVICE OF PROCESS
	Salt Lake City, UT 84145-0804 TELE: 801-530-6601 FAX:801-530-6001	
<b>VIRGINIA</b>	State Corporation Commission Division of Securities and Retail Franchising Tyler Building, 9 <sup>th</sup> Floor 1300 E. Main Street Richmond, VA 23219 804-371-9051	Clerk of the State Corporation Commission 1300 East Main Street, 1 <sup>st</sup> Floor Richmond, Virginia 23219 804-371-9733
<b>WASHINGTON</b>	Department of Financial Institutions Securities Division 150 Israel Rd S.W. Tumwater, WA 98501 360-902-8762	Director, Dept. of Financial Institutions Securities Division 150 Israel Rd S.W. Tumwater, WA 98501
<b>WISCONSIN</b>	Wisconsin Dept. of Financial Institutions Division of Securities 345 W. Washington Avenue, 4th Floor Madison, WI 53703 608-266-8557	Wisconsin Commissioner of Securities Same Address

**FDD - EXHIBIT B**

**TIKIZ FRANCHISING, LLC  
FRANCHISE AGREEMENT**



**TIKIZ FRANCHISING, LLC  
FRANCHISE AGREEMENT**



**TIKIZ FRANCHISING, LLC**

**FRANCHISE AGREEMENT**

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## **EXHIBITS:**

- "A" – TERRITORY
- "B" – GUARANTY
- "C" – NON-DISCLOSURE AND NON-COMPETITION AGREEMENT
- "D" – TRANSFER OF FRANCHISE TO A CORPORATION OR LIMITED LIABILITY COMPANY
- "E" – TELEPHONE NUMBER ASSIGNMENT AND POWER OF ATTORNEY
- "F" – STATE SPECIFIC ADDENDA
- "G" – ADDITIONAL FRANCHISE ADDENDUM
- "H" – ADDITIONAL EQUIPMENT ADDENDUM
- "I" – ELECTRONIC FUNDS TRANSFER AUTHORIZATION

**TIKIZ FRANCHISING, LLC**  
**FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ (the "Effective Date"), by and between TIKIZ FRANCHISING, LLC, a Florida limited liability company, with its corporate headquarters located at 1021 S. Rogers Circle, Suite 1, Boca Raton, FL 33487 ("us" or "Tikiz"), and \_\_\_\_\_, whose principal address is \_\_\_\_\_ ("you" or "Franchisee").

**RECITALS**

**WHEREAS**, we have developed a proprietary system for establishing and operating retail businesses which serve shaved ice, ice cream, and other frozen dessert and beverage products (the "Products") from a mobile truck, mobile cart, mobile trailer and mini cart ("Tikiz Business") under our trade name, trademarks, service marks, logos and other commercial symbols, including but not limited to the trade name "Tikiz" (the "Marks"). Tikiz Businesses operate using our formats, designs, systems, methods, specifications, standards and procedures, brand concepts, marketing strategies, training techniques, and operational processes, all of which may be improved, further developed or otherwise modified from time to time by us ("System"); and

**WHEREAS**, you acknowledge that you have read this Agreement and our Franchise Disclosure Document and that you understand and accept the terms, conditions and covenants contained in this Agreement as being reasonably necessary to maintain our high standards of quality and service and the uniformity of those standards for all Tikiz Businesses in order to protect and preserve the goodwill of the Marks and our System; and

**WHEREAS**, you acknowledge that you have conducted an independent investigation of the business contemplated by this Agreement and recognize that, like any other business, the nature of each Tikiz Business and the System may evolve and change over time, that an investment in a Tikiz Business involves business risks and that the success of the venture is largely dependent upon your independent business abilities and efforts; and

**WHEREAS**, we expressly disclaim the making of, and you acknowledge that you have not received or relied upon, any warranty or guaranty, express or implied, as to the revenues, profits or success of the business venture contemplated by this Agreement. You acknowledge that you have not received or relied on any representations about the franchise by us, or our officers, directors, employees or agents, that are contrary to the statements made in our Franchise Disclosure Document or to the terms and conditions contained in this Agreement, and further represents to us as an inducement to your entry into this Agreement, that you have made no misrepresentations to induce us into entering into this Agreement; and

**NOW, THEREFORE**, for and in consideration of the premises and the mutual promises and covenants listed below, you and we do agree as follows:

**ARTICLE I**  
**GRANT OF FRANCHISE**

1.1 Granting Clause.

We grant to you the exclusive right and obligation and you accept from us the exclusive right and obligation to own and operate a Tikiz Business within a specified Territory designated on **Exhibit A** only

under our Trade Names, Marks, and System during the term of this Agreement and according to its provisions (the "Franchise").

## 1.2 Territory.

A. You may conduct your Tikiz Business only within the defined territory ("Territory") specified in **Exhibit A** to the Agreement except as otherwise expressly provided herein. Your Territory consists of the geographic area identified on **Exhibit A** to this Agreement. The size and population of your Territory may differ from other franchisees. During the term of this Agreement, and provided that you remain in full compliance with your obligations under this Agreement, we will not modify, establish, operate or grant another person the right to establish or operate another Tikiz Business in your Territory. From time to time, we may have the opportunity to offer you additional products and services to market in your Territory. If you are not ready, willing and able to do so, we may market them ourselves under the Marks, or appoint another franchisee to do so. You may not change your Territory without our prior written approval, which may be withheld for any or no reason. If we approve your request to change your Territory, then you shall, upon our written approval, complete a new Exhibit A and pay to us the sum of Two Thousand Five Hundred Dollars (\$2,500). This payment is not refundable under any circumstances.

B. Neither our approval of the Territory, nor any other service provided by us, shall be deemed a representation, warranty or judgment by us as to the likely success of your Tikiz Business in the Territory, or as to the relative desirability of such territory in comparison to others that might have been available to you. You understand and agree that the success of your Tikiz Business is dependent solely on your skills and abilities as an independent business person, and that we have made no representations, warranties or guarantees that your Tikiz Business will achieve any level of success.

C. You shall not solicit customers, service customers, market or advertise outside of your Territory without our prior written consent, which we may give or withhold in our absolute discretion. If we consent to the operation or marketing of your Tikiz Business outside of your Territory, we may, at any time thereafter, revoke our consent and you must immediately cease operating and marketing your Tikiz Business outside of your Territory. We shall not, in any event or under any circumstances, be liable to you for any loss, injury or damage to you which may result from the failure of another Tikiz franchisee to comply with this or similar obligation.

D. If you infringe upon another Tikiz franchisee's territory by generating income from a customer for goods and/or services provided and/or rendered within such other Tikiz franchisee's territory without first obtaining that franchisee's and our prior written permission, you shall be required to pay to us, within five (5) days after the infringement is proven: (a) for your first violation, One Thousand Dollars (\$1,000), plus the invoice amount for the products or services sold; and (b) for your second and subsequent violations, Five Thousand Dollars (\$5,000), plus the invoice amount for the products or services performed. These payments shall become our property and any distribution of these funds shall be in our sole discretion. Our acceptance of such payments shall not constitute a waiver of your default nor prevent us from exercising any remedies granted to us this Agreement or any remedy at law or in equity.

## 1.3 Rights Reserved By Us.

We and our affiliates retain all rights with respect to the System, the Marks and the sale of the Products and any other products and services anywhere in the world including, without limitation, the right:

(a) to produce, offer and sell, and to grant others the right to produce, offer and sell the Products and any other goods and services through similar or dissimilar channels of distribution, both within and outside the Territory, under trade and service marks other than the Marks and under any terms and conditions we deem appropriate;

(b) to produce, offer and sell, and to grant others the right to produce, offer and sell the Products and any other goods and services through dissimilar channels of distribution, both within and outside the Territory, under the Marks and under any terms and conditions that we deem appropriate;

(c) to operate and to grant others the right to operate Tikiz Businesses located outside the Territory, including within close proximity to your Territory and on such terms as we deem appropriate; and

(d) offer and sell products and services that are not part of the System through any distribution method, both within and outside the Territory.

## **ARTICLE II**

### **DEVELOPMENT AND OPENING OF THE BUSINESS**

#### **2.1 Mobile Tikiz Truck and Additional Equipment.**

A. You must purchase a mobile truck from us or our affiliate, which complies with our specifications, fitted with such equipment, tools, required inventory and image and design elements that we designate. The mobile truck shall be wrapped with our required design, which design shall be printed and installed by us, our affiliate or a vendor we approve or designate. We may, in our sole discretion, require you to purchase a new mobile truck from us, our affiliate or our designee upon renewal of this Agreement.

B. We may, in our sole discretion, assist you with selling your old mobile truck, trailer or cart. If you request this assistance and if we agree to provide it, you must pay us a commission fee equal to Ten Thousand Dollars (\$10,000) for the sale of your old mobile truck, trailer or cart.

C. You may, but are not required to, purchase additional equipment ("Additional Equipment") such as a mobile cart, mobile trailer and/or a mini cart for your Tikiz Business. Such Additional Equipment must be purchased from us, our affiliate or our designee and must comply with our specifications and fitted with such equipment, tools, required inventory and image and design elements that we designate. If you purchase any Additional Equipment, you will be required to sign our then current Additional Equipment Addendum, the current form of which is attached hereto as **Exhibit H**. You will be required to pay the Additional Equipment Royalty Fees in addition to the Royalty Fees, as stated in Article V below. The Additional Equipment offered and the Additional Equipment Royalty Fee for such equipment may change during the Initial Term and any renewal term. You will not be permitted to purchase any Additional Equipment until your mobile truck is open and operating and you are in compliance with this Agreement.

D. During the term of this Agreement, you may not use the mobile truck or any Additional Equipment for any purpose other than the operation of your Tikiz Business.

## 2.2 Docking and Storage Station.

You must secure, if necessary, an appropriate location to serve as your Tikiz truck docking station and storage area for your Tikiz Business. Your truck docking station and/or storage area must at a minimum include: (1) adequate parking; (2) secure, dry, clean storage for inventory and supplies adequate for your Territory; and (3) office and storage space for records and files. We will provide the specifications for the location of your truck docking station and/ or storage area and such location must be renovated according to our standards and specifications. You must comply with our standards or guidelines concerning premises, equipment, supplies or any other matter related to your Tikiz Business.

## 2.3 Development of Tikiz Business.

We will provide you with specifications and/or names of approved and/or designated suppliers for required products, services, signs, fixtures and supplies for your Tikiz Business. Within ninety (90) days of the Effective Date, you will do or cause to be done the following:

- A. Secure all financing required to operate your Tikiz Business;
- B. Comply with applicable Department of Motor Vehicle requirements, ordinances, codes, permit requirements and lease or deed requirements and restrictions, all such modifications being subject to prior notification to, and approval by, us;
- C. Obtain all required utility, health, sanitation and business permits and licenses, and any other required permits and licenses;
- D. Purchase, in accordance with our specifications and requirements, an opening inventory of food items, Products, ingredients and other products and supplies required for the opening of the Tikiz Business; and
- E. Purchase, from us, our affiliate, or our approved vendors, in accordance with our specifications and requirements, all required equipment, fixtures, and supplies as we deem necessary for the operation of your Tikiz Business.

2.4 If for reasons outside your control, and after all diligent effort, you are unable to completing all the required tasks of Section 2.3, you may request from us, in writing, an extension to complete all required tasks, which extension will not be unreasonably denied.

## 2.5 Fixtures, Equipment, Furniture and Signs.

You agree to use in the operation of the Tikiz Business only those brands, types or models and decorating materials, fixtures, equipment, furniture and signs that we have approved for Tikiz Businesses as meeting our specifications and standards for quality, design, appearance, function and performance. You further agree to place or display only such signs, emblems, lettering, logos and display materials that are from time to time approved in writing by us. You must purchase approved types or models and decorating materials, fixtures, equipment, furniture and signs from any supplier approved or designated by us (which may include us and/or our affiliates). We also have the right to change our approved and designated suppliers and our specifications in our discretion. You acknowledge that you may incur an increased cost to comply with such changes at your expense.

## 2.6 GPS Tracking and Surveillance System.

You must purchase and install in the mobile truck from which you will operate your Tikiz Business an approved GPS tracking system and video surveillance system. Such system must meet our standards and specifications and be kept in operation at all times.

## 2.7 Computer Programs, Software and Systems.

You must purchase, install, and utilize our Computer Software Program for the management of your customers, scheduled events, and rental/service items. You must also purchase a computer, laptop, or tablet, hardware, other software, printers, and other related accessories and equipment we require as specified in our Confidential Operations Manual ("Manual") or otherwise. The Computer Software Program must be purchased from the vendor we designate. You must pay the service, license or maintenance fees charged by us or our designated vendors in connection with the Computer Software Program, or any other required software, computer or mobile applications and/or web-based programs, as stated in the Manual or otherwise. If we require you to, you must pay for any replacement, upgrades, updates, or installations for the existing Computer Software Program or for a different program. We must have unfettered access to all data generated by you through the Computer Software Program, including without limitation, customer, event, and accounting information.

## 2.8 Commencement of Operations.

You may not begin to operate your Tikiz Business until we consent in writing. By consenting that your Tikiz Business may begin operation, we do not guarantee or represent that it will be successful. Factors which may affect the commencement of your operations include, without limitation, training schedule, procurement of a mobile truck, hiring personnel, and other outside influences. You shall commence operation of the Tikiz Business within six (6) months of the Effective Date of this Agreement and no later than ten (10) days after receipt of our written consent to commence operations. You acknowledge that time is of the essence in the development and opening of your Tikiz Business. In the event you fail to commence operation of your Tikiz Business within six (6) months of the Effective Date of this Agreement, we will begin charging you the monthly Royalty Fee and, if the Advertising Fund is established, the monthly Advertising Fund Fee.

## 2.9 Success.

You agree and acknowledge that our consent and approval of a particular territory, or for your commencement of operations, is not a warranty or guaranty of the success of your Tikiz Business. You further agree and acknowledge that the business venture contemplated by this Agreement involves business risks and uncertainties that is difficult to predict, and that the success of your Tikiz Business will be largely dependent upon your ability, motivation and quality of effort as an independent business person.

## 2.10 Government Approvals, Consents and Licenses.

It will be your sole responsibility to promptly seek and obtain all governmental and quasi-governmental approvals, consents and licenses required to open and operate the Tikiz Business. You undertake to use all possible efforts to obtain all required approvals, consents and licenses. It is your sole responsibility to determine the licenses, permits or registrations that are required for you to operate the Tikiz Business in the State in which your Territory is located. We make no representation or warranty of any kind that you will be able to obtain all required approvals, consents and licenses.

**ARTICLE III**  
**PROPRIETARY MARKS AND GOODWILL**

3.1 When used in this Agreement, "Marks" mean the trademarks and service marks which are used to identify a Tikiz Business and to distinguish it from that of any other business, and the trademarks, service marks, trade names, logos and commercial symbols as may be designated by us from time to time for use in connection with the System.

3.2 You are authorized to use the Marks, goodwill and trade secrets only for the operation of the Tikiz Business in the Territory, or in advertising for the Tikiz Business in the Territory, and in full compliance with this Agreement and the policies prescribed from time to time by us in our Manual or otherwise. Nothing in this Agreement shall be construed as authorizing or permitting you to use the Marks, goodwill and trade secrets in any area other than the Territory or for any other purpose except as authorized under this Agreement or in writing by us. You agree to use the Marks only for the uses and in the manner licensed under this Agreement and as provided in this Agreement. You understand and agree that the limited license to use the Marks granted hereby applies only to such proprietary marks as are designated by us, and which are not subsequently designated by us as being withdrawn from use, together with those which may hereafter be designated by us in writing. You expressly understand and agree that you are bound not to represent in any manner that you have acquired any ownership, goodwill or equitable rights in any of the Marks by virtue of the limited license granted hereunder, or by virtue of your use of any of the Marks.

3.3 You acknowledge that the ownership of all of the Marks, goodwill and trade secrets remains solely with us. You agree that you will not do or permit any act or thing to be done in derogation of any of our rights in connection with the Marks, either during or after the term of this Agreement. You agree not to apply for or obtain any trademark or service mark registration of any of the licensed Marks or any confusingly similar marks in your own name. You agree that you will not, during or after the term of this Agreement, in any way dispute or impugn the validity of the Marks, our rights to the Marks, or our, our affiliates or our other franchisees' rights to use the Marks.

3.4 All uses of the Marks by you, whether as a trademark, service mark, trade name or trade style, will inure to our benefit. Following the expiration or termination of this Agreement, no monetary amount will be attributable to any goodwill associated with your use of the Marks or operation of the Tikiz Business.

3.5 You shall only use the Marks, logos, trade styles, color combinations, designs, signs, symbols and slogans of Tikiz, and only in the manner and to the extent specifically permitted by this Agreement or in any manuals, directives or memos (collectively referred to as "Confidential Operations Manuals") prepared by us. You shall not use any confusingly similar Marks in connection with your franchise or any other business in which you have an interest.

3.6 We reserve the right to approve all signs, memos, stationery, business cards, advertising material forms and all other objects and supplies using the Marks. All advertising, publicity, point of sale materials, signs, decorations, furnishings, equipment, or other materials employing the word "Tikiz" shall be in accordance with this Agreement and the Manual, and you shall obtain our approval prior to such use.

3.7 If it becomes advisable at any time, in our sole discretion, to modify or discontinue use of any Mark and/or to adopt or use one or more additional or substitute proprietary marks, then you shall be obligated to comply with any such instruction by us. In such event and at our sole direction, you shall adopt, use and display only such new or modified Marks and shall promptly discontinue the use and



display of outmoded or superseded marks, at your expense. You waive any claim arising from or relating to any proprietary mark change, modification or substitution. We will not be liable to you for any expenses, losses or damages sustained by you as a result of any proprietary mark addition, modification, substitution or discontinuation. You covenant not to commence or join in any litigation or other proceeding against us for any of these expenses, losses or damages.

3.8 Upon the expiration, termination or non-renewal of this Agreement, you shall immediately cease using the Marks, and our proprietary color combinations, trade dress, designs, symbols or slogans; and we may cause you to enter into such documents and take such action as may be necessary to evidence this fact. After the effective date of expiration, termination or non-renewal, you shall not represent or imply that you are associated with the Tikiz System. To this end, you irrevocably appoint us or our nominee to be your attorney-in-fact to complete, on your behalf, any document or perform any legal act necessary to protect the Marks from unauthorized use. You acknowledge and agree that the unauthorized use of the Marks will result in irreparable harm to us for which we may obtain injunctive relief, monetary damages, reasonable attorneys' fees and costs.

3.9 If you receive notice, are informed of or learn that any third party which you believe is not authorized to use the Marks is using the Marks or any variant of the Marks, you agree to promptly notify us. We will then determine whether or not we wish to take any action against the third party on account of the alleged infringement of our Marks. You will have no right to make any demand or to prosecute any claim against any alleged infringer of the Marks for or on account of an alleged infringement.

3.10 If you receive notice, are informed of or learn of any claim, suit or demand against you on account of any alleged infringement, unfair competition, or similar matter relating to the use of the Marks (a "claim"), you agree to promptly notify us. We will take any action we may consider necessary to protect and defend you against the claim and indemnify you against any actual damages and reasonable costs or expenses incurred in connection with the claim, so long as the claim is based solely on any alleged infringement, unfair competition, or similar matter relating to your proper use of the Marks. We shall have sole and complete discretion in the conduct of any defense, prosecution or other action we choose to undertake. In that event, you shall enter into those documents and perform those acts which, in our opinion, are necessary for the defense or prosecution of the litigation or for such other action as may be undertaken by us. You may not settle or compromise such claim by a third party without our prior written consent. We will have the right to defend, compromise and settle the claim at our sole cost and expense, using our own counsel. You agree to cooperate fully with us in connection with the defense of the claim. You grant irrevocable authority to us, and appoint us as your attorney in fact, to defend and/or settle all claims of this type. You may participate at your own expense in the defense or settlement, but our decisions with regard to the settlement will be final. We will have no obligation to defend or indemnify you pursuant to this Section if the claim arises out of or relates to your use of any of the Marks in violation of the terms of this Agreement.

3.11 In order to develop and maintain high uniform standards of quality and service and to protect the reputation and goodwill of the Tikiz System and the Marks, you agree to do business and advertising using only the Marks designated by us. You shall not do business or advertise using any other name. You are not authorized to and shall not use the word "Tikiz" by itself, as a part of the legal name of any corporation, partnership, proprietorship or other business entity with which you are associated, or with a bank account, trade account or in any legal or financial connection. You are prohibited (except as expressly provided in this Agreement) from using any Mark with any prefix, suffix, or other modifying words, terms, designs or symbols (other than logos licensed by us to you). You may not use any Mark in connection with the sale of any unauthorized product, service or program or in any other manner not explicitly authorized in writing by us.

3.12 In order to preserve the validity and integrity of the Marks, and to assure that you are properly employing them in the operation of your Tikiz Business, we and our agents shall have the right at all reasonable times to inspect your Tikiz Business, financial books and records, and operations. You shall cooperate with and assist our representative in such inspection.

3.13 You shall be required to affix the <sup>SM</sup>, <sup>TM</sup> or ® symbol upon all advertising, publicity, signs, decorations, furnishings, equipment or other printed or graphic material employing the word "Tikiz" or any other of the Marks, whether presently existing or developed in the future, as set forth in our Manual or otherwise.

3.14 You may not use the Marks in any way which will incur any obligation or indebtedness on behalf of us. You agree to comply with our instructions in filing and maintaining all requisite trade name or fictitious name registrations, and to execute any documents deemed necessary by us or our counsel to obtain protection for the Marks or to maintain their continued validity and enforceability.

3.15 If, during the term of this Agreement, there is a claim of prior use of the "Tikiz" name or any other of the Marks in the area in which you are doing business or in another area or areas, the Franchisee agrees to take such action, cease using such Marks and use such other Marks as the Franchisor shall determine in its discretion.

3.16 During the term of this Agreement and any renewal or extension hereof, you shall conduct your Tikiz Business under the assumed business name "Tikiz Shaved Ice & Ice Cream." You agree, at your expense, to perform all filings and procure all required or necessary governmental approvals or registrations required to do business under that assumed business name. You shall also identify yourself as the independent owner of the Tikiz Business in conjunction with any use of the Marks, including, but not limited to, on invoices, order forms, receipts, business stationery, contracts with all third parties or entities, as well as the display of such notices in such content and form at such conspicuous locations as we may designate in writing.

#### **ARTICLE IV** **TERM AND RENEWAL**

4.1 Except as otherwise provided in this Agreement, the initial term of this franchise shall be for a period commencing upon the Effective Date (the "Initial Term") and conclude on the ten (10) year anniversary of the date of execution of this Agreement.

4.2 You may renew your rights under this Agreement for one (1) additional consecutive term of ten (10) years, subject to all of the conditions specified in Section 4.3 below, which must be met prior to and at the time of renewal.

4.3 Your right of renewal, as set forth in Section 4.2 above, shall be subject to the following conditions precedent:

A. Neither this Agreement shall have been terminated for any reason;

B. You shall not be in default of any provision of this Agreement, any amendment hereof or successor of it, any other agreement between us or any subsidiary and/or affiliated corporation and you have substantially complied with all of the terms and conditions of such agreements during their terms;

C. You shall have served written notice ("Notice to Renew") of your intention to exercise your right of renewal not less than twelve (12) months nor more than eighteen (18) months prior to the expiration of the Initial Term;

D. You shall have affected the improvements, modification or repairs to your Tikiz truck and any Additional Equipment and your Tikiz Business operations required by us according to Section 4.4 below;

E. If we require you to, in our sole discretion, you shall have purchased a new mobile truck and/or any Additional Equipment from us, our affiliate or our designee that has been built out in accordance with our specifications;

F. You have satisfied all monetary obligations due and owing to us, any subsidiary of us and/or any affiliated corporations of us and you have timely met these obligations throughout the term of this Agreement and any other agreement in effect and any renewals thereof;

G. You shall enter into, upon renewal, our then-current form of Franchise Agreement, which agreement shall supersede this Agreement in all respects and terms, and which may include different terms than those provided for in this Agreement, including, without limitation, additional fees and requirements, and higher royalty fees;

H. You shall complete a general release, in a form prescribed by us, on any and all claims against us, any of our subsidiaries and/or affiliated corporations, and their respective officers, directors, agents and employees; and

I. You shall comply with our then-current reasonable qualification and training requirements.

J. You shall pay a renewal fee equal to twenty-five percent (25%) of the then-current initial franchise fee being charged by us to new franchisees.

4.4 Upon receipt of your Notice to Renew, we may prepare and provide to you a renewal report within three (3) months of receipt of your Notice to Renew. The renewal report shall specify the modifications and improvements and repairs, if any, required by us and which you must make to your Tikiz Business, including your Tikiz truck and any Additional Equipment. All modifications, improvements and repairs must conform to our then-existing standards, and specifications.

## **ARTICLE V**

### **INITIAL AND CONTINUING FEES PAYABLE TO FRANCHISOR**

5.1 In consideration of the execution of this Agreement and our granting to you a franchise, you agree to pay us an Initial Franchise Fee of Twenty Thousand Dollars (\$20,000) (the "Initial Franchise Fee"), payable upon the execution of this Agreement. The Initial Franchise Fee is not refundable under any circumstances and is deemed fully earned by us upon receipt.

5.2 You may, only if we approve, in our sole discretion, reserve available territories adjacent to your Territory for six (6) months by paying us a territory reservation fee of Ten Thousand Dollars (\$10,000) per territory ("Territory Reservation Fee") and signing the Agreement to Reserve Additional Territory in the form attached to our Franchise Disclosure Document. The Territory Reservation Fee will be applied to the Initial Franchise Fee of the additional Tikiz franchise at the time you sign the

corresponding franchise agreement. The Territory Reservation Fee is not refundable under any circumstances, even if you do not open an additional Tikiz franchise.

5.3 In consideration of our granting you a franchise, the right to prepare and sell the Products to the general public, and for the use of the Marks during the term and any subsequent renewals, you shall pay to us, in addition to the Initial Franchise Fee, a flat royalty fee equal to Five Hundred Dollars (\$500) per month ("Royalty Fee").

5.4 If you purchase Additional Equipment, you will be required to pay additional royalty fees for the Additional Equipment as follows ("Additional Equipment Royalty Fee"):

- a. Tikiz mobile cart – You shall pay to us an Additional Equipment Royalty Fee of Five Hundred Dollars (\$500) per month;
- b. Tikiz mobile trailer – You shall pay to us an Additional Equipment Royalty Fee of Five Hundred Dollars (\$500) per month;
- c. Tikiz mini cart – You shall pay to us an Additional Equipment Royalty Fee of Five Hundred Dollars (\$500) per month; and
- d. Tikiz hot beverage package – You shall pay to us an Additional Equipment Royalty Fee of Two Hundred Dollars (\$200) per month.

If we offer other Additional Equipment than as stated above, you will be required to pay the then-current Additional Equipment Royalty Fee rate for such Additional Equipment. The Additional Equipment Royalty Fee will be due for as long as you own the Additional Equipment. For purposes of this Agreement, all references to "Royalty Fees" herein shall include any Additional Equipment Royalty Fee unless otherwise stated.

5.5 We have the right to establish and administer an advertising fund (the "Advertising Fund") for the marketing (including advertising, promotion, public relations and other marketing tools) of Tikiz businesses as we may deem necessary or appropriate. If we establish an Advertising Fund, you shall contribute to the Advertising Fund a fee of Two Hundred Fifty Dollars (\$250) per month (the "Advertising Fund Fee"). You shall contribute to the Advertising Fund at the same time and in the same manner that you make payment of the Royalty Fee due under this Agreement.

5.6 Royalty Fees are due and payable on the first day of each month, or on such other day as designated by us in the Manual or otherwise in writing (the "Payment Date"). You shall remit Royalty Fees, Advertising Fund Fees, and any other monies owed to us hereunder via electronic funds transfer or other comparable means on the Payment Date. You shall comply with the procedures established by us and/or to perform such acts and deliver and complete such documents as may be necessary to assist in or accomplish such electronic method of payment, including the Electronic Funds Transfer Authorization form attached to this Agreement as **Exhibit I**.

5.7 In the event any electronic funds transfer is not honored by your bank for any reason, you shall pay to us, upon demand, a non-sufficient funds fee of One Hundred Dollars (\$100) per incident. You further agree that you shall, at all times throughout the term of this Agreement, maintain a minimum balance of One Thousand Five Hundred Dollars (\$1,500) in your bank account against which such electronic funds transfer shall be drawn for the Tikiz Business operated under this Agreement.

5.8 The Royalty Fee and, if the Advertising Fund is established, the Advertising Fund Fee, will accrue on the earlier of either: (i) the date on which you commence operation of your Tikiz Business; or (ii) upon expiration of the six (6) month period from the Effective Date of this Agreement.

5.9 Royalty Fees or any and all other payments provided for in this Agreement not received by us within three (3) days of the Payment Date shall be subject to interest on a daily basis at one and one-half percent (1.5%) per month or the then highest interest rate allowed by law, whichever is less.

5.10 If we allow you to and you make any payment to us or our affiliate by credit card for any fee or required payment to us or our affiliate, we or our affiliate may charge a service fee of up to three percent (3%) of the total charge.

5.11 Acceptance of any payment on account of Royalty Fees or any and all other payments provided for in this Agreement does not constitute any waiver of rights under this Agreement.

5.12 Your obligations for the full and timely payment of the Royalty Fees and all other payments provided for in this Agreement shall be absolute, unconditional and fully earned by us. You shall not delay or withhold the payment of all or any part of these fees or payments for any reason, put the same in escrow or set-off same against any and all claims or alleged claims you may allege against us.

## **ARTICLE VI** **TRAINING**

6.1 We will provide an Initial Training Program during which you shall receive instruction, training and education in the operation of the Tikiz Business and indoctrination into the System (the "Initial Training Program"). The Initial Training Program shall include, but not be limited to, instructions on the preparation and sale of the Products and quality control techniques and procedures. Prior to opening your Tikiz Business, you or your designated manager, if you are an entity, and two (2) employees (for a maximum of three (3) people) shall attend our Initial Training Program, which shall be conducted at our corporate office in Boca Raton, Florida and/or at another location designated by us. If you send more than three (3) people to the Initial Training Program, we will charge you an additional fee of not more than \$250.00 per day for each additional person. You must complete the Initial Training Program to our satisfaction. You shall be responsible for all wages and travel and living expenses which you and your manager, assistant or your other employees incur in connection with the Initial Training Program. In the event you fail to complete the Initial Training Program, we may, in our sole discretion, allow you to repeat the program. You will be charged the then current training fee for the repeat training. If you fail to complete the Initial Training Program to our reasonable satisfaction after the second attempt, we may terminate this Franchise Agreement without providing you with any opportunity to cure.

6.1.1 We have no obligation to furnish you with any on-site training and assistance. However, should you request on-site assistance from us in order to facilitate the opening of the Tikiz Business, which we shall have no obligation to provide, but if we provide such assistance, we will charge you our then current rates per person for each day of on-site assistance we agree to provide, plus our expenses.

6.2 We may, from time to time, provide ongoing training programs and/or seminars which we may require you and/or your designated manager to attend. All ongoing training programs and/or seminars will be made available to you at no cost. However, all expenses incurred by you in attending such training programs and/or seminars including, but not limited to, travel costs, room and board expenses and employees' salaries, if applicable, shall be your sole responsibility.

6.3 You shall maintain, at all times during the term of this Agreement or any renewal thereof, a staff of trained employees sufficient to operate the Tikiz Business in accordance with this Agreement and our standards. You shall not employ any person who may reasonably be required by us to complete a training program but who fails to do so for any reason whatsoever.

6.4 You are responsible for the training of all your employees in compliance with the standards and specifications of the System. You may, but are not required to, send your replacement managers, assistants or other employees to our Initial Training Program. If you do, we will charge you our then current fee per person. You will also be responsible for their wages and travel and living expenses incurred in connection with the training.

6.5 In our discretion, we may hold an annual franchisee meeting/convention once each year to provide updates, offer continuing education, and encourage discussion of topics of importance to franchisees. You and your Designated Manager must attend the national convention at your expense. We may charge a fee for these events, which will not exceed Five Hundred Dollars (\$500) per person. If we charge a fee, you must pay the fee at least thirty (30) days in advance of the first day of such meeting/convention. You will also be responsible for your and your Manager's travel, meals, living and lodging expenses.

## **ARTICLE VII**

### **OBLIGATIONS OF FRANCHISOR**

7.1 We will provide you with specifications and/or names of approved and/or designated suppliers for required products, services, signs, fixtures and supplies for your Tikiz Business.

7.2 We shall lend to you or provide you with access to our Confidential Operations Manual.

7.3 We may, in our sole discretion, assist you with any ongoing local marketing programs.

7.4 We may provide such assistance in connection with the operation of the Tikiz Business as is from time to time deemed appropriate by us in our sole discretion. This assistance may be provided by us in person, by telephone, or through any other means we deem appropriate. You understand and agree that all advice and guidance provided by us is only supportive of the operation of the Tikiz Business and that the overall success of the Tikiz Business is primarily dependent upon your business abilities and efforts.

7.5 We or our designees or agents may, from time to time, visit and inspect your Tikiz Business to conduct an operational audit to determine compliance with this Agreement and with our policies, procedures, programs, standards, and specifications as set forth in the Confidential Operations Manual or elsewhere. We may examine and inspect your Tikiz Business, the products, inventory, supplies and equipment in the truck, and we may confer with you, your employees and customers. We or our designees or agents shall have the absolute right to make inspections at such times and frequencies, during normal business hours, as we may determine. You will cooperate with our representatives in such inspections, render such assistance to them as they may reasonably request and immediately correct any failure to comply with the System and this Agreement as brought to your attention by our representative. Our representatives may photograph, record, and/or videotape your Tikiz Business during the inspection.

7.6 In order to ensure that the distinguishing characteristics of the System are uniformly maintained, we may establish standards for certain proprietary food items, products, equipment, commodities and supplies for use by you in the execution of the System and may develop new proprietary

food items, products, programs, equipment and techniques which you shall be required to use and/or purchase in the operation of your Tikiz Business.

## **ARTICLE VIII**

### **OBLIGATIONS AND DUTIES OF FRANCHISEE**

8.1 You shall operate your Tikiz Business in accordance with our Confidential Operations Manual, which contains mandatory and suggested specifications, standards and operating procedures, and which may be updated from time to time. You shall maintain the condition of the mobile truck and any Additional Equipment in a clean and orderly manner and consistent with the image of a Tikiz business as we prescribe from time to time, at your sole expense.

8.2 You shall make, at your sole expense, changes necessary to conform to the Confidential Operations Manual, including, but not limited to repairing items not in good condition or not functioning properly, and upgrading and remodeling the Tikiz Business, including fixtures, equipment and signs.

8.3 We will provide you with e-mail addresses with the tikiz.com domain name for your and your manager's use solely in connection with the operation of the Tikiz Business only, and for no other purpose. You acknowledge and agree that you will not own these e-mail addresses or domain name and your rights to use such e-mail addresses will immediately cease upon the transfer, expiration or termination of this Agreement. We will charge you an annual fee of no more than Two Hundred Dollars (\$200), as set forth in the Manual or otherwise, for each tikiz.com e-mail address we assign to you. These e-mail addresses shall only be assigned to and used by you, your owners and your manager. You agree and understand that you are responsible for implementing any and all changes to the specifications, standards and operating procedures we make and which we may notice to you through electronic mail or otherwise.

8.4 You shall contract with vendors, approved or designated by us, for the design and outfitting of your Tikiz mobile truck and any Additional Equipment, unless you are required to purchase these from us or our affiliate.

8.5 You agree, at your sole cost and expense, to issue, offer and participate in such rebates, give-aways, prize contests, special offers, public relations campaigns, product launches, price point promotions and other promotions in accordance with advertising programs we may establish from time to time, so long as compliance with any of the foregoing does not contravene any applicable law, rule or regulation. You shall be responsible for the costs of such participation, which may include a commitment by you to purchase specified quantities of inventory and supplies to support these programs. You are required to obtain our prior written approval prior to implementing any program or promotion that we have not mandated or provided.

8.6 You or a designated and approved manager shall, during the term of this Agreement and any renewal thereof, directly supervise the Tikiz Business and devote full time, energy and best efforts to the management and operation of the Tikiz Business.

8.7 Your Tikiz Business must be operating and open for business at all times specified in the Confidential Operations Manual, or as required by your lease if you have one.

8.8 You shall maintain, at your own expense, at all times, the interior and exterior of your Tikiz Business and all fixtures, furnishings, signs and equipment in the highest degree of cleanliness, orderliness, sanitation and repair, as determined by us, and to make no material alteration, addition, replacement or improvement in or to the interior or exterior of the Tikiz Business without the prior written

consent of us, except that you shall be required to periodically renovate, refurbish and update your Tikiz Business so that it is in substantial conformity with our then-current System design. Periodically, we may instruct you to upgrade your mobile truck and equipment and any Additional Equipment at your expense to meet our then currently effective standards. You must promptly comply with any such repair, upgrade, or replacement request.

8.9 We may, from time to time, conduct market research and testing to determine consumer trends and the marketability of new food products and services. You agree to cooperate by participating in our market research programs, test marketing new food products and services in the Tikiz Business and providing us with timely reports and other relevant information regarding such market research. In connection with any such test marketing, you shall purchase a reasonable quantity of the tested products and effectively promote and make a reasonable effort to sell such products.

8.10 You agree to allow us, from time to time, to obtain and take samples of ingredients, products and supplies from your Tikiz Business for testing by us in order to assure that you are in compliance with our reasonable standards and specifications. You must allow our representatives to enter and inspect your mobile truck, any Additional Equipment, or any other location where assets or records of your Tikiz Business are located, during normal business hours, to inspect, audit, photocopy, photograph and videotape your business operations and records, and to interview any of your employees or customers. You must correct any deficiencies in your operation within the time specified in any written notification to you of such deficiencies. If you do not take such effective steps to bring your operation up to our standards, your failure to do so will be a material breach of this Agreement. In addition, upon reasonable request, you must furnish to us, in whatever format we require, all customer information and records for your Tikiz Business.

8.11 You agree to maintain a high moral and ethical standard in the operation and conduct of your Tikiz Business so as to create and maintain goodwill among the public for the name "Tikiz" and supervise and evaluate the performance of your staff to insure that each renders competent, efficient and quality service to the general public. In the event a customer of your Tikiz Business contacts us to lodge a complaint, we reserve the right to address the customer's complaint to preserve goodwill and prevent damage to the Tikiz brand. Our right to address customer complaints may include refunding money to the complaining customer, in which case you must reimburse us for these amounts upon demand. We may contact any customer of your Tikiz Business at any time for any purpose.

8.12 You recognize that it is essential to the proper marketing of the Products, and to the preservation and promotion of Tikiz's reputation and acceptance by the public at large, that standards of quality be strictly maintained. You therefore agree, as part of the consideration for this Agreement, that you will at all times sell or offer for sale to retail customers, only those products and services that are approved by us and meet our specifications and standards. In furtherance thereof, you may be required to purchase from us, our affiliate or our designee any new products, which we may introduce from time to time, and be required to offer same to the consuming public for its consumption.

8.13 You are required to purchase certain required products, supplies, equipment, materials and/or services for the establishment and day-to-day operation of your Tikiz Business from us, our affiliates, or suppliers approved or designated by us, including, but not limited to, the mobile trucks, the truck build-out services, equipment and any Additional Equipment. You may request approval of alternate suppliers, in writing, which we may, in our sole discretion approve or disapprove. We are not obligated to approve any alternate suppliers. You acknowledge and understand that we and/or our affiliates will be the only supplier of certain equipment, products, supplies and/or services to you, and that the cost of such equipment, productions, supplies and/or services may be higher than the cost of the same or similar equipment, productions, supplies and/or services that may be purchased elsewhere.



We shall have the right during the term of this Agreement to amend, alter, add to, delete, or revise the equipment, productions, supplies and/or services that you are required to purchase directly from us and/or our affiliates. You acknowledge that we and/or our affiliates will make a profit on the sale of equipment, products, supplies and/or services to you. You further understand that we and/or our affiliates may from time to time receive consideration from manufacturers, suppliers, vendors and/or other third parties in respect to sales of equipment, products, supplies or services to you or in consideration of services rendered or rights licensed to such persons. You agree that we and/or our affiliates shall be entitled to said profits and/or consideration.

You acknowledge that in purchasing or leasing products, supplies, equipment, materials and/or services from us or suppliers approved by us, including our affiliates or Related Parties, **TIKIZ EXPRESSLY DISCLAIMS ANY WARRANTIES OR REPRESENTATIONS AS TO THE CONDITION OF SAME, INCLUDING WITHOUT LIMITATION, EXPRESS OR IMPLIED WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR ANY INTENDED PURPOSE. YOU AGREE TO LOOK SOLELY TO THE MANUFACTURER OR SUPPLIER OF SAME IN THE EVENT OF ANY DEFECTS.** In addition, we disclaim any liability arising out of or in connection with the services rendered or products furnished by any supplier approved or designated by us. Our approval or consent to any services, goods, suppliers, or any other individual, entity or any item shall not create any liability to us.

We shall have no obligation to sell you any equipment, products, supplies and/or services, if you are in default under this Agreement.

We agree that we will use our reasonable efforts to fulfill or to cause our designees to fulfill your orders for equipment, products, supplies and/or services pursuant to this Agreement. However, we shall not be liable to you in the event that we or our designee are not able to fulfill an order for equipment, products, supplies and/or services placed by you.

The cost of the equipment, products, supplies and/or services and other products and items you are required to purchase from us and/or our affiliates shall be based on the price then in effect, as set forth and identified from time to time on our confidential published price lists, in our Manual, or through other written communications.

You may also be required to purchase certain products, supplies, equipment and/or materials by brand name or which meet our specifications.

8.14 You agree that you will never, during the Initial Term or any Renewal Term of this Agreement, or at any time after this Agreement expires or terminates, divulge or use any Confidential Information (as defined below) for the benefit of any other persons, partnership, proprietorship, association, corporation or entity. "Confidential Information" means knowledge, trade secrets or know-how concerning the systems of operation, programs, products, product processes, methods, formulas, plans, accounts, identities of suppliers, price lists, procedures and techniques, confidential manuals, advertising and marketing techniques, operational and quality assurance procedures, customers or practices of you, us or the System. Confidential Information includes (without limitation) all information, knowledge, know-how, recipes, and information which we, our Affiliates, or our officers, designate as confidential. Confidential Information will not, however, include information which you can demonstrate came to your attention before we disclosed it to you or which, at or after the time of disclosure, has become public through publication or communication by others, but not through any act of you. Except as authorized in this Agreement, you agree never to copy, duplicate, record or otherwise reproduce any of the Confidential Information or material containing the Confidential Information in whole or in part; store it in a computer, data base or other electronic format; or, otherwise make it available to any third party. Upon the expiration or termination of this Agreement, you shall return to us

all Confidential Information, including all materials, books, records, software and manuals considered confidential under this Agreement in your possession. You may divulge only Confidential Information necessary to operate the Tikiz Business, and only to those of your employees, agents or independent contractors who need access to it for this purpose. You agree to take all necessary precautions to ensure that your employees retain the Confidential Information in confidence, including, but not limited to, requiring your employees who have access to the Confidential Information, to sign, at the time of employment, the Non-Disclosure and Non-Competition Agreement attached to this Agreement as **Exhibit C**. You shall provide to us an executed copy of the Non-Disclosure and Non-Competition Agreement for all of your employees who need access to Confidential Information in connection with the operation of the Tikiz Business and shall provide the executed agreement at the time each such employee is hired. The covenants of this Section shall survive the termination or expiration of this Agreement.

8.15 Your Tikiz Business must be confined to the preparation and sale of only such menu items, food and beverage products as we designate, and as set forth in our Manual or otherwise, for sale by your Tikiz Business. You must offer for sale from your Tikiz Business all items and only those items listed as menu items and other approved food and beverage products. We have the right to make modifications to these items from time to time in our sole discretion, and you agree to immediately comply with any modifications. You may not offer or sell any other products or services from your Tikiz Business without our prior written consent, which we may withhold for any reason in our sole discretion.

8.16 You shall comply with all the terms, conditions, requirements, covenants and agreements in this Agreement and any renewals thereof and supply us with such information (in addition to that otherwise provided for in this Agreement) as we may reasonably request.

8.17 You shall use a standard menu and menu format as required by us. You shall only employ our designated or approved supplier to reproduce your menu using our format and specifications. This provision shall not constitute a license of any copyright or trademark to the prospective printer of such menus. At our discretion the standard menu format may contain advertising with references to other Tikiz Businesses.

8.18 You shall promptly pay, when due, all taxes levied or assessed, including, without limitation federal income taxes, sales taxes, unemployment taxes and all indebtedness incurred by you in the conduct of the business licensed by this Agreement.

8.19 You shall operate your Tikiz Business in strict compliance with all applicable federal, state and local laws, rules and regulations, and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of your Tikiz Business, including, without limitation, operation licenses, licenses to do business and fictitious name registration.

8.20 You shall notify us, in writing, within five (5) days of the commencement of any action, claim, suit or proceeding, and of the issuance of any order, writ, injunction, suit or proceeding, award or decree of any court, agency or other governmental instrumentality against you. You shall also notify us, in writing, within five (5) days of any commencement of any action, claim, suit or proceeding, and of the issuance of any order, writ, injunction, suit or proceeding, award or decree of any court, agency or other governmental instrumentality against any third party, including but not limited, all members, shareholders, officers, directors, and employees of the franchisee, which may adversely affect the operation or financial condition of the Tikiz Business.

8.21 You shall not pledge our credit or bind us to any obligation, nor shall you hold yourself out as being authorized to do so.

8.22 You shall be responsible for having all personnel employed by you wear standard uniforms and attire, in accordance with the Confidential Operations Manual, during business hours in order to further enhance our System. You shall be permitted to purchase such uniforms and attire from manufacturers or distributors approved by us, all uniforms and attire must be in strict accordance with our design and other specifications.

**8.23 You understand and agree that the operation of your Tikiz Business, maintenance of the truck(s) and equipment and any Additional Equipment, conduct and appearance of its personnel, and the preparation and sale of products from the Tikiz Business may be regulated by various governmental and municipal rules, statutes, ordinances and regulations. You agree to fully and faithfully comply with all applicable rules, statutes, ordinances, regulations, and any other requirements from governing authorities and agencies. In the event any product dispensed at the your Tikiz Business evidences adulteration from the standards of our food items, or is in violation of any applicable law or regulations, or in the event the food items, premises, equipment, personnel or operation of the Tikiz Business pose a health risk to the public, you shall immediately close your Tikiz Business, terminate selling operations, destroy all contaminated or adulterated products, eliminate the source of contamination or adulteration, and remedy all unsanitary conditions present. You shall not reopen for business until approved to do so by us after our inspection and if applicable an inspection by the applicable governing authority or agency. Our inspection may include laboratory analysis of samples obtained in the event you or your agents or employees fail or refuse to comply with all of the foregoing remedial measures or in the event of any repetition of any adulteration or palming off or failure of sanitation in your Tikiz Business.**

8.23.1. In order to protect the consuming public from any risk of harm that is posed by the operation of your Tikiz Business, and to protect the goodwill and reputation of the System, we may seek immediate ex-parte injunctive relief seeking an order to close your Tikiz Business. You acknowledge that this action is necessary to insure the safety and well-being of the public, as well as to protect the goodwill of the System and the Marks.

8.23.2. In the event that the ex-party injunctive relief is necessary, you shall pay all costs and expenses, including our attorneys' fees and costs incurred. The remedies presented are in addition to and not in substitution for those stated in Article XXIII of this Franchise Agreement.

8.23.3. You must submit copies of all health, sanitation or other regulatory agency inspection reports to us immediately upon receipt thereof.

8.24 You are absolutely prohibited from having any vending machines, lottery games or games of chance, newspaper racks, juke boxes, games, pinball machines, pay telephones, video games, rides or other mechanical or electronic devices installed or operated from your Tikiz mobile truck or any Additional Equipment or under the Marks.

8.25 In the event you sell any food, beverage, products, premiums, novelty items, clothing, souvenirs or perform any services that we have not prescribed, approved or authorized, upon notice by us, you shall immediately cease and desist offering or providing the unauthorized or unapproved food, beverage, product, premium, novelty item, clothing, souvenir or from performing such services, and (ii) if you have not complied with the above within twenty-four (24) hours of notice from us, pay to us, on demand, a prohibited product or service fine equal to Two Hundred Fifty Dollars (\$250) per day for each day such unauthorized or unapproved food, beverage, product, premium, novelty item, clothing, souvenir

or service is offered or provided by you. The prohibited product or service fine shall be in addition to all other remedies available to us under this Agreement or at law.

8.26 In addition to any other monetary penalties described in this Agreement, we may assess you a penalty of Two Hundred and Fifty Dollars (\$250) for a first violation of a term or provision of this Agreement. If such violation remains uncorrected thirty (30) days after notice from us to you of the violation, we may, in addition to any other rights and remedies available to us under this Agreement or at law, assess an additional monetary penalty of Five Hundred Dollars (\$500). If such violation remains uncorrected thirty (30) days after notice of the additional monetary penalty, we may assess an additional One Hundred Dollars (\$100) per day for each day in which the violation remains uncorrected. Nothing shall be a waiver of any other remedy available to us under this Agreement or at law.

## **ARTICLE IX**

### **ADVERTISING AND PROMOTIONAL ACTIVITIES**

9.1 We may, from time to time, require you to participate in advertising and promotional programs, and we shall retain sole discretion of approval over agencies, spokespersons, creative concepts, materials, and media placements and allocations used in the programs.

9.2 We recommend that you spend at least Five Hundred Dollars (\$500) per month on promoting and marketing your Tikiz Business in your Territory. You may not solicit business through the use of an 800 (or other toll-free) number, direct mail or other advertising method without our prior written consent.

9.3 You must submit to us, in the form and manner we prescribe, for our prior approval, all materials to be used for local advertising, unless they have been approved before or they consist only of materials we provide. All materials containing the Marks must include the designation trademark <sup>TM</sup>, registered trademark <sup>®</sup>, service mark <sup>SM</sup>, copyright <sup>©</sup>, or any other designation we specify. If you do not receive written or oral disapproval of any materials submitted within ten (10) days from the date we receive the materials, the materials are approved. We may require you to withdraw and/or discontinue the use of any promotional materials or advertising, even if previously approved. You shall withdraw and/or discontinue use of any materials or advertising within five (5) days after receipt of notice to withdraw and/or discontinue their use. Your submission of advertising for approval does not affect your right to determine the prices at which you sell your services or products. You must include in any significant display advertisements, and in marketing materials for the Tikiz Business, in conformance with standards in the Confidential Operations Manual, a notice that the Tikiz Business is an independently owned and operated franchise. Subject to any legal restrictions, you also must display or make available marketing materials that we provide to you about the purchase of Tikiz franchises, but you have no responsibility or authority to act for us in franchise sales.

9.4 You acknowledge and agree that we own all rights to and interest in each telephone number and telephone directory listing used by you associated in any manner with your Tikiz Business and/or with any Mark ("Telephone Listing"). You acknowledge and agree that all goodwill arising from or in connection with the use of each Telephone Listing will inure to our benefit. Promptly after the expiration, termination, repurchase or transfer of the franchise, and at your own expense, you will notify all telephone companies with whom you have any Telephone Listing and direct them to transfer the Telephone Listing to us or to any person(s) We designate, and you will complete any and all documents necessary to complete these transfer(s). Upon the execution of this Agreement, you will sign a telephone transfer consent and authorization, in a form substantially similar to **Exhibit E**, granting us the authority to change, transfer or terminate your Telephone Listing(s) on your behalf. We will use this authorization

only if you do not comply fully with this Section 9.4 after the expiration, termination, repurchase or transfer of the franchise.

9.5 You shall not maintain a World Wide Website or otherwise maintain a presence or advertise on the Internet or any other public computer network in connection with the Tikiz Business without our prior written approval, which shall be in our sole discretion, and subject to our policies and specifications. The requirement for our prior written approval described in this Section will apply to all activities on the Internet, including without limitation, postings on a social media website such as Facebook, Myspace, Instagram, Twitter, YouTube, etc., conducting email blasts and/or email marketing, advertising, marketing or promoting your Tikiz Business using any web-based media. You may not use the Marks, without our prior written approval, to maintain any presence on the internet whatsoever. You are solely responsible for full compliance with the federal CAN-SPAM Act. You agree to indemnify and defend us if we are named in any suit or claim for your violation, or alleged violation, of the CAN-SPAM Act.

9.6 We have the right to establish and administer an Advertising Fund for the marketing (including advertising, promotion, public relations and other marketing tools) of Tikiz businesses as we may deem necessary or appropriate. If we establish an Advertising Fund, we, or our designee, will administer the Advertising Fund as we deem appropriate as follows:

A. We will direct all advertising programs with sole control over the strategic direction, creative concepts, materials and media used in the programs, and the geographic, market and media placement and allocation of advertising. You acknowledge that the Advertising Fund is intended to further generate public recognition and acceptance of the Marks for the benefit of the System. You further acknowledge that we and our designees undertake no obligation in administering the Advertising Fund to make expenditures for advertising or promotions for the benefit of you which are in anyway equivalent or proportionate to your contributions, or to ensure that any particular franchisee benefits directly or on a pro rata basis from the placement of advertising or to ensure that any advertising impacts or penetrates your Territory at any level. The Advertising Fund is not a trust and we are not a fiduciary in any capacity.

B. The Advertising Fund may but is not required to be used to meet any and all costs of administering, directing, preparing, placing and paying for national, regional or localized advertising (including, without limitation, the cost of preparing and conducting television, radio, magazine and newspaper advertising campaigns and other public relations activities) and employing advertising agencies to assist in these activities; paying interest on monies borrowed by the Advertising Fund from third parties unaffiliated with us; providing customer service comment cards to Tikiz franchisees; and, sponsorship of sporting, charitable or other special promotional events, if we choose to do so at our sole discretion. We need not maintain the sums paid by franchisees to the Advertising Fund or income earned from the Advertising Fund in a separate account from our other funds, but we may not use these amounts for any purposes other than those provided for in this Agreement. We may, however, expend up to 15% of the Advertising Fund for any reasonable administrative costs and overhead that we may incur in activities reasonably related to the administration or direction of the Advertising Fund and advertising programs for franchisees including, without limitation, conducting market research; preparing marketing, advertising and promotional materials; working with advertising agencies, advertising placement services and creative talent; and, collecting and accounting for assessments for the Advertising Fund. This 15% charge is exclusive of any advertising agency fees which the Advertising Fund must expend to secure the services of an advertising agency or to have print or broadcast advertising placed by an agency. We will have no obligation to prepare or distribute to you any audited (or unaudited) statements detailing Advertising Fund income and expenses. If you send us a written request, we will provide you with an accounting of the income and expenditures of the Advertising Fund during the last fiscal year within a

reasonable time after we receive your request, but never earlier than forty-five (45) days from when such information is made available.

C. We expect to expend most contributions to the Advertising Fund for advertising purposes during the fiscal year when the contributions are made. If we expend less than the total sum available in the Advertising Fund during any fiscal year, we may either expend the unused sum during the following fiscal year or roll it over to be used at the appropriate time as determined by us. If we expend an amount greater than the amount available in the Advertising Fund in any fiscal year (not including any sum required to be expended because we did not expend all the sums in the Advertising Fund during the preceding year), we will be entitled to reimburse ourselves from the Advertising Fund during the next fiscal year for all excess expenditures made during the preceding fiscal year.

D. Although the Advertising Fund is intended to be of perpetual duration, if we establish one, we maintain the right to terminate the Advertising Fund at any time upon thirty (30) days' notice from us. We will not terminate the Advertising Fund, however, until we have expended all money in the Advertising Fund for advertising and promotional purposes.

## **ARTICLE X**

### **REPORTS TO FRANCHISOR**

10.1 You shall keep full, complete and accurate books and accounts in accordance with generally accepted accounting principles and in accordance with the System, and you shall:

A. Submit to us concurrently with the payment of the Royalty Fees, on a form supplied or approved by us, a signed and verified statement of your Gross Sales in cash, credit and/or other charges, which reports shall be transmitted electronically. You shall install, maintain, and at all times operate such computer hardware and software, as we may specify in the Confidential Operations Manual or otherwise in writing as reasonably necessary for the efficient management and operation of the Tikiz Business and the transmission of data to and from us. Any such data or information obtained by us shall become our sole property.

B. Submit to us within thirty (30) days after the close of each three (3) month period, a quarterly profit and loss statement for the Tikiz Business for such quarter and a balance sheet for the Tikiz Business as of the end of such quarter.

C. Submit to us within ninety (90) days after the close of each calendar year, a copy of all of your Federal, State and Local tax returns of any kind or nature, and a certificate from your accountant that all Social Security payments, taxes and fees required to be paid by you have been paid and that there is no reason to believe that your corporate status, if you are a corporation or other business entity, has been impaired.

D. Submit to us such other periodic forms and reports as we may reasonably request from time to time.

10.2 You must certify and sign each report and financial statement in the manner we prescribe. We may disclose or use the data derived from these reports and other financial statements for your Tikiz Business for any purpose we deem appropriate, in our sole discretion.

10.3 You shall preserve for a period of not less than three (3) years all accounting records and supporting documents relating to the operation of your Tikiz Business under this Agreement.

10.4 You shall record, in a manner approved and designated by us at the time of receipt, all sales of all products sold from your Tikiz Business.

10.5 In order to determine whether you are complying with this Agreement, we or our designated agents shall have the right to either 1) at any time during reasonable business hours, examine your business records, bookkeeping and accounting records, cash control devices, income tax returns, bank statements, sales records, invoices, payroll records, time cards, check stubs, bank deposits, receipts, sales tax records and returns, and other business records and documents related to your Tikiz Business, or 2) require you to deliver copies of the same to us, at your expense. We shall also have the right, at any time, to have an independent audit made of your business and accounting records.

## **ARTICLE XI**

### **CONFIDENTIAL OPERATIONS MANUAL**

11.1 Franchisor shall lend to Franchisee or provide Franchisee with access to Franchisor's Confidential Operations Manual, which includes, in part, the business procedures, technical advice, forms, specifications, vendor lists, and other confidential information for operating the Tikiz Business. In Franchisor's sole discretion, it may provide Franchisee with access to the Confidential Operations Manual via electronic delivery, diskette, by web access, access to an intranet, or other then-available medium or format.

11.2 You acknowledge and agree that:

- A. The Confidential Operations Manual remains our property at all times;
- B. The Confidential Operations Manual is confidential information which you will protect as a trade secret, and that the loss will cause substantial damage to us and other franchisees, although the amount of such loss would be incalculable with any degree of accuracy;
- C. You shall not reprint or reproduce any portion of the Confidential Operations Manual for any reason whatsoever; and
- D. Upon termination or expiration of this Agreement for any reason, the Confidential Operations Manual will be immediately returned to us.

11.3 We may, without prior notice to you, add to or otherwise modify the Confidential Operations Manual, from time to time, whenever we consider such additions or modifications desirable to the Tikiz System. We may provide you with notice of changes and updates to the Confidential Operations Manual via electronic mail to the electronic mail address you are required to maintain or via any other delivery system we adopt. Any changes or updates will take effect immediately, or on the date indicated in the notice. You are responsible for complying with all updates and changes to the Confidential Operations Manual.

11.4 From the date of opening your Tikiz Business, the mandatory specifications, standards and operating procedures prescribed by us and communicated to you in writing, shall constitute provisions of this Agreement as if fully described by this Agreement. All references to this Agreement shall include the provisions of the Confidential Operations Manual and all such mandatory specifications standards and operating procedures.

11.5 The Confidential Operations Manual is incorporated into this Agreement and all of the systems, standards and requirements contained or described in the Confidential Operations Manual shall

be your requirement and obligation. All changes to the Confidential Operations Manual adopted by us, in our sole discretion, shall automatically become a part of this Agreement.

## **ARTICLE XII** **INSURANCE**

12.1 You shall obtain and place at your sole cost and expense, with our designated vendor, and to keep in full force and effect during the terms of this Agreement, insurance coverage on an "occurrence basis" naming us, our officers, directors and shareholders and any supplier of Products, and any designated primary and secondary lessor, as additional insured's (such insurance policies hereinafter referred to collectively as "Insurance") as follows:

A. Broad Form Comprehensive General Liability, including employment practices coverage, with limits of no less than One Million Dollars (\$1,000,000) in case of damage or injury to one or more persons, including indemnification coverage and property damage insurance of One Million Dollars (\$1,000,000); both of which shall be considered primary policies;

B. Worker's Compensation and Disability Insurance as may be required by law, as well as employer liability coverage with a minimum limit of One Hundred Thousand Dollars (\$100,000), or the statutory minimum limit if required by law;

C. Automobile Liability Insurance for owned, hired and non-owned vehicles with a combined single limit of not less than One Million Dollars (\$1,000,000); and

D. Any other insurance coverage as required by the State, Federal or local municipality in which the franchised premise is located.

E. All risk coverage on all personal property covering your Tikiz Business and premises and contents thereof, including, without limitation, all supplies, inventory, fixtures, and equipment and business interruption in amounts not less than is sufficient to meet the co-insurance requirements of your policies, and which business interruption insurance covers at least six (6) months of rent, royalties and advertising fees, and contain a full replacement value endorsement, and any loss shall be payable to us and you as their interests may appear; naming this Franchisor as an additional loss payee.

12.2 The insurance shall cover the acts or omissions of each and every one of the persons who perform services of whatever nature at your Tikiz Business, and shall protect against all acts of any persons who patronize the Tikiz Business and shall contain a waiver of subrogation against us.

12.3 Prior to the opening of your Tikiz Business, you will deliver to us Certificates of the Insurance, together with the copies of the actual policies issued, and will promptly pay all premiums thereon as and when the same become due. All policies shall provide that they are non-cancelable as to us in the absence of thirty (30) days' written notice to us. We shall have the right, but shall not be obligated, to pay premiums due and unpaid by you or else to obtain substitute coverage in the case of cancellation. Any cost to us shall be added to the Royalty Fees otherwise payable to us under this Agreement, provided, however, that same shall be due and payable to us by you within five (5) days of demand.

12.4 We reserve the right to demand that you obtain Insurance from time to time which is different in coverage, risks, amount or otherwise from the foregoing in order to protect fully the parties having insurable interests in your Tikiz Business, provided such Insurance is reasonably common in the area for similar operations. In the event our designated vendor is not authorized to do business in the



state in which your Tikiz Business is located or if we no longer designate a vendor for the Insurance, you must obtain the Insurance with an insurer rated "AAA" in Best's Directory who is authorized to do business in the state in which your Tikiz Business is located.

12.5 You shall immediately notify us, in writing, of any accidents, injury, occurrence or claim against you or your officers, members, shareholders, directors, or employees, based on acts or omissions occurring in the course of doing business as a Tikiz franchisee. You shall provide notice to us no later than forty-eight (48) hours after you become aware of the accident, injury, occurrence or claim.

12.6 Should you, for any reason, not procure and maintain such insurance coverage as required by this Agreement, we shall have the right and authority (without, however, any obligation to do so) to immediately procure such insurance coverage and to charge same to you, which charges, together with a reasonable fee for expenses incurred by us in connection with such procurement, shall be payable by you immediately upon notice.

### **ARTICLE XIII** **RELATIONSHIP OF THE PARTIES; INDEMNIFICATION**

13.1 The relationship between us and you is strictly that of a franchisor and franchisee, and you are and shall be deemed to be an independent contractor. This Agreement does not create a fiduciary relationship, joint venture, partnership, or agency relationship between you and us, and neither party to this Agreement is an employee, agent, servant, partner or joint venture of the other; meaning that, except as expressly provided for in this Agreement, no party to this Agreement has the authority, implied, apparent or expressed, to lawfully bind the other with respect to any matter. No employee of yours shall be deemed to be an employee of ours. Neither you nor any of your employees whose compensation for services is paid by you may, in any way, directly or indirectly, expressly or by implication, be construed to be an employee of ours for any purpose, including, but not limited to, with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state or federal governmental agency. We will not have the power to hire or fire your employees, and you alone control your employees' wages, hours, assignments, hiring, firing and any benefits.

13.2 You recognize that we have entered into this Agreement in reliance upon and in recognition of the fact that you will have full responsibility for the management and operation of the business and that the amount of profit or loss resulting from the operation of the business will be directly and solely attributable to your performance.

13.3 Except as expressly granted, you recognize that nothing contained in this Agreement shall be construed as giving to you or to any other person or entity, any right or interest in our names, the Marks, or any trade secrets, methods, procedures or techniques developed by us and used in the System. Further, except as specifically stated in Article I hereof, nothing contained in this Agreement shall be construed as limiting our right, title or interest in the "Tikiz" name, Marks, trade secrets, methods, procedures and techniques which are a part of the System.

13.4 In all public records and prominently displayed in your Tikiz Business and in any and all dealings with third parties, you must present yourself at all times as an independent contractor, as well as on letterhead and business forms, you shall indicate clearly the independent ownership of the your Tikiz Business, and that the operations of same are separate and distinct from the operation of our business. We shall have the absolute right to approve and/or supply, at your cost, any sign displays containing the foregoing.

13.5 We shall have no liability for any sales, use, excise, gross receipts, property or other taxes, whether levied upon you, the Tikiz Business, or its assets, or upon us in connection with sales made, services performed or business conducted by you.

13.6 You agree to indemnify and hold us and our subsidiaries, affiliates, stockholders, directors, officers, employees, agents and assignees harmless against, and to reimburse them for, any loss, liability, taxes or damages (actual or consequential) and all reasonable costs and expenses of defending any claim brought against any of them or any action in which any of them is named as a party (including, without limitation, reasonable accountants', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses) which any of them may suffer, sustain or incur by reason of, arising from or in connection with your ownership or operation of the Tikiz Business. You acknowledge and agree that any action or inaction by any third party (e.g., an independent carrier) in connection with handling or storing the Products shall not be attributable to us or constitute our negligence. This provision shall survive termination or expiration of this Agreement.

#### **ARTICLE XIV** **COVENANTS NOT TO COMPETE**

14.1 During the term of this Agreement, or any extension or renewal, neither you, nor any partner or member, if you are a partnership or limited liability company, nor any shareholder, if you are a corporation, shall either directly or indirectly for himself or herself or on behalf of, or in conjunction with any other person, persons, partnership, association or corporation, own, maintain, engage in, participate or have any interest in the operation of any enterprise which is the same or substantially similar to the "Tikiz" franchise, or any other business which distributes, produces or sells shaved ice, ice cream, and other similar frozen dessert products sold at Tikiz Businesses; provided, however, that this prohibition shall not apply to the ownership by you of additional Tikiz Businesses.

14.2 For a period of two (2) years following termination, expiration, or non-renewal of this Agreement for any reason, neither you nor any partner, member or shareholder in the Tikiz Business shall, except with respect to your ownership or operation of additional Tikiz Businesses:

A. Engage, employ or compensate or seek to employ any person who is at that time engaged, operating or employed by or at any other Tikiz Business, or to otherwise directly or indirectly induce such person to leave his or her employment;

B. Either directly or indirectly for yourself or on the behalf of, or in conjunction with, any other person, persons, partnership, association or corporation, own, maintain, engage in, participate in, or have any interest in the operation of any enterprise which directly or indirectly competes with, or is the same or substantially similar to, Tikiz Businesses, or which distributes, produces or sells shaved ice, ice cream, and other similar frozen dessert products that are the same or similar to the type sold in Tikiz Businesses, within the "Minimum Area of Competition." The "Minimum Area of Competition" shall be your Territory, the Territory of any other Tikiz Business in operation on the effective date of termination or expiration of this Agreement, whether franchised or company-owned, and a twenty five (25) mile radius from the border of your Territory.

14.3 In the event you fail or refuse to comply with the in-term or post-term covenants of this Article, even if such failure or refusal is based upon a claim that the laws of any particular jurisdiction excuse such non-compliance or make the provision of said paragraph unenforceable in whole or in part, and provided that the jurisdiction in which your Tikiz Business is located permits, you hereby separately covenant and agree that while this Agreement is in effect and for two (2) years after its termination, except where termination occurs due to the fault or action of us and not due to your default, we shall

have the right to require that all sales made in the operation of any business which directly or indirectly competes with it or with a Tikiz Business or with the System, or which distributes, produces or sells shaved ice or ice cream products within the Minimum Area of Competition, if this Agreement has been terminated, shall be reported to us and you agree to pay us upon demand, the weekly fee of Five Hundred Dollars (\$500) on the times and in the manner specified in Article V hereof all without being deemed to revive, modify or expand this Agreement. The covenants of this Article shall survive the termination or expiration of this Agreement.

14.4 You shall not, during the term of this Agreement or after its termination or non-renewal, communicate or divulge to any other person, persons, partnership or corporation, the information contained in the Confidential Operations Manual, any information or knowledge concerning the System, the methods of operation used in a Tikiz Business franchise nor shall you disclose or divulge, in whole or in part, any trade secrets of Tikiz or our affiliated companies or subsidiaries.

14.5 The parties agree that the covenants contained in Sections 14.2, 14.3 and 14.4 above shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Article is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any un appealed final decision to which we are a party, you expressly agrees to be bound by any lesser covenant subsumed with the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated and made a part of this Article.

14.6 You acknowledge that the foregoing restrictions are reasonable, are not vague or indefinite, and are designed to protect the legitimate business interests of Tikiz, and that in the event of a breach of covenants contained in this paragraph, Tikiz and its franchisees will suffer irreparable harm, the damage to us would be difficult to ascertain, and in addition to the liquidated damages payable to us as provided for the breach of any or all of said covenants, we shall be entitled to seek injunctive and/or other equitable relief against the violation of any said covenants, together with reasonable attorneys' fees and costs.

14.7 The covenants contained in this Article shall be construed as severable and independent and shall be interpreted and applied consistent with the requirements of reasonableness and equity. Any judicial reformation of these covenants consistent with this interpretation shall be enforceable as though contained in this Agreement and shall not affect any other provisions or terms of this Agreement.

14.8 If Franchisee is a corporation, limited liability company, partnership, limited partnership or any other type of legal entity formed in compliance with applicable law, then all owners of Franchisee shall execute an agreement in substantially the same form as attached hereto as **Exhibit B**, under which all owners of Franchisee agree to be jointly and severally liable for all the obligations to us under this Agreement, and expressly agree to be bound by all the terms, conditions and covenants of this Agreement. Each present and future owner of Franchisee must agree in writing to personally guarantee the performance of Franchisee's obligations under this Agreement, and to be individually bound by all the terms and conditions of this Franchise Agreement and any other agreements between Franchisee and Franchisor.

## **ARTICLE XV**

### **MODIFICATION OF THE SYSTEM**

15.1 You understand and agree that the System must not remain static if it is to meet, without limitation, presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, societal trends, other market place variables and the needs of customers, and to best serve the interests of the System. Accordingly, you expressly understand and agree that we

may from time to time change the components of the System, including, but not limited to, altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition, other business combination or for other reasons; adding to, deleting from or modifying those programs and services which your Tikiz Business is authorized to offer; modifying or substituting entirely the building, premises, equipment, signage, trade dress, décor, color schemes and uniform specifications and all other unit construction, design, appearance and operation attributes which you are required to observe hereunder; and changing, improving or modifying the Marks. Franchisee expressly agrees to abide by any such modifications, changes, additions, deletions and alterations.

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

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

## **ARTICLE XVI** **FRANCHISEE**

16.1 The term "Franchisee," "You," or "Your" shall include all persons who succeed to your interest by transfer or operation of law and shall be deemed to include not only the individual or entity defined as "Franchisee," "You," or "Your" in the introductory paragraph of this Agreement, but shall also include partners in the entity that enters into this Agreement, in the event said entity is a partnership, members of the entity that enters into this Agreement, in the event said entity is a limited liability company, and all shareholders, officers and directors owning more than a twenty-five (25%) percent ownership interest in the entity that enters into this Agreement, in the event said entity is a corporation. By their signatures to this Agreement, all partners, members, shareholders, officers and directors of the entity that sign this Agreement as Franchisee acknowledge and accept the duties and obligations imposed upon each of them, individually, by the terms of this Agreement. The singular usage includes the plural and the neuter and masculine usages include the other and the feminine.

## **ARTICLE XVII** **TERMINATION**

17.1 You will have materially breached this Agreement and we may, at our option, terminate this Agreement and all rights granted under this Agreement, without affording you any opportunity to cure the breach, effective immediately upon your receipt of notice (which, whether sent by certified mail, registered mail, fax, overnight courier or personal physical delivery, will be deemed to have been received by you upon delivery or first attempted delivery of the notice to you), upon the occurrence of any of the following events:

A. The misstatement by you or any of your owners of any material fact, or failure to disclose or the understatement of any material fact in any report or document or writing furnished to us, whether or not such misstatement or failure to disclose or understatement is intentional;

B. Failure to correct any local, state or municipal health, safety or sanitation law or code violation within twenty-four (24) hours after being cited for such violation, except if you cannot effect a cure within said time frame, but have, in good faith, initiated a cure of such violations and cure such violations within forty-eight (48) hours after being cited;

C. Engaging in any conduct or practice that, in our reasonable determination, is detrimental or harmful to the good name, goodwill or reputation of Tikiz or our products or other franchisees or the public;

D. You receive three (3) or more notices of default within any twelve (12) consecutive month period, or if you receive two (2) or more health code violations or citations within any twelve (12) consecutive month period;

E. You or any of your owners engage in any conduct or practice that is a fraud upon consumers, or is an unfair, unethical, or deceptive trade, act or practice;

F. Any pledge or attempted pledge of our credit by you or any of your owners, or an attempt by you or any of your owners to bind us to any obligation;

G. Misuse or unauthorized disclosure of the Confidential Operations Manual, information or materials by you or any of your owners;

H. If you become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by you or such a petition is filed against and not opposed by you; if you are adjudicated bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver of you or other custodian for your business or assets is filed and consented to by you; if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law should be instituted by or against you; if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); if you are dissolved; if execution is levied against your business or property; if suit to foreclose any lien or mortgage against the mobile truck or equipment is instituted against you and not dismissed within thirty (30) days; or if the real or personal property of the Tikiz Business shall be sold after levy thereupon by any sheriff, marshal, or constable;

I. Failure by you or any of your owners to comply with Article XXXVII relative to Anti-Terrorism Laws;

J. Failure by you to satisfy fully a civil judgment obtained against you for a period of more than thirty (30) days after all rights of appeal have been exhausted, or execution of such a judgment, execution of a lien, or foreclosure by a secured party or mortgage against your property, which judgment, execution of a lien, or foreclosure by a secured party or mortgage would have an adverse or detrimental effect upon your franchised operation;

K. You, or any of your owners, or the Manager of your Tikiz Business, are convicted by a trial court of, or plead or have pleaded no contest to, a felony or any other crime, whether felony or misdemeanor, which in the opinion of Tikiz would adversely affect the reputation or goodwill associated with our Marks or System;

L. A final judgment of a court, regulatory officer, agency, or quasi- regulatory agency that results in the temporary or permanent suspension or revocation of any permits or licenses,

possession of which is a prerequisite to the operation of your Tikiz Business or is required under applicable law, including, but not limited to, the suspension or revocation of your driver's license;

M. The direct or indirect assignment, transfer, sale or encumbrance by you of this Agreement, the Tikiz Business, or any of your rights or privileges hereunder, contrary to the terms of this Agreement, or any attempt by you to sell, assign, transfer or encumber the Tikiz Business contrary to the terms of this Agreement;

N. Abandonment of your Tikiz Business;

O. Dissolution, judicial or otherwise, or liquidation of your business entity, if you are a corporation, limited liability company or partnership;

P. Unauthorized or improper use of the Marks;

Q. Failure to complete the Initial Training Program to our reasonable satisfaction after your second attempt;

R. You have three (3) or more insufficient funds or returned checks within any twelve (12) consecutive month period;

S. There is a termination of any other franchise agreement or other agreement between you or your affiliates and us or any of our affiliates; or

T. On more than one (1) occasion, and whether or not we issue you a written default, you infringe upon another Tikiz franchisee's territory by generating income from a customer for goods and/or services provided and/or rendered within such other Tikiz franchisee's territory without first obtaining that franchisee's and our prior written permission.

17.2 Except as provided above, you will have fifteen (15) calendar days after your receipt from us of a written Notice of Default to remedy any default under this Agreement not specified in the preceding Section, and to provide us with evidence that you have done so. If you have not cured such default within this 15-day period, or any longer period that applicable law may require, this Agreement will terminate, effective immediately upon your receipt of notice (which, whether sent by certified mail, registered mail, fax, overnight courier or personal physical delivery, will be deemed to have been received by you upon delivery or first attempted delivery of the notice to you).

17.3 Your failure to make payments of any Royalty Fees, Advertising Fund Fees or other money due and owing to us, after receipt from us of a notice of the default granting you an opportunity to cure, will be deemed a willful and wrongful breach by you under this Agreement and your decision to reject and terminate this Agreement and all related agreements between you and us.

17.4 **Cross-Defaults, Non-Exclusive Remedies, etc.** Any default by you (or any person/company affiliated with you) under this Agreement may be regarded as a default under any other agreement between Tikiz (or any of our affiliates) and you (or any of your affiliates). Any default by you (or any person/company affiliated with you) under any other agreement, including, but not limited to, any lease and/or sublease, between us (or any of our affiliates) and you (or any person/company affiliated with you), and any default by you (or any person/company affiliated with you) under any obligation to us (or any of our affiliates) may be regarded as a default under this Agreement. Any default by you (or any person/company affiliated with you) under any lease, sublease, loan agreement, security interest or otherwise, whether with us, any of our affiliates and/or any third party may be regarded as a

default under this Agreement and/or any other agreement between us (or any of our affiliates) and you (or any affiliate of you).

In each of the foregoing cases, we (and our affiliates) will have all remedies allowed at law, including termination of your rights (and/or those of any person/company affiliated with you) and our (and/or our affiliates') obligations. No right or remedy which we may have (including termination) is exclusive of any other right or remedy provided under law or equity and we may pursue any rights and/or remedies available.

**17.5 Termination by the Parties.** This Agreement may be terminated by the written agreement of both parties; provided, however, you must provide us with at least six (6) months' prior written notice of your intent to terminate the Agreement and must:

(i) immediately pay us a fee of Ten Thousand Dollars (\$10,000) for administrative and legal expenses we will incur in connection with your request to terminate;

(ii) have all of your financial statements with respect to the Tikiz Business up to date as of the notice and through the effective date of termination;

(iii) sign a general release of all claims that you, and your officers, directors, owners, employees, representatives, agents, subsidiaries and affiliates have or may have against us and our officers, directors, owners, employees, representatives, agents, subsidiaries and affiliates in a form satisfactory to us; and

(iv) comply with your post-termination obligations, as set forth in Sections 8.14, 13.6 and Articles XIV and XVIII.

## **ARTICLE XVIII**

### **RIGHTS AND DUTIES OF THE PARTIES UPON EXPIRATION OR TERMINATION**

18.1 For the purpose of this Agreement, the "Effective Date of Termination" shall be the date indicated in any notice of termination sent according to Article 17 of this Agreement or the day after the Initial Term, as stated in Section 4.1 of this Agreement.

18.2 Upon the Effective Date of Termination, you shall no longer be an authorized franchisee and you shall pay all sums of money due us or any of our subsidiary or affiliated corporations within fifteen (15) days of the Effective Date of Termination, unless we give written notice of an extension of this period.

18.3 Upon the Effective Date of Termination, you shall discontinue the use of all Marks licensed to or associated with us and all similar names and marks, or any other designation or mark associating you with the System. If you are a corporation, limited liability company or partnership and, notwithstanding the prohibition of utilizing the "Tikiz" name in its entity name, has used the "Tikiz" name or any names, marks or designations that associate you with us in its entity name, you shall, within fifteen (15) days of the Effective Date of Termination, take all necessary steps to eliminate "Tikiz" from its entity name, at your own cost and expense.

18.4 Upon the Effective Date of Termination, you shall cease displaying and using all signs, stationary, letterheads, forms, manuals, printed matter, advertising, and other material containing the Marks, or any other names, marks, or designations that associate you with the System.

18.5 After the Effective Date of Termination, you shall refrain from taking any action indicating or implying that you are an authorized franchisee.

18.6 You shall maintain all financial records and reports required by this Agreement or the Confidential Operations Manual for a period of not less than three (3) years after the Effective Date of Termination. You shall permit us to make final inspection of your financial records, books, tax returns, and other accounting records within three (3) years of the Effective Date of Termination.

18.7 Upon the Effective Date of Termination, you shall cease all use of telephone numbers used by you while conducting business as a "Tikiz" franchise and shall promptly complete such documents or take such steps necessary to remove your listing as a "Tikiz" franchise from the "Yellow Pages", all other telephone directories, and all other trade or other business directories.

18.8 Within fifteen (15) days from the Effective Date of Termination of this Agreement, you shall immediately turn over to us all manuals, including the Confidential Operations Manual, records, files, instructions, recipes, menus, correspondence, any and all materials relating to the operation of the Tikiz Business in your possession, and all copies of such written materials (all of which are acknowledged to be our property), and shall retain no copy or record of any of the foregoing, except only your copy of this Agreement and of any correspondence between the parties, and any other documents which you reasonably need for compliance with any provision of law and the records described in Section 18.6 hereof.

18.9 We shall have the right (but not the duty) to be exercised by notice of intent to do so within ten (10) days after the Effective Date of Termination, to purchase any or all of the signs, advertising material, supplies, equipment, the mobile truck, any Additional Equipment and any items bearing the Marks at your cost or fair market value, whichever is less. If the parties cannot agree on fair market value within a reasonable time, an independent qualified appraiser shall be designated by each party and their determination shall be binding on both parties. If these appraisers are unable to arrive at a fair market value, they will designate a third, approved appraiser whose determination shall be binding upon both parties. If we elect to exercise any option to purchase, we shall have the right to set off all amounts due from you under this Agreement, and the cost of the appraisal, if any, against any payment for the appraisal.

18.10 No right or remedy conferred upon or reserved to us is exclusive of any other right or remedy or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder.

18.11 Nothing contained in this Agreement shall be deemed to relieve you of any obligations or responsibilities or liabilities incurred by you during the term of this Agreement or any renewals hereof, or your lease and which obligations, responsibilities or liabilities shall survive the termination, expiration or non-renewal of this Agreement or lease.

18.12 Upon termination or expiration of this Agreement, all rights under this Agreement will terminate. You must stop using the System, including the Marks, signs, colors, structures, printed goods and forms of advertising indicative of the Tikiz Business within twenty-four (24) hours of notice of termination, unless we instruct otherwise, and you must no longer identify or associate yourself or your business as or with the System or Tikiz. Unless we exercise our right to purchase the Tikiz mobile truck and/or any Additional Equipment from you, or if we approve your request to sell the Tikiz mobile truck or any Additional Equipment to a Tikiz franchisee, you agree to immediately de-identify the Tikiz mobile truck and any Additional Equipment by removing all of our trade dress (i.e. colors and designs) and the



Tikiz name and Marks, and modifying the mobile truck and any Additional Equipment, so that they are no longer identifiable as related to the Tikiz Business. You are required to cancel any permits, licenses, registrations, certification or other consents required for leasing, constructing, or operating the Tikiz Business. If you fail to do so within a reasonable time, we are authorized to cancel them for you. We may also seek ex-parte injunctive relief to enjoin your activities. This penalty shall be in addition to all other remedies available to us under this Agreement or at law.

## **ARTICLE XIX**

### **HOURS OF OPERATIONS**

19.1 You recognize that continuous and daily operation is essential to the adequate promotion of your Tikiz Business and that any failure to operate in accordance with the operation, as outlined in the Confidential Operations Manual affects us both locally and nationally. You shall make yourself or your trained manager personally available to provide the Products to the consuming public for the minimum number of hours per day and days per week as described in the Confidential Operations Manual. These requirements may be changed by us from time to time and upon reasonable notice to you. Any deviation from the days and hours of operation, as outlined in the Confidential Operations Manual, must be according to a written waiver from us, which may be obtained from us as outlined in the Confidential Operations Manual.

## **ARTICLE XX**

### **TRANSFERABILITY OF INTEREST**

20.1 You understand and acknowledge that the rights and duties created by this Agreement are personal to you (or to your owners, members or partners if you are a corporation, limited liability company or a partnership), and therefore neither this Agreement nor the franchise granted hereby shall be assignable or transferable by you, nor may the same be mortgaged, pledged or encumbered by you. Any purported assignment, mortgage, pledge or encumbrance shall be null and void, except as provided in Article 20.2. The issuance or transfer of any stock (including by way of any public stock offering) or partnership interest(s) or membership interest(s) in you, or its merger, a consolidation or dissolution, if you are a corporation, Limited Liability Company or a partnership, shall be deemed an assignment of this Agreement and of the franchise granted by it.

20.2 If you are an individual, you may assign all of your rights and benefits under this Agreement to a corporate entity, of which you own at least the majority of the voting and equity stock, provided that:

A. Such corporate entity is newly organized and its activities and corporate purposes are confined exclusively to acting as a Tikiz Business franchised under this Agreement;

B. Such corporate entity and all equity holders enter into a Transfer of Franchise to a Corporation form (**Exhibit D** to this Agreement), or such other form as shall be provided or approved by us, in which they jointly and severally assume all of the past and future obligations of you under this Agreement, to the same extent as if they had originally entered into this Agreement as you;

C. You or your designated manager actively manages such corporate entity and continues to devote your best efforts and full and exclusive time to the day-to-day operation and development of the franchise and the business of the Tikiz Business and you shall remain personally liable in all respects under this Agreement, including but not limited to payment for the purchase of any of the Products, jointly and severally with such corporate entity and any and all other equity holders thereof; and

D. All stock certificates of a corporation bear the following legend, which shall be printed legibly and conspicuously on the front of each such stock certificate:

**"The transfer of this stock certificate is subject to the terms and conditions of a certain Franchise Agreement entered into with Tikiz Franchising, LLC., dated \_\_\_\_\_, 20\_\_".**

20.3 In the event you, any stockholder, member or partner of a corporate, limited liability company or partnership you, or any legal heir or legatee of any deceased you, or of any deceased stockholder or partner of any corporate or partnership you, desires to effect any sale or assignment of any partnership, membership, stock or other interest in Franchisee, or of your rights and benefits under this Agreement, including, without limitation, the franchise granted hereby, and/or the ownership for the Tikiz Business franchised hereby, you shall give us written notice of all of the terms of any such bona fide offer within fifteen (15) days after receipt of such offer, including providing us with all other documents and data we may request to evaluate the offer. We shall have the right of first refusal, for a period of fifteen (15) days after our receipt of such notice (or, if we request additional information, within fifteen (15) days after receipt of the additional information), to notify you of our desire to exercise our option, if we elect, to accept the proposed assignment, transfer or sale to ourselves or to our nominee, under the same terms and conditions as the aforesaid bona fide offer specified in the notice. However, we will be entitled to all of the customary representations and warranties given by the seller of assets of a Tikiz Business, including, without limitation, representations and warranties as to ownership, condition of and title to assets, liens and encumbrances on the assets, validity of contracts and agreements, and your contingent and other liabilities affecting the assets. If we fail to notify you of our exercise of such option in the time period allotted, then you shall be free to contract with the person who made such bona fide offer solely on the same terms and conditions thereof, subject to your compliance with all of the other terms and provisions of this Agreement. In the event the terms of such bona fide offer change, then you shall be obligated to re-offer the franchise to us for an additional fifteen (15) day period. Our election not to exercise our right of first refusal with regard to any offer will not affect our right of first refusal with regard to any later offer. If we do not exercise our right of first refusal, this will not constitute approval of the proposed transferee, assignee, redemption or the transaction itself. You and any proposed assignee must comply with all the criteria and procedures for assignment of the franchise, this Agreement and/or the franchised Tikiz Business specified in this Article.

20.4 In addition to all of the other conditions stated in Sections 20.2 and 20.3 which pertain to your right to assign, transfer or sell the license created by this Agreement, you agree that any and all rights of assignment, transfer or sale by you of this franchise and any rights to the Agreement are conditioned upon compliance with each of the following:

A. Any such assignment, transfer, or sale shall be subject to our approval of such assignee and of the moral and credit background of such assignee and any and all stockholders, members or partners, which approval shall not be unreasonably withheld;

B. The assignee, and all stockholders, members or partners if it is a corporation, limited liability company or partnership, shall at Franchisor's option either personally assume in writing all of the obligations of Franchisee, past and future, disclosed and undisclosed under this Agreement, or complete the then-current form of the Franchise Agreement;

C. You and any and all of your stockholders, members or partners, shall enter into a general release in favor of us, our officers, directors, and employees, of any and all claims and causes of

action that they may have against us or our subsidiary or affiliated corporations in any way relating to this Agreement or our performance or non-performance under this Agreement;

D. All prior obligations and debts of you or your corporate assignee owed to us under or in connection with this Agreement shall be paid concurrently with such assignment;

E. You must not be in default under this or any renewal Franchise Agreement or of any lease agreement to which you are a party;

F. Assignee shall not be in the same business as us either as a franchisor, licensor, independent operator or franchisee of any chain or network which is similar in nature or in competition with us except that the assignee may be an existing Tikiz franchisee;

G. Prior to the effective date of the assignment, transfer or sale, the assignee must satisfactorily complete our training program;

H. You shall pay us, upon our consent to any such assignment, transfer or sale, a non-refundable transfer fee equal to Ten Thousand Dollars (\$10,000) ("Transfer Fee"). You shall pay us, upon your request for our approval of any such assignment, transfer or sale, a non-refundable deposit of Two Thousand Dollars (\$2,000), which will be applied to the Transfer Fee if we consent to such assignment, transfer or sale;

I. You shall enter into an agreement with us agreeing to subordinate such assignee's obligations to us, including, without limitation, any Royalty Fees, Advertising Fees, and any obligations of such assignee to make installment payments of the purchase price to you;

J. The material terms and conditions of the transfer do not contradict any terms of our then-current form of the Franchise Agreement, you and the assignee agree that those terms are stricken from the transfer terms and conditions and the terms of the relevant Franchise Agreement control; and

K. You must comply with the terms of the post-termination covenants not to compete set forth in this Agreement, commencing on the effective date of the assignment, and agree to continue to be bound by the confidentiality obligations set forth in this Agreement.

20.5 We shall have the right, without the need for your consent, to assign, transfer or sell your rights under this Agreement to any person, partnership, corporation or other legal entity provided that the transferee agrees in writing to assume all obligations undertaken by us and you receive a statement from both Tikiz and its transferee to that effect. Upon such assignment and assumption, we shall be under no further obligation hereunder. You further agree and affirm that we may go public; may engage in a private placement of some or all of our securities; may merge, acquire other corporations, or be acquired by another corporation; and/or may undertake refinancing, recapitalization, leveraged buyout or other economic or financial restructuring transactions. With regard to any of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages arising from or related to the loss of our name, Marks (or any variation thereof) and System and/or the loss of association with or identification of Tikiz Franchising, LLC as franchisor under this Agreement. You specifically waive any and all other claims, demands or damages arising from or related to the foregoing merger, acquisition and other business combination activities including, without limitation, any claim of divided loyalty, breach of fiduciary duty, fraud, breach of contract or breach of the implied covenant of good faith and fair dealing.

You agree that we have the right, now or in the future, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business, regardless of the location of that chain's or business' facilities, and to operate, franchise or license those businesses and/or facilities as "Tikiz" Businesses operating under the Marks or any other marks following our purchase, merger, acquisition or affiliation. Notwithstanding anything in this Agreement to the contrary, if we purchase, merge, acquire or affiliate with an existing competitive business, we may operate them under marks other than the Marks both within and outside of your Territory, but we may not convert those businesses to a Tikiz Business if they are located in your Territory.

If we assign our rights in this Agreement, nothing shall be deemed to require us to remain in the "Tikiz" business or to offer or sell any products or services to you.

20.6 In addition to the requirements of this Article, you must promptly within fifteen (15) days of receipt give us additional written notice of any bona fide offer from a third party to buy your Tikiz Business. You must also give us written notice simultaneously with any offer to sell your Tikiz Business made by, for, or on your behalf. The purpose of this Subsection is to enable us to comply with any applicable state or federal franchise disclosure law or rules. You agree to indemnify and hold us harmless for your failure to comply with this Subsection.

20.7 Our consent to an assignment of any interest subject to the restrictions hereof shall not constitute a waiver of any claims we may have against the assignor, nor shall it be deemed a waiver of our right to demand exact compliance with any of the terms or conditions of this Agreement by the assignee, transferee or purchaser.

20.8 You shall not offer any securities in your Tikiz Business to the public.

## **ARTICLE XXI**

### **DEATH OR INCAPACITY OF FRANCHISEE**

21.1 In the event of your death or permanent incapacity or disability i.e., you are unable to operate the Tikiz Business as an individual franchisee, or any partner of the partnership, or any member of the limited liability company, or any shareholder owning fifty percent (50%) or more capital stock in a corporation, we shall consent to a transfer of your interest to your heirs, beneficiaries or family designees, (referred to in this Article as "Transferee") without payment of a transfer fee, subject to the following conditions:

A. The Transferee must complete, and be approved through, our standard franchise selection process including satisfactorily demonstrating to us that he/she meets the financial character and managerial criteria we require;

B. The Transferee shall agree, in writing, to personally assume liability for and to perform all the terms and conditions of this Agreement to the same extent as you; and

C. If the Transferee is not approved, the Franchisee or his/her legal representative shall use his/her best efforts to sell the Tikiz Business to a party acceptable to Franchisor within six (6) months from the date of the Franchisee's death or permanent incapacity or disability and Franchisor shall have the option, but not the obligation, to operate and/or manage the Tikiz Business. If the conveyance of the Tikiz Business to a party acceptable to us has not taken place within the six (6) month period, this Agreement shall be terminated, in which event the Tikiz Business hereunder will automatically revert back to us. We may, in our sole discretion, purchase the equipment and trade fixtures at their fair

market value without regard to any going concern value of the Tikiz Business or any goodwill. Fair market value shall be determined by an appraiser agreed upon by both parties.

**ARTICLE XXII**  
**OPERATION IN THE EVENT OF ABSENCE OR INCAPACITY**

22.1 In order to prevent any interruption of the Tikiz Business operations which would cause harm to the Tikiz Business, thereby depreciating its value, You authorize us, in the event that you are absent for any reason or incapacitated by reason of illness and unable, in our sole and reasonable judgment, to operate the Tikiz Business for so long as we deem necessary and practical, and without waiver of any other rights or remedies we may have under this Agreement. All monies from our operation of the Tikiz Business during such period of operation shall be the property of Tikiz from which it shall be pay the expenses of the Tikiz Business. Tikiz shall be entitled to keep the net profits of the business as compensation for its efforts in operating and/or managing the Tikiz Business. If, as provided by this Agreement, we temporarily operate your Tikiz Business for you, you agree to indemnify and hold harmless Tikiz and any representative of Tikiz from any and all acts which we may perform in your Tikiz Business, as regards the interests of you or third parties.

**ARTICLE XXIII**  
**RISK OF OPERATIONS**

23.1 YOU RECOGNIZE THAT THERE ARE MANY UNCERTAINTIES AND RISKS OF THIS BUSINESS, AND, THEREFORE, YOU AGREE AND ACKNOWLEDGE THAT, EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT AND OUR FRANCHISE DISCLOSURE DOCUMENT THAT WE PROVIDED TO YOU, NO REPRESENTATIONS, WARRANTIES, GUARANTEES OR AGREEMENTS HAVE BEEN MADE TO YOU, EITHER BY US OR BY ANYONE ACTING ON OUR BEHALF OR PURPORTING TO REPRESENT US, INCLUDING, BUT NOT LIMITED TO, THE PROSPECTS FOR SUCCESSFUL OPERATIONS, THE LEVEL OF BUSINESS OR PROFITS THAT YOU MIGHT REASONABLY EXPECT, OR THE DESIRABILITY, PROFITABILITY OR EXPECTED CUSTOMER VOLUME OF THE TIKIZ BUSINESS. YOU HEREBY ACKNOWLEDGE THAT ALL SUCH FACTORS ARE NECESSARILY DEPENDENT UPON VARIABLES WHICH ARE BEYOND OUR CONTROL, INCLUDING, WITHOUT LIMITATION, THE ABILITY, MOTIVATION, AMOUNT AND QUALITY OF EFFORT EXPENDED BY YOU.

**ARTICLE XXIV**  
**OTHER OBLIGATIONS**

24.1 Nothing contained in this Agreement shall inhibit or limit our unrestricted right to enter into or engage in any business or in the sale itself, or the licensing to others for the sale, of the proprietary food items other than the limitations imposed upon us by Article I, and you shall have no rights, benefits or entitlement with respect to it.

**ARTICLE XXV**  
**FORCE MAJEURE**

25.1 Neither party shall be responsible to the other for non-performance or delay in performance occasioned by causes beyond its control, including without limitation, acts of civil or military authority, strikes, lockouts, embargoes, insurrections or acts of God, or our inability to purchase, deliver and/or manufacture any supplies or products we are required to provide under this Agreement, provided that inability of a party to obtain funds shall be deemed to be a cause within the control of such party. If any such delay occurs, any applicable time period shall be automatically extended for a period equal

to the time lost, provided that the party affected makes reasonable efforts to correct the reason for such delay and gives to the other party prompt notice of any such delay.

**ARTICLE XXVI**  
**WAIVER OF VIOLATION OR DEFAULT**

26.1 Waiver by us of any violation or default hereunder shall not alter or impair our right with respect to any subsequent violation or default, nor shall any delay or omission on our part to exercise any right arising from such violation or default alter or impair our rights as to the same or any future violation or default. An acceptance by us of any payment from you after the date on which such payment is due shall not operate as a waiver of your default or violation hereunder, nor alter or impair our rights with respect to such violation or default.

**ARTICLE XXVII**  
**NOTICE AND TIME**

27.1 All communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when delivered personally, by electronic mail or by fax transmission, or one (1) business day after being sent by overnight commercial courier service for next business day delivery, or three (3) days after being deposited in the United States mail, for certified or registered delivery, return receipt requested, postage prepaid. Notice to us shall be addressed to:

Tikiz Franchising, LLC.  
1021 S. Rogers Circle  
Suite 1  
Boca Raton, FL 33487  
Telephone: (407) 383-3872  
Facsimile: (954) 354-1472

With a copy to:

Robert M. Einhorn, Esq.  
Zarco Einhorn Salkowski & Brito, P.A.  
Biscayne Tower  
2 S. Biscayne Blvd., 34th Floor  
Miami, FL 33131  
Telephone: (305) 374-5418  
Facsimile: (305) 375-5428

Notice to you shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Either party may designate another address at any time by written notice to the other. Additionally, all payments and reports required by you under this Agreement shall be given to us at the above address, except that regular reports may be sent by regular mail.

27.2 Time is of the essence in this Agreement with respect to each and every provision in which time is a factor. Whenever this Agreement refers to a period of days, the first day to be counted shall be the first day following the designated action or event. For any period of five (5) or fewer days, only business days (excluding Saturdays, Sundays and national holidays) shall be counted. Unless expressly stated otherwise, any period longer than five (5) days shall be measured by calendar days, except that if the last day of any such period is not a business day, the period shall automatically be extended to the next business day.

## **ARTICLE XXVIII**

### **APPLICABLE LAW AND VENUE**

28.1 This Agreement takes effect upon its acceptance and execution by us in Florida, and shall be interpreted and construed under the laws of Florida, which laws shall prevail in the event of any conflict of law. The parties agree any franchise law or business opportunity law of the State of Florida, now in effect, or adopted or amended after the date of this Agreement, will not apply to franchisees located outside of Florida.

28.2 No right or remedy conferred upon or reserved to us or you by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

28.3 Nothing contained in this Agreement shall bar our right to seek injunctive relief against threatened conduct that will cause loss or damage to our Marks or proprietary rights, the covenants not to compete, the restriction on disclosure of confidential information or violations of food safety which we reasonably believe could harm the public.

28.4 You acknowledge that you have and will continue to develop a substantial and continuing relationship with us at our principal offices in the State of Florida, where our decision making authority is vested and franchise operations are conducted and supervised. Therefore, the parties irrevocably agree and consent that in any action or proceeding brought by either party to this Agreement, each will submit to the exclusive jurisdiction and venue of any local, state or federal court located in the State of Florida, County of Broward.

28.5 The parties hereby waive to the fullest extent permitted by law, any right to or claim for any punitive or exemplary damages against the other and agree that in the event of a dispute between them each shall be limited to the recovery of any actual damages sustained by it. The parties irrevocably waive trial by jury in any action, proceeding or counterclaim brought by either of them.

28.6 In the event we are required to employ legal counsel or to incur other expense to enforce any obligation of Franchisee hereunder, or to defend against any claim, demand, action or proceeding by reason of Franchisee's failure to perform any obligation imposed upon Franchisee by this Agreement, Franchisor shall be entitled to recover from Franchisee the amount of all reasonable attorneys' fees of such counsel and all other expenses incurred in enforcing such obligation or in defending against such claim, demand, action, or proceeding, whether incurred prior to or in preparation for or contemplation of the filing of such action or thereafter.

28.7 You agree that you will not, on grounds of the alleged non-performance of any of our obligations, withhold payment of any Royalty Fee, Advertising Fund Fees, or any other amounts due to us.

## **ARTICLE XXIX** **INJUNCTIVE RELIEF**

29.1 We may bring an action for injunctive relief in any court having jurisdiction to enforce our trademark or proprietary rights, the covenants not to compete, the restriction on disclosure of Confidential Information, or violations of food safety which we reasonably believe could be harmful to the public in order to avoid irreparable harm to us, our affiliates and the franchise system as a whole.

29.2 You agree that it is impossible to measure in money the damages which we will sustain in the event of your breach of the terms of this Agreement as described in section 29.1 and, therefore, in the event we institute injunctive proceedings under Section 29.1 you hereby waive the defense that we have an adequate remedy at law.

## **ARTICLE XXX** **ACKNOWLEDGMENTS**

30.1 You acknowledge that you have conducted an independent investigation of the Tikiz franchise system, and recognize that the business venture contemplated by this agreement involves business risks and that its success will be largely dependent upon your ability as an independent business person. We expressly disclaim the making of, and you acknowledge that you have not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.

30.2 You acknowledge that you have received, read, and understood this Agreement, including the attached exhibits; and that we have accorded you ample time and opportunity to consult with advisors of your own choosing about the potential benefits and risks of entering into this Agreement.

30.3 You acknowledge that you have received a complete copy of this Agreement, the exhibits referred to by it, and related agreements, if any, at least fourteen (14) days prior to the date on which this Agreement was entered into. You further acknowledge that you have received the disclosure document required by the trade regulation rule of the Federal Trade Commission, entitled "Disclosure Requirement and Prohibitions Concerning Franchising and Business Opportunity Ventures," at least fourteen (14) days prior to the date on which this Agreement was entered into or any monies were paid to us or our affiliates.

30.4 You acknowledge and are aware of the fact that some franchisees of ours may operate under different forms of agreements and, consequently, our obligations and rights in respect to our various franchisees may differ materially in certain circumstances.

## **ARTICLE XXXI** **ENTIRE AGREEMENT**

31.1 This Agreement and any exhibits or attachments to it are the entire agreement between the parties concerning the franchise it grants and the subject matter of this Agreement. Any and all other negotiations, understandings, agreements and representations pertaining to the subject matter of this Agreement, other than the representations in the Franchise Disclosure Document previously provided by us to you, are superseded by this Agreement. This Agreement supersedes any and all prior



negotiations, understandings, agreements and representations concerning the subject matter covered by this Agreement, other than the representations made in the Franchise Disclosure Document previously provided to you. No officer, employee, or other servant or agent of ours is authorized to make any representation, warranty or other promise not contained in this Agreement (or the disclosure documents presented to you for review before execution of this Agreement). Other than changes made to the Confidential Operations Manual in our sole discretion, no change, amendments or attempted waiver of any of the provisions of this Agreement shall be binding upon us or you unless in writing and signed by us and you.

#### **ARTICLE XXXII**

#### **JOINT AND SEVERAL OBLIGATION**

32.1 If you consist of more than one (1) person, their liability under this Agreement shall be deemed to be joint and several.

#### **ARTICLE XXXIII**

#### **SECURITY INTEREST**

33.1 You hereby grant to us a security interest in all of your assets including your interest in all leasehold improvements, furniture, furnishings, fixtures, equipment, inventory and supplies located at or used in connection with the Tikiz Business, now or hereafter leased or acquired, together with all attachments, accessions, accessories, additions, substitutions and replacements therefore, and all cash and non-cash proceeds derived from insurance or the disposition of such collateral, to secure payment and performance of all debts, liabilities and obligations of any kind, whenever and however incurred, of you to us. You agree to complete and deliver to us, in a timely manner, all financial statements and other documents necessary or desirable to evidence, perfect and continue the priority of such security interests under the Uniform Commercial Code. For such purposes, the address of Tikiz and you are stated in Article XXVII of this Agreement. If you are in good standing, we agree, upon request, to enter subordinations of our security interest to suppliers, lenders and/or lessors furnishing equipment or financing for the Tikiz Business.

#### **ARTICLE XXXIV**

#### **COUNTERPART; PARAGRAPH HEADINGS; PRONOUNS**

34.1 This Agreement may be entered into in any number of counterparts, all of which when taken together shall constitute one and the same instrument. The paragraph headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision thereof. Each pronoun used shall be deemed to include the other number of genders.

#### **ARTICLE XXXV**

#### **SEVERABILITY AND CONSTRUCTION**

35.1 Each section, part, term and provision of this Agreement shall be considered severable, and if, for any reason, any section, part, term or provision is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation, such shall not impair the operation of, or affect the remaining portions, parts, terms or provisions of this Agreement, and the latter will continue to be given full force and effect and bind the parties to this Agreement, and said invalid sections, parts, terms or provisions shall be deemed not to be a part of this Agreement, provided, however, that if we determine that said finding of illegality adversely affects the basic consideration of this Agreement Tikiz and you may terminate this Agreement.

35.2 Anything to the contrary, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity, other than Tikiz or you and such of their respective successors and assigns as may be contemplated by this Agreement, any rights or remedies under or by reason hereof.

35.3 You expressly agree to be bound by any promise or covenant imposing the maximum duty permitted by law, which is subsumed within the terms of any provision hereof as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court may hold to be unreasonable and unenforceable in a final decision to which we are a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.

35.4 All captions contained in this Agreement are intended solely for the convenience of the parties, and none shall be deemed to affect the meaning or construction of any provision hereof.

35.5 This Agreement shall be entered in duplicate and each copy so entered into shall be deemed an original.

#### **ARTICLE XXXVI** **MISCELLANEOUS**

36.1 **Compliance with Anti-Terrorism Laws.** You and your owners agree to comply, and to assist us to the fullest extent possible in our efforts to comply, with Anti-Terrorism Laws (defined below). In connection with that compliance, you and your owners certify, represent, and warrant that none of your property or interests is subject to being seized or frozen under, and that you and your owners otherwise are not in violation of, any of the Anti-Terrorism Laws. "Anti-Terrorism Laws" mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, PL 107-56, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of the Anti-Terrorism Laws by you or your owners, or any seizure or freeze of your or your owners' assets under the Anti-Terrorism Laws, shall constitute good cause for immediate termination of this Agreement, as provided in Subsection 17.3.B above.

**IN WITNESS WHEREOF**, the parties to this Agreement have entered into this Agreement under seal on the date first written above.

Franchisor: Tikiz Franchising, LLC

By: \_\_\_\_\_

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

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

Franchisee: \_\_\_\_\_

By: \_\_\_\_\_

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

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

## **EXHIBIT "A" TO FRANCHISE AGREEMENT**

### **TERRITORY**

The Franchisee's Territory as defined in Section 1.2 of the Franchise Agreement shall be as follows:

---

(Attach a map or detailed description of the Territory as necessary)

Tikiz Franchising, LLC  
Franchisor

By: \_\_\_\_\_

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

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

---

Franchisee

By: \_\_\_\_\_

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

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

## **EXHIBIT "B" TO FRANCHISE AGREEMENT**

### **GUARANTY**

In consideration of the execution by TIKIZ FRANCHISING, LLC ("Franchisor") of the Tikiz Franchising, LLC Franchise Agreement (the "Franchise Agreement"), dated the \_\_\_\_\_ day of \_\_\_\_\_, between \_\_\_\_\_ Franchisor and \_\_\_\_\_ ("Franchisee") and for other good and valuable consideration, including Franchisor's execution of or consent to the transfer of the Franchise Agreement, each of the undersigned, for themselves, their heirs, successors, and assigns, do jointly, individually and severally hereby absolutely and unconditionally guarantee the payment of all amounts and the performance of all of the covenants, terms, conditions, agreements and undertakings contained and set forth in said Franchise Agreement and in any other agreement(s) by and between Franchisee and Franchisor.

If more than one (1) person has executed this Guaranty, the term "the undersigned", as used herein, shall refer to each such person, and the liability of each of the undersigned hereunder shall be joint and several and primary as sureties.

The undersigned, individually and jointly, hereby agree to be personally bound by each and every covenant, term, condition, agreement and undertaking contained and set forth in said Franchise Agreement and any other agreement(s) by and between Franchisee and Franchisor, and agree that this Guaranty shall be construed as though the undersigned and each of them executed agreement(s) containing the identical terms and conditions of the Franchise Agreement and any other agreement(s) by and between Franchisee and Franchisor.

The undersigned hereby agree, furthermore, that without the consent of or notice to any of the undersigned and without affecting any of the obligations of the undersigned hereunder: (a) any term, covenant or condition of the Franchise Agreement may be amended, compromised, released or otherwise altered by Franchisor and Franchisee, and the undersigned do guarantee and promise to perform all the obligations of Franchisee under the Agreement as so amended, compromised, released or altered; (b) any guarantor of or party to the Franchise Agreement may be released, substituted or added; (c) any right or remedy under the Agreement, this Guaranty or any other instrument or agreement between Franchisor and Franchisee may be exercised, not exercised, impaired, modified, limited, destroyed or suspended; and, (d) Franchisor or any other person may deal in any manner with Franchisee, any of the undersigned, any party to the Franchise Agreement or any other person.

Should Franchisee be in breach or default under the Franchise Agreement or any other agreement(s) by and between Franchisee and Franchisor, Franchisor may proceed directly against any or each of the undersigned without first proceeding against Franchisee and without proceeding against or naming in such suit any other Franchisee, signatory to the Franchise Agreement or any others of the undersigned.

Nothing in this provision shall be construed to limit the obligations of Franchisee under its confidentiality, non-disclosure and non-competition covenants set forth in the Franchise Agreement.

Notice to or demand upon Franchisee or any of the undersigned shall be deemed notice to or demand upon Franchisee and all of the undersigned, and no notice or demand need be made to or upon any or all of the undersigned. The cessation of or release from liability of Franchisee or any of the undersigned shall not relieve any other Guarantors from liability hereunder, under the Franchise Agreement, or under any other agreement(s) between Franchisor and Franchisee, except to the extent that the breach or default has been remedied or moneys owed have been paid.

Any waiver, extension of time or other indulgence granted by Franchisor or its agents, successors or assigns, with respect to the Franchise Agreement or any other agreement(s) by and between Franchisee and Franchisor, shall in no way modify or amend this Guaranty, which shall be continuing, absolute, unconditional and irrevocable.

It is understood and agreed by the undersigned that the provisions, covenants and conditions of this Guaranty shall inure to the benefit of the Franchisor, its successors and assigns. This Guaranty may be assigned by Franchisor voluntarily or by operation of law without reducing or modifying the liability of the undersigned hereunder.

Guarantors agree to pay all of Franchisor's reasonable attorneys' fees and costs incurred in any collection or attempt to collect amounts due or to enforce provisions of the Franchise Agreement or this Guaranty.

This Guaranty shall be governed by and construed in accordance with the laws of the State of Florida. Franchisor may enforce its rights regarding this Guaranty in the courts of Broward County, Florida, to which venue and jurisdiction Guarantors hereby expressly consent and agree. Guarantors each irrevocably consent and submit to the jurisdiction and venue of such courts.

Should any one (1) or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

**Tikiz Franchising, LLC**

**FRANCHISE AGREEMENT**

**EXHIBIT "C"**

**NON-DISCLOSURE AND NON-COMPETITION AGREEMENT**

This Non-Disclosure and Non-Competition Agreement ("**Agreement**") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Effective Date**"), by and between \_\_\_\_\_ ("**Company**") and \_\_\_\_\_ ("**Disclosee**"), as of the date written above.

RECITALS

A. Tikiz Franchising, LLC ("**Franchisor**") owns the rights to and has granted the Company the non-exclusive license to use the "Tikiz Shaved Ice & Ice Cream" trademarks, trade names, service marks and logos ("**Marks**"), the business systems identified by such Marks (the "**System**"), and certain confidential information, for the operation of the Company's franchised Tikiz Shaved Ice & Ice Cream business ("**Franchised Business**") within the territory of \_\_\_\_\_ ("Territory").

B. In connection with Disclosee's employment or engagement by the Company in connection with the Franchised Business, Disclosee will receive access to and become acquainted with certain confidential and/or proprietary information of Franchisor. As a condition to and in consideration of Disclosee's employment by the Company, and as a material inducement for the Company to disclose certain confidential and/or proprietary information to Disclosee in connection with the business of being a franchisee of Franchisor, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Disclosee, Disclosee agrees to be bound by the following representations, warranties and covenants, to be effective, during and at all times after Disclosee's employment or affiliation with the Company and the Franchised Business:

TERMS AND CONDITIONS

1. Recitals. The recitals contained herein are true and correct and are incorporated herein by reference.

2. Confidential Information. As used in this Agreement, "**Confidential Information**" includes, without limitation, various trade secrets, inventions, innovations, processes, software programs, know-how, information, records and specifications owned or licensed by Franchisor and its affiliates, and/or used by Franchisor, its affiliates or its franchisees, in connection with the System or the operation of Franchised Business, including, without limitation, Franchisor's and its affiliates' business, product processes, methods, formulas, plans, trade secrets, customer lists, accounts, identities of suppliers, price lists, recipes, procedures and techniques, confidential manuals, advertising and marketing techniques, operational and quality assurance procedures, and any other confidential and proprietary information of Franchisor or otherwise obtained by Disclosee which are based on or derived from, or which contain or reflect, any Confidential Information, regardless of the form in which such information is communicated, recorded or maintained.

Confidential Information shall not include information otherwise described above that Disclosee can establish: (a) is or becomes generally available to or known by the public (other than as a result of the unauthorized disclosure, directly or indirectly, by Disclosee or any of its employees, agents or

advisors); (b) is or becomes available to Disclosee or any of its employees, agents or advisors on a non-confidential basis from a source other than the Company or Franchisor, provided that such source is not and was not bound by a confidentiality and/or nondisclosure agreement with, or other similar obligation to, the Company or Franchisor; or (c) has been independently acquired or developed by Disclosee or any of its employees, agents or advisors without violating any of Disclosee's obligations under this Agreement.

3. Confidentiality. The Confidential Information shall be held and treated by Disclosee in utmost and strictest confidence. The Confidential Information shall not, without the prior written consent of the Company and Franchisor, be disclosed by Disclosee in any manner whatsoever, in whole or in part. Disclosee agrees that he or she will not disclose any of the Confidential Information, directly or indirectly, or use any of the Confidential Information in any manner, and at any time, other than for the specific purpose of performing his/her duties at and in connection with the Franchised Business as required in the course of Disclosee's employment relationship with the Company. Disclosee shall not reproduce, or permit the reproduction, directly or indirectly, of any of the Confidential Information except as required by the Company and Franchisor.

In the event that Disclosee becomes legally compelled or required to disclose any of the Confidential Information to a third party by order of a court or other authority of competent jurisdiction, Disclosee shall provide the Company and Franchisor with notice as far in advance as practicable so that the Company and/or Franchisor may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement, in the sole discretion of Franchisor. In any event, Disclosee will furnish only that portion of the Confidential Information which it is legally required to furnish.

Disclosee shall immediately advise the Company and Franchisor in writing if it learns of any unauthorized use or disclosure of Confidential Information by Disclosee, or by any person or entity, which disclosure would not be permitted if such person or entity were bound by the terms of this Agreement.

4. Ownership and Return of Information. The parties acknowledge and agree that all Confidential Information disclosed (including all Franchisor manuals) is confidential and proprietary to Franchisor and shall remain the exclusive property of Franchisor. At the request of Franchisor, Disclosee shall promptly return or destroy any and all Confidential Information including all copies thereof, on any storage medium whatsoever, in its possession or in the possession of any of its employees, agents or advisors and will not retain any copies or other reproductions in whole or in part of such material. **All manuals must be returned to Franchisor. Absolutely no copies of manuals may be made.**

5. Non-Competition Clause. Due to the proprietary nature of the software, procedures and practices of Franchisor, Disclosee acknowledges and agrees that Franchisor has a legitimate business interest and would be unable to protect its Confidential Information, System and Marks against unauthorized use or disclosure and Franchisor would be irreparably harmed and unable to encourage the free exchange of ideas and information among its franchisees if Disclosee were permitted to engage in the acts prohibited under this Agreement. Accordingly, during Disclosee's relationship with the Company (as an employee or independent contractor) in connection with the Franchised Business, and for a period of two (2) years thereafter, Disclosee promises and covenants not to:

(a) directly or indirectly, solicit or otherwise attempt to induce, by combining or conspiring with, or attempting to do so, or in any other manner influence any employee, officer, director, agent, consultant, representative, supplier, contractor or distributor of the Company to terminate or modify his or her position with, or to compete against, the Company or Franchisor;

(b) in addition to, and not in limitation of other provisions hereof, the Disclosee shall not in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of the Company or Franchisor; and

(c) engage in or become interested in, directly or indirectly, whether as an individual, partner, shareholder, owner, director, officer, principal, agent, consultant, employee or manager, the same or substantially similar business as the Company, or any business that distributes, produces or sells shaved ice, ice cream, or other food products that are the same as or similar to the type sold in Tikiz Shaved Ice & Ice Cream businesses, within the Company's Territory, the territory of any other Tikiz Shaved Ice & Ice Cream business, or within a 25 mile radius from the border of the Company's Territory. This paragraph shall not be interpreted so as to prevent the Disclosee from working as an employee at a restaurant business provided that all other provisions of this Agreement are complied with.

6. Remedies. The parties acknowledge and agree that the Confidential Information is a unique and valuable asset of Franchisor and that unauthorized disclosure or use of the Confidential Information may cause Franchisor and the Company irreparable harm and significant injury that may be difficult to ascertain. Accordingly, the parties understand and agree that, in addition to any other rights including the right to damages, Franchisor and/or the Company shall be entitled to equitable relief, in the event of any breach of this Agreement. In the event of a breach or threatened breach by Disclosee, Franchisor and/or the Company shall be entitled to injunctions restraining such breach, without being required to show any actual damage or to post any bond or other security, and/or to a decree for specific performance under this Agreement. Disclosee shall be responsible and held liable for any breach of this Agreement by its employees, agents, contractors or other representatives.

7. Representations.

a. Disclosee represents, warrants, and confirms that the restrictions contained in this Agreement are fair and reasonable and not the result of overreaching, duress, or coercion of any kind. Disclosee further acknowledges, represents, warrants, and confirms that his or her full, uninhibited and faithful observance of each of the covenants contained in this Agreement will not cause any undue hardship, financial or otherwise, and that the enforcement of each of the covenants contained in this Agreement will not impair his or her ability to obtain employment commensurate with his or her abilities on terms fully acceptable to Disclosee or otherwise to obtain income required for his or her comfortable support and of his or her family, and the satisfaction of the needs of his or her creditors.

b. Disclosee acknowledges and confirms that his or her special knowledge of Franchisor's System and the Franchised Business (and anyone acquiring such knowledge through Disclosee) is such as would cause Franchisor, its affiliates, its franchisees and the Company serious injury and loss if Disclosee (or anyone acquiring such knowledge through Disclosee) were to use such ability and knowledge to the detriment of Franchisor, its affiliates, its franchisees and the Company.

c. The Agreement neither creates nor is intended to imply the existence of an employment contract and does not represent a promise or representation of employment or continued employment. Nothing in this Agreement shall change the "at-will" nature of Disclosee's employment relationship with the Company.

8. Survival. The confidentiality, non-solicitation and non-competition provisions of this Agreement shall survive and apply after Disclosee's business relationship with the Company in connection with the Franchised Business has terminated.



9. Franchisor Third Party Beneficiary. The parties recognize the necessity of the Disclosee's compliance with the terms of this Agreement to Franchisor as the franchisor of the business operated by the Company. Accordingly, the Disclosee agrees and acknowledges that Franchisor is a third party beneficiary of the Disclosee's obligations hereunder and Franchisor is entitled to all rights and remedies conferred upon the Company or Franchisor hereunder, which Franchisor may enforce directly against the Disclosee with or without the consent or joinder of the Company.

10. Miscellaneous

a. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Notwithstanding the foregoing, neither party, except Franchisor, may assign its rights or obligations under this Agreement.

b. Non-Waiver. The existence of any claim or cause of action by the Disclosee against the Company and/or Franchisor predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company and/or Franchisor of this Agreement. Any failure to object to any conduct in violation of this Agreement shall not be deemed a waiver by the Company or Franchisor. No waiver of any provisions of this Agreement shall be effective unless it is in writing and signed by the Disclosee, the Company and Franchisor, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

c. Attorneys' Fees, Costs and Expenses. In any action or proceeding to enforce this Agreement, including any appeals or post judgment proceedings, the prevailing party shall be entitled to recover from the other party thereto the reasonable attorneys' fees, court costs, filing fees, publication costs and other expenses incurred by the prevailing party in connection therewith.

d. Venue, Jurisdiction and Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Florida. Venue for any litigation involving this Agreement or the relationship between the parties shall be Broward County, Florida. The parties agree to submit to the exclusive jurisdiction of the courts of Broward County, Florida.

e. Rule of Construction. The terms and conditions set forth in this Agreement are the product of mutual draftsmanship and/or review by the parties hereto, each having the opportunity to be represented by counsel. Any ambiguities in this Agreement or any agreement prepared or to be prepared pursuant to or in connection with this Agreement shall not be construed against any one party because of the draftsmanship. The Agreement shall be interpreted in a neutral fashion consistent with the intent of the parties as stated herein.

f. Severability. In the event that any court shall finally hold that any other provision stated in this Agreement constitutes an unreasonable restriction upon the Disclosee, the Disclosee hereby expressly agrees that the provisions of this Agreement shall not be rendered void, but shall apply to such other extent as such court may judicially determine or indicate constitutes a reasonable restriction under the circumstances involved. The Disclosee agrees that it shall forthwith comply with any covenant as so modified, which is fully enforceable to the extent permitted by applicable law. The obligations of the Disclosee to the Company and Franchisor are in addition to, and not in lieu of, any additional or more restrictive obligations the Disclosee may have to the Company and/or Franchisor in any other agreement.

g. Time. In the event the Company and/or Franchisor should bring any legal action or other proceeding for the enforcement of this Agreement, the time for calculating the term of the restrictions herein shall not include the period of time commencing with the filing of legal action or other proceeding to enforce the terms of this Agreement hereof through the date of final judgment or final resolution, including all appeals, if any, of such legal action or other proceeding.

h. Modification of Agreement and Merger. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement may not be supplemented, modified or revised in any manner except by a single writing signed by the Disclosee, the Company and Franchisor. There are no prior or contemporaneous oral promises, representations or agreements not set forth herein inducing entry into this Agreement and all prior negotiations, discussions, statements and representations are merged into this Agreement. The provisions of this paragraph cannot be modified by conduct, oral agreement or written agreement, unless signed by the Disclosee, the Company and Franchisor.

i. Authority to Sign. By signing this Agreement, each party represents and warrants to all other parties that its execution of this Agreement is duly authorized in accordance with applicable laws relating to such parties, that this Agreement is fully enforceable according to its terms against such executing party and that the individual executing on any corporation's behalf has the requisite power and authority to do so.

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

Disclosee: \_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature

The Company: \_\_\_\_\_

\_\_\_\_\_  
By:  
As:

**Tikiz Franchising, LLC**

**FRANCHISE AGREEMENT**

**EXHIBIT "D"**

**TRANSFER OF FRANCHISE TO  
A CORPORATION OR LIMITED LIABILITY COMPANY**

The undersigned, an Officer, Director and Owner of a majority of the issued and outstanding voting stock of the Corporation listed below, or Members of the issued and outstanding Interests of the Limited Liability Company listed below, and the Franchisee of the Tikiz Business under a Franchise Agreement entered into on the date listed below, between himself or herself and Tikiz Franchising, LLC., as Franchisor, granting him/her a franchise to operate in the Territory listed below, and the other undersigned Directors, Officers and Shareholders of the Corporation, or the Members of the Limited Liability Company, who together with Franchisee constitute all of the Shareholders of the Corporation, or the Members of the Limited Liability Company, in order to induce Franchisor to consent to the assignment of the Franchise Agreement to the Corporation or Limited Liability Company in accordance with the provisions of Article XX of the Franchise Agreement, agree as follows:

1. The undersigned Franchisee shall remain personally liable in all respects under the Franchise Agreement and all the other undersigned Officers, Directors and Shareholders of the Corporation, or the Members of the Limited Liability Company, intending to be legally bound hereby, agree jointly and severally to be personally bound by the provisions of the Franchise Agreement including the restrictive covenants contained in Article XIV thereof, to the same extent as if each of them were the Franchisee in the Franchise Agreement and they jointly and severally personally guarantee all of the Franchisee's obligations established in said Agreement.

2. The undersigned agree not to transfer any stock in the Corporation or any interest in the Limited Liability Company without the prior written approval of the Franchisor and agree that all stock certificates representing shares in the Corporation, or all certificates representing interests in the Limited Liability Company shall bear the following legend:

"The shares of stock represented by this certificate are subject to the terms and conditions set forth in a Franchise Agreement dated \_\_\_\_\_, 20\_\_ between \_\_\_\_\_ and Tikiz Franchising, LLC."

Or

"The ownership interests represented by this certificate are subject to the terms and conditions set forth in a Franchise Agreement dated \_\_\_\_\_, 20\_\_ between \_\_\_\_\_ and TIKIZ Franchising, LLC."

3. \_\_\_\_\_ or his designee shall devote his best efforts to the day-to-day operation and development of the Tikiz Business.

4. \_\_\_\_\_ hereby agrees to become a party to and to be bound by all of the provisions of the Franchise Agreement entered into on the date listed below between Franchisee and Tikiz Franchising, LLC., to the same extent as if it were named as the Franchisee.

Date of Franchise Agreement: \_\_\_\_\_

Territory of Tikiz Business: \_\_\_\_\_

WITNESS:

As to Paragraph 3:

\_\_\_\_\_

\_\_\_\_\_  
[Name]

As to Paragraph 4:

\_\_\_\_\_

\_\_\_\_\_  
[Name]

ATTEST:

\_\_\_\_\_  
Name of Corp. or Limited Liability Company

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

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

In consideration of the execution of the above Agreement, TIKIZ Franchising, LLC. hereby consents to the above referred to assignment on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Tikiz Franchising, LLC

By: \_\_\_\_\_

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

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

**Tikiz Franchising, LLC**  
**FRANCHISE AGREEMENT**

**EXHIBIT "E"**

**Telephone Number Assignment Agreement  
and Power of Attorney**

**FOR VALUE RECEIVED**, the undersigned ("Franchisee") irrevocably assigns the telephone listing and numbers stated below and any successor, changed or replacement number or numbers effective upon the date of termination of the Franchise Agreement described below to Tikiz Franchising, LLC. upon the following terms:

1. This assignment is made under the terms of Tikiz Franchising, LLC. Franchise Agreement dated \_\_\_\_\_, 20\_\_ authorizing Franchisee to do business as "Tikiz" (the "Franchise Agreement") between Franchisor and Franchisee, which in part pertains to the telephone listing and numbers the Franchisee uses in the operation of the Tikiz Business covered by the Franchise Agreement.

2. Franchisee retains the limited right to use the telephone listing and numbers only for transactions and advertising under the Franchise Agreement while the Franchise Agreement between Franchisor and Franchisee remains in full force, but upon termination or expiration of the Franchise Agreement, the Franchisee's limited right of use of the telephone listing and numbers also terminates. In this event, Franchisee agrees to immediately discontinue use of all listings and numbers. At Franchisor's request, Franchisee will immediately sign all documents, pay all monies, and take all other actions necessary to transfer the listing and numbers to Franchisor.

3. The telephone numbers and affiliated listings subject to this assignment are: \_\_\_\_\_ and all numbers on the rotary series and all numbers the Franchisee uses in the Tikiz Business in the future.

4. Franchisee shall pay all amounts owed for the use of the telephone numbers and affiliated listing it incurs. On termination or expiration of the Franchise Agreement, Franchisee shall immediately pay all amounts owed for the listing and telephone numbers, whether or not due, including all sums owed under existing contracts for telephone directory advertising.

5. Franchisee appoints Franchisor as his/her attorney-in-fact to act in Franchisee's place for the purpose of assigning any telephone numbers covered by Paragraph 3 above to Franchisor or Franchisor's designees or transferees. Franchisee grants Franchisor full authority to act in any manner proper or necessary to exercise these powers, including full power of substitution and signing or completion of all documents required or requested by any telephone company to transfer the numbers, and ratifies every act that Franchisor lawfully performs in exercising those powers.

This power of attorney is effective for ten (10) years from the date of expiration, cancellation or termination of Franchisee's rights under the Franchise Agreement for any reason.

Franchisee intends that this power of attorney be coupled with an interest. Franchisee declares this power of attorney to be irrevocable and renounces all right to revoke it or to appoint another person to perform the acts referred to in this instrument. This power of attorney is not affected by the

Franchisee's later incapacity. This power is created to secure performance of a duty to Franchisor and is for consideration.

THE PARTIES have caused this Agreement to be duly signed as evidenced by their signatures appearing below. Persons signing this Agreement must check the appropriate space and sign in the appropriate place provided.

FRANCHISEE: EACH OF THE BELOW PERSONS AGREES TO BE BOUND BY THE PROVISIONS OF THIS AGREEMENT, IN BOTH INDIVIDUAL AND REPRESENTATIVE CAPACITIES.

Signed the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Franchisee

By: \_\_\_\_\_

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

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

FRANCHISOR:

Signed and accepted as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Tikiz Franchising, LLC.  
Franchisor

By: \_\_\_\_\_

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

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

**Tikiz Franchising, LLC.**

**FRANCHISE AGREEMENT**

**EXHIBIT "F"**

**STATE SPECIFIC ADDENDA**

**ADDENDUM TO FRANCHISE AGREEMENT  
TIKIZ FRANCHISING, LLC FOR THE STATE OF CALIFORNIA**

THIS ADDENDUM TO FRANCHISE AGREEMENT ("Addendum") is effective as of the date of execution of the Franchise Agreement between TIKIZ FRANCHISING, LLC ("Franchisor") and \_\_\_\_\_ ("Franchisee"), dated \_\_\_\_\_, \_\_\_\_\_ (the "Franchise Agreement").

**BACKGROUND**

Contemporaneous with the execution of this Addendum, the parties have entered into a Franchise Agreement for the operation of a TIKIZ franchise in \_\_\_\_\_, California.

The parties desire by this Addendum to amend certain terms of the Franchise Agreement entered into simultaneously herewith so as to comply with California law.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree that, solely to the extent the laws of California apply to the parties (without acknowledging such application), the following shall apply to the extent required by applicable law:

1. Section 5.1 of the Franchise Agreement is amended to include the following:

The Initial Franchise Fee is payable in immediately available funds and is due upon Franchisor's completion of its pre-opening obligations, which are approving a territory, loaning you a copy of the Operations Manual, providing initial training to you, providing you with our specifications and/or names of approved or designated suppliers for your Tikiz Business, and selling you the Tikiz mobile truck, and Franchisee is open for business.

2. Article XIV of the Franchise Agreement is modified by inserting the following sentence at the end of the last paragraph in that section:

The franchise agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may be unenforceable under California law.

3. Article XVII of the Franchise Agreement is modified by inserting the following sentence at the end of the paragraph:

The franchise agreement provides for termination upon bankruptcy. This provision may be unenforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.)

4. Article XXVIII of the Franchise Agreement is modified by inserting the following sentence at the end of the paragraph:

The franchise agreement requires application of the laws of Florida. This provision may be unenforceable under California law.

5. No disclaimer, questionnaire, clause, or statement signed by a franchisee in connection with the commencement of the franchise relationship shall be construed or interpreted as waiving any claim of fraud in the inducement, whether common law or statutory, or as disclaiming reliance on or the right to rely upon any statement made or information provided by any franchisor, broker or other person acting on behalf of the franchisor that



was a material inducement to a franchisee's investment. This provision supersedes any other or inconsistent term of any document executed in connection with the franchise.

6. The Department of Financial Protection and Innovation requires that the Franchisor defer the collection of the initial franchise fee and the costs for the syrup equipment and initial inventory from California franchisees until the Franchisor has completed all of its pre-opening obligations and franchisee is open for business. For any development agreement, the payment of the development and initial fee attributable to a specific unit is deferred until that unit is open.

FRANCHISOR: TIKIZ FRANCHISING, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

FRANCHISEE: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Tikiz Franchising, LLC**  
**Additional Franchise Addendum**  
**Exhibit "G"**

(If you purchase multiple Tikiz Businesses *at the same time*)

**THIS ADDENDUM TO FRANCHISE AGREEMENT** ("Addendum") is entered into as of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between TIKIZ FRANCHISING, LLC, a Florida limited liability company ("Franchisor") and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee"). (Franchisor and Franchisee shall be collectively referred to herein as the "Parties").

**WHEREAS**, on the Effective Date, Franchisor and Franchisee entered into that certain Franchise Agreement (the "Franchise Agreement"), pursuant to which Franchisee was granted the right to operate one Tikiz franchise (the "Tikiz Business"), in strict accordance with the Franchise Agreement, within the Territory known as \_\_\_\_\_ and identified in Exhibit A to the Franchise Agreement ("Territory");

**WHEREAS**, the Franchise Agreement is for the \_\_\_\_\_ [second, third, etc.] Tikiz franchise that Franchisee has purchased;

**WHEREAS**, because Franchisee has purchased more than one Tikiz franchise *at the same time*, the Franchise Agreement is amended as set forth below to reflect that if the Franchise Agreement is for the second, third, fourth, etc. Tikiz franchise that Franchisee has purchased, Franchisee will have twelve (12) months from the Effective Date of the Franchise Agreement to commence operation of the second Tikiz Business and eighteen (18) months from the Effective Date of the Franchise Agreement to commence operation of the third Tikiz Business, with the time to commence operation increased by increments of 6 months for each additional franchise; and

**WHEREAS**, because Franchisee has purchased more than one Tikiz franchise *at the same time*, the Franchise Agreement is amended as set forth below to reflect that if the Franchise Agreement is for the third Tikiz franchise that Franchisee has purchased, the Initial Franchise Fee for the third Tikiz franchise shall be reduced to One Dollar (\$1), and if the Franchise Agreement is for the third, fourth, etc. Tikiz Franchise that Franchisee has purchased *at the same time*, the Initial Franchise Fee for the third, fourth, etc. Tikiz franchise shall be Ten Thousand Dollars (\$10,000).

**NOW, THEREFORE**, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the parties to this Addendum, the Parties agree as follows:

1. Section 2.8 of the Franchise Agreement is hereby amended as follows:

2.8 Commencement of Operations.

You may not begin to operate your Tikiz Business until we consent in writing. By consenting that your Tikiz Business may begin operation, we do not guarantee or represent that it will be successful. Factors which may affect the commencement of your operations include, without limitation, training schedule,

procurement of a mobile truck, hiring personnel, and other outside influences. You shall commence operation of the Tikiz Business within \_\_\_\_\_ months of the Effective Date of this Agreement (which shall increase by increments of 6 months for each additional franchise) and no later than ten (10) days after receipt of our written consent to commence operations. You acknowledge that time is of the essence in the development and opening of your Tikiz Business. In the event you fail to commence operation of your Tikiz Business and have not placed an order for your Tikiz truck within \_\_\_\_\_ months of the Effective Date of this Agreement, we will begin charging you the monthly Royalty Fee and, if the Advertising Fund is established, the monthly Advertising Fund Fee.

2. Section 5.1 of the Franchise Agreement is hereby amended as follows:

In consideration of the execution of this Agreement and our granting to you a franchise, you agree to pay us an "Initial Franchise Fee" of: (i) One Dollar (\$1) if you purchased more than one Tikiz franchise *at the same time* and this Agreement is for the third Tikiz franchise that you purchased, or (ii) Ten Thousand Dollars (\$10,000) if you purchased more than one Tikiz franchise *at the same time* and this Agreement is for the fourth or additional Tikiz franchise that you purchased, payable upon the execution of this Agreement. The Initial Franchise Fee is not refundable under any circumstances and is deemed fully earned by us upon receipt.

3. Section 5.8 of the Franchise Agreement is hereby amended as follows:

The Royalty Fee and, if the Advertising Fund is established, the Advertising Fund Fee, will accrue on the earlier of either: (i) the date on which you commence operation of your Tikiz Business; or (ii) upon expiration of the \_\_\_\_\_ month period from the Effective Date of this Agreement.

4. All of the terms and provisions of this Addendum, whether so expressed or not, are binding upon, inure to the benefit of, and are enforceable by the parties and their respective personal representatives, legal representatives, heirs, successors and permitted assigns.

5. All capitalized terms not otherwise defined herein shall have the meanings given to them in the Franchise Agreement.

6. If there is any conflict between the Franchise Agreement and this Addendum, the terms of this Addendum shall apply. Except as specifically amended herein, the Franchise Agreement, as well as all other documents, instruments and agreements executed and/or delivered in connection therewith, shall remain in full force and effect, and are hereby ratified and confirmed.

7. This Addendum represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations, understandings and representations, if any, made by and between the parties. No representations, inducements, promises or agreements, oral or otherwise, if any, not embodied herein are of any force and effect.

8. The provisions of this Addendum may be amended, supplemented, waived or changed only by a written document signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought and making specific reference to this Addendum.

9. The provisions of the Franchise Agreement pertaining to dispute resolution—including mediation of disputes, governing law, and jurisdiction and venue—are incorporated herein and apply with equal force to the terms and conditions of this Addendum as if fully set forth herein.

10. This Addendum may be executed in counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument. PDF or facsimile signatures shall be given the same force and effect as originals.

11. The parties to this Addendum acknowledge and represent that the recitals appearing at the beginning of this Addendum are true and correct, and are specifically incorporated into this Addendum.

12. Each party to this Addendum represents and warrants that the individuals executing this Addendum are duly authorized to so act and it is the intent of each party to be bound to this Addendum by the signing hereof.

**IN WITNESS HEREOF**, the Parties have executed this Addendum as of the Effective Date above.

FRANCHISOR:  
**Tikiz Franchising, LLC**

FRANCHISEE: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

As its: \_\_\_\_\_

As its: \_\_\_\_\_

**Tikiz Franchising, LLC**  
**Additional Equipment Addendum**  
**Exhibit "H"**

**THIS ADDENDUM TO FRANCHISE AGREEMENT** ("Addendum") is entered into as of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between TIKIZ FRANCHISING, LLC, a Florida limited liability company ("Franchisor") and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee"). (Franchisor and Franchisee shall be collectively referred to herein as the "Parties").

**WHEREAS**, on \_\_\_\_\_, 20\_\_, Franchisor and Franchisee entered into that certain Franchise Agreement (the "Franchise Agreement"), pursuant to which Franchisee was granted the right to operate one Tikiz franchise (the "Tikiz Business"), in strict accordance with the Franchise Agreement, within the Territory known as \_\_\_\_\_ and identified in Exhibit A to the Franchise Agreement ("Territory");

**WHEREAS**, subject to the conditions set forth in the Franchise Agreement, Franchisee has the option to purchase additional Tikiz equipment in connection with the operation of its Tikiz Business within the Territory; and

**WHEREAS**, the Parties desire to amend the Franchise Agreement as set forth herein.

**NOW, THEREFORE**, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the parties to this Addendum, the Parties agree as follows:

1. Franchisee desires to purchase the following Additional Equipment for use in the Territory and shall pay the Additional Equipment Royalty Fee provided for in the Franchise Agreement, or as may otherwise be provided below, for so long as Franchisee owns the Additional Equipment.

**Additional Equipment (circle one):**      **Additional Equipment Royalty Fee:**

Tikiz mobile cart	\$500 per month
Tikiz mobile trailer	\$500 per month
Tikiz mini cart	\$500 per month
Tikiz hot beverage package	\$200 per month
Other: _____	\$_____ per month

2. Franchisee agrees that the Additional Equipment Royalty Fee shall commence upon Franchisee's purchase and the delivery of the Additional Equipment to Franchisee, and shall be due at such time and in the same manner as the Royalty Fees.

3. Franchisee must present evidence to Franchisor, as required by Franchisor in its sole discretion, that Franchisee no longer owns the Additional Equipment prior to Franchisee being excused from paying any further Additional Equipment Royalty Fees. Franchisee shall not be entitled to receive a refund for any Additional Equipment Royalty Fees paid.

4. All of the terms and provisions of this Addendum, whether so expressed or not, are binding upon, inure to the benefit of, and are enforceable by the parties and their respective personal representatives, legal representatives, heirs, successors and permitted assigns.

5. All capitalized terms not otherwise defined herein shall have the meanings given to them in the Franchise Agreement.

6. If there is any conflict between the Franchise Agreement and this Addendum, the terms of this Addendum shall apply. Except as specifically amended herein, the Franchise Agreement, as well as all other documents, instruments and agreements executed and/or delivered in connection therewith, shall remain in full force and effect, and are hereby ratified and confirmed.

7. This Addendum represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations, understandings and representations, if any, made by and between the parties. No representations, inducements, promises or agreements, oral or otherwise, if any, not embodied herein are of any force and effect.

8. The provisions of this Addendum may be amended, supplemented, waived or changed only by a written document signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought and making specific reference to this Addendum.

9. The provisions of the Franchise Agreement pertaining to dispute resolution—including mediation of disputes, governing law, and jurisdiction and venue—are incorporated herein and apply with equal force to the terms and conditions of this Addendum as if fully set forth herein.

10. This Addendum may be executed in counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument. PDF or facsimile signatures shall be given the same force and effect as originals.

11. The parties to this Addendum acknowledge and represent that the recitals appearing at the beginning of this Addendum are true and correct, and are specifically incorporated into this Addendum.

12. Each party to this Addendum represents and warrants that the individuals executing this Addendum are duly authorized to so act and it is the intent of each party to be bound to this Addendum by the signing hereof.

**IN WITNESS HEREOF**, the Parties have executed this Addendum as of the Effective Date above.

FRANCHISOR:  
**Tikiz Franchising, LLC**

FRANCHISEE: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

As its: \_\_\_\_\_

As its: \_\_\_\_\_

**Exhibit "I"**  
**ELECTRONIC FUNDS TRANSFER**  
**AUTHORIZATION TO HONOR CHARGES DRAWN BY AND PAYABLE TO**  
**TIKIZ FRANCHISING, LLC ("PAYEE")**

The undersigned Depositor hereby authorizes and requests the Depository designated below to honor and to charge to the following designated account, checks, and electronic debits (collectively, "debits") drawn on such account which are payable to the above named Payee. It is agreed that Depository's rights with respect to each such debit shall be the same with or without cause and whether intentionally or inadvertently, Depository shall be under no liability whatsoever. This authorization shall continue in force until Depository and Payee have received at least thirty (30) days prior written notification from Depositor of its termination.

The Depositor agrees with respect to any action taken according to the above authorization:

(1) To indemnify the Depository and hold it harmless from any loss it may suffer resulting from or in connection with any debit, including, without limitation, execution and issuance of any check, draft or order, whether or not genuine, purporting to be authorized or executed by the Payee and received by the Depository in the regular course of business for the purpose for payment, including any costs or expenses reasonably incurred in connection therewith.

(2) To indemnify Payee and the Depository for any loss arising in the event that any such debit shall be dishonored, whether with or without cause and whether intentionally or inadvertently.

(3) To defend at Depositor's own cost and expense any action which might be brought by a depositor or any other persons because of any actions taken by the Depository or Payee under the foregoing request and authorization, or in any manner arising by reason of the Depository's or Payee's participation therein.

Name of Bank/Depository: \_\_\_\_\_

Name of Franchisee/Depositor: \_\_\_\_\_

Depositor's Designated Bank Acct.: \_\_\_\_\_

(Please attach one voided check for the above account)

Bank Address: \_\_\_\_\_

Bank Phone #: \_\_\_\_\_

Bank Fax #: \_\_\_\_\_

\_\_\_\_\_  
Name of Franchisee/Depositor (please print)

By: \_\_\_\_\_

Signature and Title of Authorized Representative

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

## **FDD - EXHIBIT C**

### **TABLE OF CONTENTS OF CONFIDENTIAL OPERATING MANUAL**

#### **Getting Started** **Master Table of Contents** (Total pages 138)

#### **I. Introduction (25 pages)**

- A. Chief Executive Officer Welcome Letter
- B. Mission Statement and Objectives
- C. Management Team
- D. Franchisor Responsibilities
- E. Franchisee responsibilities
- F. Notice of Proprietary and Confidential Information
- G. Acknowledgement of Receipt
- H. Using the Confidential Operations and Policies Manual
- I. General Business Policies and Practices

#### **II. Establishing Your Franchise (23 pages)**

- A. Introduction
- B. Selecting your business entity
  - 1. Employer identification number (EIN)
- C. Banking Information
- D. Sales Tax
- E. Selecting your Location
  - 1. Lease Inclusions
  - 2. Insurance Coverage
- F. Truck Design
  - 1. Logo and Signage Specifications
  - 2. Décor Specifications
- G. Licenses and Permits
  - 1. Utilities and services
  - 2. Health Department
- H. Establishing Accounts with Approved Suppliers
- I. Ordering Equipment, Smallwares and Supplies
  - 1. Equipment Specifications
  - 2. Smallwares Inventory
  - 3. Supplies Inventory

#### **III. Personnel (33 pages)**

- A. Introduction
- B. Recruiting Staff
  - 1. Ideal Employee Profile
- C. Labor Laws
- D. Non-discrimination and other related issues



- E. Conducting an Interview
- F. Employee Policies
- G. Job Descriptions
  - 1. Benefits and Compensation
  - 2. Uniform and Dress Code
  - 3. Personal Hygiene
- H. Employee Nondisclosure Agreement
- I. Personnel Record Keeping
- J. Employee Trial Period
- K. Employee Scheduling
- L. Orientation
- M. Training Manual
  - 1. Customer Service Manual
- N. Employee Evaluation
- O. Employee Injury/Illness
- P. Employee Termination

#### **IV. Managing Your Tikiz Business (23 pages)**

- A. Introduction
- B. Staffing
- C. Inventory and ordering procedures
  - 1. Receiving procedures
  - 2. Storing the product
- D. Generating profit
  - 1. Controlling costs
- E. Cleaning procedures
- F. Safety and security
- G. Maintenance standards and procedures
- H. Accounting/bookkeeping
  - 1. Submitting financial information, gross sales reports and payments
  - 2. Automatic bank draft - royalties
  - 3. Paying sales tax, payroll tax and workers compensation
  - 4. Financial statements

#### **V. Operating Your Tikiz Franchise (22 pages)**

- A. Introduction
- B. Location Hours
- C. Customer Service
- D. Customer Injury/Illness
- E. Cash register
  - 1. Payment policies
- F. Opening Procedures
- G. Safe Food Handling
- H. Food preparation procedures
  - a. Syrup recipes
- I. Side-Work and Cleaning Duties
- J. Closing Procedures

## **VI. Advertising & Marketing (7 pages)**

- A. Introduction
- B. Advertising and Marketing programs
- C. Grand Opening
- D. Advertising Media
  - 1. Advertising Approval
- E. Point-of-Purchase Display and Materials
- F. Franchisor Advertising Materials

## **VII. Forms & Materials (27 pages)**

- Opening Procedures
- Opening Register Worksheet
- Sales Tracking & Schedule
- Supplies Ordering Form
- Side work
- Cleaning Procedures
- Opening Shift Close Out
- Petty Cash Reimbursement
- Pre-Closing Procedures
- Closing Procedures
- Register Closing Worksheet
- Petty Cash Close Out
- Manager Administrative Weekly Close Out Check List
- Statement Of Gross Sales & Royalty Report
- Weekly Close Out Sheet
- Weekly Gross Sales & Deposit
- Employee Survey Form
- Employee Write Up Form
- Fax Cover Sheet
- Recipe Sheet
- Sample Non-Disclosure Form

## **FDD - EXHIBIT D-1**

### **LIST OF CURRENT FRANCHISEES**

List of Current Franchisees: Operating Units as of December 31, 2022

Brad & Jennifer Tucker Wiregrass Snow, LLC The Wiregrass, Alabama 334-797-9253 1 unit opened
John Meza East Bay, California 415-627-8629; jmeza@tikiz.com 1 unit opened
Fabrice & Camille Sene C&F Shaved Delights, LLC Riverside and Corona, California 323-919-6930; fabrice@tikiz.com; camille@tikiz.com 3 units opened
Nicholas Hydreous, Jr. Santa Clarita, California 661-993-9263 1 unit opened
Larry & Lori Lancelle Triple LLL, LLC Ventura County, California 310-562-5802; Larry@tikiz.com 2 units opened
Debbie Silva Blessed Treats LLC Miami, Florida (786) 623-9006; debbie@tikiz.com 1 unit opened
Kevin & Stephanie Danforth Kakayla, LLC Polk County, Florida (863) 640-7510; Kevin@tikiz.com 2 units opened
Robert Hocking P&P Hocking, LLC Ponte Vedra, Florida 800-203-3573; jaxbeach@tikiz.com 2 units opened

<p>Charles &amp; Jennifer Wilson  Dubbs, LLC  St. Petersburg, Florida  (727) 458-3139  1 unit opened</p>
<p>Kevin &amp; Stephanie Danforth  Kakayla, LLC  Tampa, Florida  (863) 640-7510; Kevin@tikiz.com  1 unit opened</p>
<p>Terry Shelton and George Wilson  SW Frozen Sweet Treats, LLC  Lexington, Kentucky  (859) 445-3632; George@tikiz.com  1 unit opened</p>
<p>Christopher and Rebecca Volz  Tikiz Of Louisville, LLC  Louisville, Kentucky  502-554-6252; ChrisV@tikiz.com  1 unit opened</p>
<p>Jareth Navarre  Navaden, Inc.  Sulphur, Louisiana  337-912-0607; jareth@tikiz.com  2 units opened  *This franchisee has an interest in the franchisor and holds the position of Franchise Development with franchisor.</p>
<p>Craig Sanders  Cool Treats LLC  Natchez, Mississippi  601-493-3841; sanders.craig@bellsouth.net  1 unit opened in MS</p>
<p>Bryan &amp; Chasity Fletcher  The Fletcher Project, LLC  Butler and Cincy County, Ohio  (513) 607-2851  2 units opened</p>
<p>Ilia "Jacquie" Rivera  Until Then, LLC  Midlands, South Carolina  (954) 868-6611; jacquie@tikiz.com  1 unit opened</p>

<p>Hussam (Sam) and April Nadar  Sweet Business Ventures, LLC  Conroe, Texas  (281) 757-0478; Sam@tikiz.com and April@tikiz.com  1 unit opened</p>
<p>Kelly Hodgson  K &amp; D Hodgson, LLC  Lewisville, Texas  800-972-0119; kelly@tikiz.com  1 unit opened</p>
<p>Dennis &amp; Rebecca Stewart  Texas Stewart Group LLC  North Fort Worth, Texas  817-682-5528; rebecca@tikiz.com; dennis@tikiz.com  2 units opened</p>
<p>Brandon Crowder and Juliette Cozier  J &amp; B Icescapes, LLC  Tomball, Texas  832-534-8494; brandon@tikiz.com and juliette@tikiz.com  3 units opened</p>
<p>Philip &amp; Shelly Pendergrass  Foster 4, LLC  Summerville, South Carolina  (843) 709-1733; phil@tikiz.com  1 unit opened</p>
<p>Luis and Gaby Avila  GLED, LLC  Dallas, Texas  (575) 621-0507; gaby@tikiz.com  1 unit opened</p>
<p>David Crowder  Three's A Crowd Sweets and Treats, LLC  Georgetown, Texas  (512) 818-6446; davidc@tikiz.com  1 unit opened</p>
<p>Joshua Whitfield  Whitz, LLC  Havelock, North Carolina  (252) 622-9760; josh@tikiz.com  1 unit opened</p>

<p>Ulysses McNeil  Jamir and Jalen, LLC  Laurinburg, North Carolina  (910) 844-1688; ulysses@tikiz.com  1 unit opened</p>
<p>Brandi Race  Deep Freeze Confections, LLC  Rancho Cordova, California  (916) 712.9994; Brandi@tikiz.com  1 unit opened</p>
<p>Jessica Garcia  OC Delights, LLC  Riverside, California  (714) 296-4559; jessica@tikiz.com  1 unit opened</p>
<p>Crystal Chang  Bentonville Bike Trails, LLC  Bentonville, Arkansas  (847) 571-8408; crystal@tikiz.com  1 unit opened</p>

## FDD - EXHIBIT D-2

### **LIST OF CURRENT FRANCHISEES, BUT OUTLETS NOT YET OPENED**

List of Current Franchisees, but Outlets Not Yet Opened as of December 31, 2022

Larry & Lori Lancelle Ventura County, California 310-562-5802; Larry@tikiz.com 2 units not yet opened
Jareth Navarre Navaden, Inc. Sulphur, Louisiana 337-912-0607 2 units not yet opened (Territories in LA (1 unit) and TX (1 unit))
Craig Sanders Natchez, Mississippi Sanders.craig@bellsouth.net 2 units not yet opened (Territories in MS (1 unit) and LA (1 unit))
Bryan & Chasity Fletcher The Fletcher Project, LLC Butler and Cincy County, Ohio (513) 607-2851 1 unit not yet opened
Philip & Shelly Pendergrass Foster 4, LLC Summerville, South Carolina (843) 709-1733; phil@tikiz.com 2 units not yet opened
David Crowder Three's A Crowd Sweets and Treats, LLC Georgetown, Texas (512) 818-6446; davidc@tikiz.com 2 units not yet opened

## FDD - EXHIBIT E

### **LIST OF FRANCHISEES WHO HAVE LEFT THE SYSTEM**

The following is a list of franchisees who had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year, or who have not communicated with us within 10 weeks of the issuance date of this Disclosure Document.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Lisa Justice Suncity, Arizona (360) 402-0751 (lmjustice03@gmail.com) (This franchise was terminated before commencing operation in Q1 2022)
Robert Arnold Panama City Beach, Florida (850) 890-6610 (franchisee passed away)
Elizabeth and Kenneth Dial KEDZ, LLC Tallahassee, Florida (904) 449-4718
Tad Lamb Tikiz of Central Florida, LLC Windermere, Florida (407) 595-2673
Leo & Jessica Ramirez Infinite Ice, LLC NE Atlanta, Georgia (770) 367-0885
Sarrah Summerfield Buford, Georgia (903) 641-3026
Jim and Tina Warr Warr Ventures, LLC Braselton, Georgia 850-497-2900
William & Jolie Rogers NE Mississippi (662) 231-8700 (franchisee passed away)



Darin and Melissa Shepherd  
Melissa's Shaved Ice, LLC  
Billings, Montana  
(406) 223-6279

**FDD - EXHIBIT F**  
**FINANCIAL STATEMENTS**

FINANCIAL STATEMENTS  
**TIKIZ FRANCHISING, LLC**  
FOR THE YEAR ENDED DECEMBER 31, 2022

**TIKIZ FRANCHISING, LLC  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDED DECEMBER 31, 2022**

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# ARIE A. TAYKAN & COMPANY, CPA's

ACCOUNTANTS & ADVISORS

210 N. University Drive, Suite 200

Coral Springs, FL 33071-7339

Tel: (954) 722-9250

Fax: (954) 726-6715

Email: [arie@taykancpa.com](mailto:arie@taykancpa.com)

## INDEPENDENT AUDITORS' REPORT

### Members

Tikiz Franchising, LLC  
Boca Raton, Florida

We have audited the accompanying financial statements of Tikiz Franchising, LLC, a Florida Partnership, which comprise of the balance sheet at December 31, 2022 and related statement of operations and members' deficit and statement of cash flows for the year ended December 31, 2022, and the related notes to the financial statements.

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the balance sheet at December 31, 2022 and related statements of operations and members deficit and statement of cash flow for the year ended December 31, 2022, and the related notes to the financial statements in accordance with accounting principles generally accepted in the United States of America.

*Arie A. Jaykan & Company, CPA*

Coral Springs, Florida  
September 20, 2023

**TIKIZ FRANCHISING, LLC  
BALANCE SHEET  
DECEMBER 31, 2022**

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**ASSETS**

**CURRENT ASSETS:**

Cash in bank	\$ 58,416	
Accounts receivable	105,000	
Inventories, at cost	171,094	
Prepaid expenses	35,000	
<b>Total Current Assets</b>		<b>\$ 369,510</b>

**FURNITURE, EQUIPMENT AND LEASEHOLD  
IMPROVEMENTS NET OF ACCUMALTED  
DEPRECIATION OF \$42,484**

39,081

**INTANGIBLE ASSET, NET OF ACCUMULATED  
AMORTIZATION OF \$1,286**

1,314

**SECURITY DEPOSIT**

3,079

\$ 412,984

**LIABILITIES AND MEMBERS' DEFICIT**

**CURRENT LIABILITIES:**

Accounts payable and accrued expenses	\$ 422,116	
Deferred revenues	453,264	
Due to related company	\$ 7,604	
Current portion of long-term debt	4,500	
<b>Total Current Liabilities</b>		<b>\$ 887,484</b>

**LONG-TERM DEBT, NET OF CURRENT PORTION**

195,400

**COMMITMENT**

**MEMBERS' DEFICIT**

(669,900)

\$ 412,984

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THIS STATEMENT.

**TIKIZ FRANCHISING, LLC**  
**STATEMENT OF OPERATIONS AND MEMBERS' DEFICIT**  
**FOR THE YEAR ENDED DECEMBER 31, 2022**

4

**REVENUES:**

Sale of trucks & related items	\$ 905,083	
Franchise fees	336,372	
Royalties and other income	279,837	
Sale of supplies	47,128	
	<u>          </u>	\$ 1,568,420

**COST OF REVENUES**

717,298

**GROSS PROFIT**

851,122

**OPERATING EXPENSES:**

General and administrative	714,041	
Advertising and marketing	78,019	
Members' compensation	77,500	
Interest	27,371	
Depreciation and Amortization	2,356	
	<u>          </u>	<u>899,287</u>

**NET (LOSS)**

(48,165)

**MEMEBERS' DEFICIT- DECEMBER 31, 2021**

(977,941)

**ADJUST MEMBERS' DEFICIT FROM 2021**

356,206

**MEMBERS' DEFICIT - DECEMBER 31, 2022**

\$ (669,900)

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THIS STATEMENT.



**TIKIZ FRANCHISING, LLC**  
**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED DECEMBER 31, 2022**

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**OPERATING ACTIVITIES:**

Net loss	\$ (48,165)
Adjustment to reconcile net income to	
Net cash provided in operating activities:	
Amortization and depreciation	2,356
Increase in accounts receivable	(45,000)
Increase in inventory	(102,961)
Decrease in prepaid expenses	5,000
Decrease in accounts payable and accrued expenses	(141,798)
Increase in deferred income	40,000
Adjustments 2021 to members deficit	<u>370,418</u>

**Net Cash Provided by Operating Activities** \$ 79,850

**INVESTING ACTIVITIES:**

Purchase of equipment	<u>(32,500)</u>
-----------------------	-----------------

**Net Cash Used for Investing Activities** (32,500)

**FINANCING ACTIVITIES:**

Pay down due to related company	(29,792)
Reduce PPP loan	<u>(43,095)</u>

**Net Cash Used by Financing Activities** (72,887)

**DECREASE IN CASH** (25,537)

**CASH AT DECEMBER 31, 2021** 83,953

**CASH AT DECEMBER 31, 2022** \$ 58,416

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THIS STATEMENT.

**TIKIZ FRANCHISING, LLC**  
**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED DECEMBER 31, 2022**

**A. ORGANIZATION AND BUSINESS**

Tikiz Franchising, LLC (the "Company") was formed as a Florida limited liability company (A Partnership) in the State of Florida on December 7, 2012. The Company sells franchises which offer for sale frozen desserts, such as shaved ice, ice cream and related products, operated primarily from mobile trucks which the Company customizes. Franchises operate under the name of "Tikiz Shaved Ice and Ice Cream".

**B. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Revenue Recognition

The Company grants franchises to private operations in exchange for an initial franchise fee. In addition, the Company will receive royalties and revenues from sale of frozen desserts, etc. and other services to the franchisees.

In 2022 franchise fees are recognized as revenue when earned. Royalties and other income is based on franchisee's earnings and will be recorded as revenue when earned.

The franchisees will incur their own costs with respect to rent and security deposits and any other direct or indirect costs.

Estimates and Assumptions

In preparing financial statements in conformity with generally accepted accounting principles, management makes estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, as well as the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Accounts Receivables

The Company records bad debt whenever the account is deemed to be uncollectible. The Company considers its accounts receivable to be fully collectible. Accordingly, no allowance for doubtful accounts is required.

Depreciation and Amortization

Furniture, equipment and leasehold improvements are depreciated using the straight-line method over 7 years. 2022 depreciation expense was \$2,188. Amortization was \$173.

TIKIZ FRANCHISING, LLC  
NOTES TO FINANCIAL STATEMENTS (continued)  
FOR THE YEAR ENDED DECEMBER 31, 2022

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**B. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONT'D)**

Income taxes

The Company is not a tax paying entity for Federal income tax purposes, and thus no income tax expense has been recorded in the financial statements. Net income or loss of the Company is taxed to the members on their individual income tax returns.

**C. LONG-TERM DEBT, NET OF CURRENT PORTION**

In April 2022 the Company secured \$199,900 loan from SBA Disaster Program (EIDL) with interest at 3.75%. Monthly payments of \$945 including interest on the outstanding balance. Monthly payments will commence in October 2023 for thirty years. The loan is guaranteed by the Company and is not personally guaranteed by any of the members.

**D. DUE TO RELATED COMPANY**

Due to related company represent an advance from company owned by two of the members. The full amount will be repaid in 2023.

**E. MEMBERS' DEFICIT**

To date, the Company has eleven members. Each member contributed capital in accordance with the operating agreement. Members' deficit resulted with capital contributed less net losses since inception. In 2022 the Company did not make distributions.

**F. COMMITMENT**

In November 2022, the Company renewed their lease thru November 2025. The lease calls for monthly payments of \$5,250, \$5,500 and \$5,750 thru November 2025. Rent expense in 2022 was \$63,016.

**TIKIZ FRANCHISING, LLC**  
**FINANCIAL STATEMENTS**  
**DECEMBER 31, 2021 AND 2020**

# TIKIZ FRANCHISING, LLC

## Financial Statements

December 31, 2021 and 2020

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Independent Auditors' Report

To the Members of  
Tikiz Franchising, LLC:

**Opinion**

We have audited the accompanying financial statements of Tikiz Franchising, LLC which comprise the balance sheets as of December 31, 2021 and 2020, and the related statements of operations and members' deficit and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Tikiz Franchising, LLC as of December 31, 2021 and 2020, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

**Basis for Opinion**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Tikiz Franchising, LLC and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Tikiz Franchising, LLC's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

## **Auditors' Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Tikiz Franchising, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Tikiz Franchising, LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

*Lerro & Chandross PLLC*

August 19, 2022

**TIKIZ FRANCHISING, LLC**

## Balance Sheets

December 31, 2021 and 2020

	2021	2020
<b>ASSETS</b>		
Current assets:		
Cash	\$ 83,953	\$ -
Receivables	60,000	8,500
Inventory	68,133	44,644
Prepaid expenses	40,000	10,000
Other current assets	-	-
Total current assets	252,086	63,144
Property and equipment, net of accumulated depreciation and amortization of \$41,413 and \$37,957 in 2021 and 2020, respectively	10,252	13,708
Other assets	3,079	3,079
Due from Tikiz Enterprises	14,196	5,491
Total assets	<u>\$ 279,613</u>	<u>\$ 85,422</u>
<b>LIABILITIES AND MEMBERS' DEFICIT</b>		
Current liabilities:		
Accounts payable	\$ 133,647	\$ 309,019
Accrued expenses	430,267	220,982
Paycheck Protection Program loan	43,095	53,512
Deferred revenue	413,264	40,000
Advances from shareholders	37,396	82,850
Current maturities Small Business Administration loan	3,000	-
Total current liabilities	1,060,669	706,363
Small Business Administration loan, less current maturities	196,900	-
Total liabilities	1,257,569	706,363
Members' deficit	(977,956)	(620,941)
Total liabilities less members' deficit	<u>\$ 279,613</u>	<u>\$ 85,422</u>

See accompanying notes and independent auditors' report.



**TIKIZ FRANCHISING, LLC**

## Statements of Operations and Members' Deficit

For the Years Ended December 31, 2021 and 2020

	<u>2021</u>	<u>2020</u>
Revenues	\$ 811,835	\$ 473,246
Operating expenses:		
Direct expenses	342,015	276,757
Selling, general and administrative expenses	862,663	476,324
Depreciation and amortization	<u>3,456</u>	<u>5,151</u>
Total operating expenses	<u>1,208,134</u>	<u>758,232</u>
Net operating loss	<u>(396,299)</u>	<u>(284,986)</u>
Non-operating income (expense):		
Paycheck Protection Program loan forgiveness	53,512	-
Interest expense	<u>(14,228)</u>	<u>(6,205)</u>
Total non-operating income (expense)	<u>39,284</u>	<u>(6,205)</u>
Net loss	(357,015)	(291,191)
Members' deficit:		
Beginning of year	<u>(620,941)</u>	<u>(329,750)</u>
End of year	<u><u>\$ (977,956)</u></u>	<u><u>\$ (620,941)</u></u>

See accompanying notes and independent auditors' report.

# TIKIZ FRANCHISING, LLC

## Statements of Cash Flows

For the Years Ended December 31, 2021 and 2020

	2021	2020
<b>Operating activities:</b>		
Net loss	\$ (357,015)	\$ (291,191)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	3,456	5,151
Paycheck Protection Program loan forgiveness	(53,512)	-
Change in operating assets and liabilities:		
Receivables	(51,500)	58,508
Inventory	(23,489)	7,835
Prepaid expenses	(30,000)	1,005
Other current assets	-	28,443
Accounts payable	(175,372)	88,936
Accrued expenses	209,285	(54,193)
Deferred revenue	373,264	-
Net cash used in operating activities	(104,883)	(155,506)
<b>Financing activities:</b>		
Advances from (to) related parties, net	(54,159)	46,006
Proceeds from borrowings of Small Business Administration loan	199,900	-
Paycheck Protection Program loan proceeds	43,095	53,512
Net cash provided by financing activities	188,836	99,518
<b>Net increase (decrease) in cash</b>	<b>83,953</b>	<b>(55,988)</b>
Cash, beginning of period	-	55,988
Cash, end of period	\$ 83,953	\$ -
<b>Supplemental disclosure of cash flow information:</b>		
Interest paid	\$ 9,228	\$ 6,205

See accompanying notes and independent auditors' report.

# TIKIZ FRANCHISING, LLC

## Notes to Financial Statements

December 31, 2021 and 2020

### 1. Nature of Business

Tikiz Franchising, LLC (the "Company") was organized as a limited liability company under the laws of the State of Florida on December 7, 2012. The Company sells franchises which offer for sale frozen desserts, such as shaved ice, ice cream and related products, operated primarily from mobile trucks which the Company customizes. Franchisees operate under the name of "Tikiz Shaved Ice and Ice Cream".

The Company's most recent franchise disclosure document was issued on July 12, 2021.

### 2. Summary of Significant Accounting Policies

#### Basis of accounting:

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

#### Use of estimates:

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates.

#### Receivables:

Receivables are primarily derived from franchise fees, royalties, transfer and other fees and are carried at original invoice less an estimate made for doubtful accounts based on management's best estimate of probable losses inherent in the receivables balance. Management determines any allowance for doubtful accounts by regularly evaluating specific customer account activity. Receivables are written off when deemed uncollectible.

#### Inventory:

Inventory primarily consists of truck parts and is carried at cost or net realizable value, using the weighted average cost method.

#### Property and equipment:

Property and equipment are stated at cost less accumulated depreciation and amortization and is depreciated or amortized using the straight-line method over the estimated useful life of the asset. The estimated useful lives of property and equipment are as follows:

Machinery and equipment	7 years
Furniture and fixtures	7 years
Leasehold improvements	15 years

(continued)

# TIKIZ FRANCHISING, LLC

## Notes to Financial Statements

December 31, 2021 and 2020

### 2. Summary of Significant Accounting Policies (continued)

Expenditures for major renewals and betterments that extend the useful lives of property and equipment are capitalized. Expenditures for maintenance and repairs are charged to expense as incurred.

#### Revenue recognition:

Revenues are comprised of franchise revenue and equipment revenue. Franchise revenue is primarily derived from franchise fees, royalties, transfer fees, and other fees.

Franchise fees and transfer fees relate to pre-opening services, including assistance with the selection of the franchise location, assistance with obtaining facilities and equipment and the preparation of such for their intended use, training of the franchisee and franchisee personnel, preparation and distribution of operating manuals and materials concerning operation, administration and recordkeeping, information technology and advisory services and quality control programs. The Company has made a policy election under Accounting Standard Codification (“ASC”) Topic 606, *Revenue from Contracts with Customers* (“ASC 606”), to account for pre-opening services as a single performance obligation distinct from the franchise license. Revenue earned from the sale or transfer of franchises is recorded when all material services or conditions relating to pre-opening services have been substantially performed or satisfied by the franchisor or area developer. The Company considers franchise and transfer fee revenue to be earned when franchisee training is complete and the franchisee’s truck is delivered. In the case of the purchase of a second territory by an existing franchisee, revenue is recorded when the franchisee begins servicing the new territory.

Franchise fees are payable by the franchisee upon the signing of the franchise agreement, and transfer fees are paid to the Company when one franchisee transfers a franchise agreement to another franchisee. Receipt of franchise fees from California residents, consistent with California franchise regulations, are not due from the franchisee until all pre-opening services are substantially performed or satisfied, which includes training and delivery of the franchisee’s truck. Payment terms may be extended, for periods of less than one year, to franchisees for certain franchise fees on additional franchise territories or equipment purchased by that same franchisee.

Royalties are billed monthly over the term of the franchise agreement on a flat fee basis, and recognized in the month of service.

The Company customizes trucks and sells truck equipment purchased from third-party manufacturers. The Company recognizes revenue for customization services and the resale of equipment. In some cases, the Company purchases and resells used franchisee trucks. Truck and equipment related revenue is recognized upon the transfer of control of the trucks and ordered equipment, generally upon shipment. Franchisees are charged for all freight costs incurred for the delivery of trucks and equipment. Payment terms generally require payment upfront.

(continued)

# TIKIZ FRANCHISING, LLC

## Notes to Financial Statements

December 31, 2021 and 2020

### 2. Summary of Significant Accounting Policies (continued)

The Company also sells franchise branded items. The revenue for these items is recognized at the point of sale.

During 2021, the Company sold 17 and opened six franchises. During 2020, the Company sold one and opened three franchises. Revenues were comprised of the following in 2021 and 2020:

	2021	2020
Franchise fees	\$ 160,000	\$ 73,343
Truck and equipment revenues	430,797	254,777
Royalty fees	176,000	109,298
Training and other income	45,038	35,828
	<u>\$ 811,835</u>	<u>\$ 473,246</u>

#### Advertising:

Advertising costs include website and social media advertising, promotional items, trade shows and other advertising programs and are expensed as incurred. Advertising expense approximated \$34,000 and \$11,000 in 2021 and 2020, respectively, and is included in General and administrative expenses in the accompanying Statements of operations and members' deficit.

#### Income taxes:

The Company is a limited liability company taxed as a partnership and its income or loss is allocated to its members in accordance with their respective ownership percentage. Such members are generally responsible for income taxes related thereto and, accordingly, no income taxes or tax benefits are recorded in the Company's financial statements.

The Company has evaluated its tax positions and any estimates utilized in its tax returns and concluded that the Company has taken no uncertain tax positions that require adjustment to the financial statements.

#### Impairment of long-lived assets:

Long-lived assets held and used are tested for recoverability when circumstances indicate that the carrying amount of assets may not be recoverable. Recoverability of long-lived assets is evaluated by comparing the carrying value of an asset or asset group to management's best estimate of the undiscounted future operating cash flows expected to be generated by the asset or asset group. If such comparisons indicate that the carrying value of the asset or asset group is not recoverable, an impairment loss is recognized for the amount by which the carrying value of the asset or asset group exceeds its estimated fair value. Long-lived assets to be disposed of are reported at the lower of carrying amount or fair value less costs to sell.

(continued)

# TIKIZ FRANCHISING, LLC

## Notes to Financial Statements

December 31, 2021 and 2020

### 2. Summary of Significant Accounting Policies (continued)

#### Fair value measurements:

The Company's financial instruments, consisting of cash and cash equivalents, receivables, accounts payable and accrued expenses, approximate fair value due to their immediate or short-term nature or maturities.

#### Reclassifications:

Certain amounts from the prior year have been reclassified to conform with the current year presentation.

#### Subsequent events:

Subsequent events were evaluated through August 19, 2022, which is the date the financial statements were available to be issued.

### 3. Property and Equipment

Property and equipment consisted of the following at December 31, 2021 and 2020:

	2021	2020
Machinery and equipment	\$ 21,359	\$ 21,359
Leasehold improvements	19,817	19,817
Furniture and fixtures	10,489	10,489
	51,665	51,665
Less: accumulated depreciation and amortization	(41,413)	(37,957)
	<u>\$ 10,252</u>	<u>\$ 13,708</u>

Depreciation and amortization expense related to property and equipment was \$3,456 and \$5,151 in 2021 and 2020, respectively.

### 4. Small Business Administration Loans, Notes Payable and Related Party Transactions

During 2020, the Company received loan proceeds in the amount of \$53,512 under the Paycheck Protection Program ("PPP"). The principal and accrued interest were forgiven on May 28, 2021. In 2021, the Company recognized \$53,512 relative to the forgiveness of the loan, reported as Non-operating income in the accompanying Statement of operations and members' deficit, in accordance with ASC 470 on *Debt*. On February 25, 2021, the Company received an additional \$43,095 in proceeds under a second PPP loan, which was forgiven on June 2, 2022. No principal or interest payments were made on either loan.

(continued)

# **TIKIZ FRANCHISING, LLC**

## **Notes to Financial Statements**

December 31, 2021 and 2020

### **4. Small Business Administration Loans, Notes Payable and Related Party Transactions (continued)**

On April 22, 2021, the Company received loan proceeds in the amount of \$199,900 under an Economic Injury Disaster Loan (“EIDL”) through the Small Business Administration. The loan bears interest at 3.75% per annum. Installment payments of approximately \$1,000, including interest, commence on April 22, 2022 and continue through maturity of April 21, 2052. The loan is secured by substantially all assets of the Company. Management believes the Company has complied with the authorized use of loan proceeds and other loan terms required under the loan agreement. Future maturities approximate \$3,000 to \$4,000 per year for each of the subsequent five years, with payments due thereafter of approximately \$179,000.

Notes payable to parties related through common ownership by certain of the Company’s members approximated \$37,000 and \$83,000 at December 31, 2021 and 2020, respectively, under informal agreements. The notes contain no repayment terms and are noninterest bearing. No interest expense was imputed on the loans in 2021 and 2020 due to immateriality.

Amounts due from Tikiz Enterprises, as presented in the accompanying Balance sheets, represent amounts due from an entity related through common ownership by certain of the Company’s members, which approximated \$14,000 and \$5,000 at December 31, 2021 and 2020, respectively.

All credit cards used by the Company are issued in the name of an affiliated company, owned by certain of the Company’s members.

### **5. Litigation**

In 2017, Kona Ice, Inc. (“Kona”) filed patent infringement actions against the Tikiz franchisees. In 2018, the Company filed an action against Kona for declaratory judgment of non-infringement, and for breach of a previous settlement agreement with Kona. In 2018, Kona filed a counterclaim against the Company in response. Of the eighteen actions filed, thirteen remain pending. The Company’s attorneys believe that it is more likely than not that Kona will not prevail in its claims. As of August 19, 2022, the date the financial statements were available to be issued, no trial has been scheduled in this action.

### **6. Commitments**

The Company is obligated under operating lease agreements for office and warehouse space. These agreements expire in November 2022, for which future minimum lease payments approximate \$55,000.

Rent expense, including common area maintenance, for 2021 and 2020 approximated \$59,000 and \$54,000, respectively, and is reported in Selling, general and administrative expenses in the accompanying Statements of operations and members’ deficit.

## **TIKIZ FRANCHISING, LLC**

### Notes to Financial Statements

December 31, 2021 and 2020

#### **7. Concentration**

Truck purchases are made through one local dealer for a national supplier. The Company purchases only standard models, which may be sourced nationally. In the opinion of management, it is not likely that this purchase arrangement will result in supply issues outside of normal supply issues experienced generally by the market.

#### **8. Financial Risk Management and Gong Concern Considerations**

The Company monitors and seeks to minimize potential adverse effects of the Company's risk exposures, which are reviewed periodically for changes in market conditions and the Company's operations.

The Company's ability to satisfy its operating and financing commitments is dependent on the continued sale of franchises, and also, in part, on the availability of financing and/or the continued infusion of funds from investors and related parties. Management believes that the occurrence of such is probable and will be sufficient to meet the Company's obligations and satisfy capital requirements for at least one year following the date on which the financial statements were available to be issued.



**UNAUDITED FINANCIAL STATEMENTS AS OF AUGUST 31, 2023**

THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAD AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO THE CONTENT OR FORM.

# Tikiz Franchising LLC

## Balance Sheet

As of August 31, 2023

	TOTAL
<b>ASSETS</b>	
Current Assets	
Bank Accounts	
1005 Chase	34,771.83
1010 Cash	0.00
<b>Total Bank Accounts</b>	<b>\$34,771.83</b>
Accounts Receivable	
1100 Accounts Receivable	45,000.00
<b>Total Accounts Receivable</b>	<b>\$45,000.00</b>
Other Current Assets	
1205 Deferred commissions	35,000.00
1225 Franchise Fees Receivable	60,000.00
1255 Loans and Exchanges	534,429.83
1256 Note Receivable	-4,029.12
1280 Inventory - Trucks Division	276,955.96
1285 Inventory - Cups and Branded Materials	40,925.65
<b>Total Other Current Assets</b>	<b>\$943,282.32</b>
<b>Total Current Assets</b>	<b>\$1,023,054.15</b>
Fixed Assets	
1305 Furniture and Fixtures	7,889.54
1310 Machinery and Equipment	53,858.86
1320 Leasehold Improvements	19,816.75
1325 Accumulated Depreciation	-42,484.11
<b>Total Fixed Assets</b>	<b>\$39,081.04</b>
Other Assets	
1410 Intangible Assets	2,600.00
1415 Accumulated Amortization	-1,285.53
1420 Security Deposits - Rent	3,079.00
<b>Total Other Assets</b>	<b>\$4,393.47</b>
<b>TOTAL ASSETS</b>	<b>\$1,066,528.66</b>

# Tikiz Franchising LLC

## Balance Sheet

As of August 31, 2023

	TOTAL
<b>LIABILITIES AND EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 *Accounts Payable	50,656.39
<b>Total Accounts Payable</b>	<b>\$50,656.39</b>
Credit Cards	
3005 Chase 5986/3282	20,888.25
3020 Chase 2270/2313	36,176.19
3025 Amex 21001	1,127.38
3030 Chase Debit Card	0.00
3035 PNC 6247	0.00
<b>Total Credit Cards</b>	<b>\$58,191.82</b>
Other Current Liabilities	
3100 Accrued Expenses	260,752.69
3105 Accrued interest	5,000.00
3110 Accrued commissions	5,000.00
3120 Due to Tikiz Development	2,702.70
3125 Payroll Liabilities	0.00
3130 Accrued Officer Salary	90,208.30
3135 Accrued Payroll Expenses	5,859.11
3140 Deferred Revenue	453,263.60
3155 Due to Tikiz Enterprises	-1,826.63
3157 Truck Deposits	167,924.44
<b>Total Other Current Liabilities</b>	<b>\$988,884.21</b>
<b>Total Current Liabilities</b>	<b>\$1,097,732.42</b>
Long-Term Liabilities	
3200 EIDL/PPP Loan Payable	212,291.02
<b>Total Long-Term Liabilities</b>	<b>\$212,291.02</b>
<b>Total Liabilities</b>	<b>\$1,310,023.44</b>
Equity	
3300 Cap- Beg of Year Alex Farmanian	634.00
3305 Cap- Beg of Year GCJ	634.00
3310 Cap- Beg of Year JN	0.00
3315 Cap- Beg of Year Key Biscayne	-1,576.00
3320 Cap- Beg of Year Fix Holdings	0.00
3325 Cap- Beg of Year Tubito	1,267.00
3330 Cap - Beg of Year New Horiz	-1,576.00
3335 Cap - Beg of Year BE	-8,010.00
3340 Cap Contributions - Brian T	0.00
3355 Cap - Beg of Year Brian T	-368,060.00
3360 Cap - Beg of Year David T	-354,378.00

# Tikiz Franchising LLC

## Balance Sheet

As of August 31, 2023

	TOTAL
3370 Cap - 952 Invest	113,754.00
3375 Cap - Little Lady	9,146.00
3380 Cap - Ioia	-13,569.00
3400 Retained Earning	305,538.13
Net Income	72,701.09
<b>Total Equity</b>	<b>\$ -243,494.78</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$1,066,528.66</b>

# Tikiz Franchising LLC

## Profit and Loss

January - August, 2023

	TOTAL
Income	
4005 Royalty Fees	166,015.50
4010 Franchise Fees	191,000.00
4013 Franchise Transfer Fees	7,500.00
4015 Termination Fees	40,000.00
4018 Truck Sales - Brokerage/Commission	27,375.56
4025 Trucks Sales - New	267,130.80
4075 Truck Sales - Rebuilt	0.00
4085 Sales	0.00
4095 Sales of Products	41,141.75
4115 Software Fees	20,698.03
4205 Other Operating Income	0.00
<b>Total Income</b>	<b>\$760,861.64</b>
Cost of Goods Sold	
4500 Cost of Products Sold	24,596.27
4510 Shipping Expense - Tikiz products	15,396.51
5000 Standard Cost of Truck Sales	150,654.66
5005 Truck Purchases	40,933.62
5005.1 Truck Purchases Transferred to Inventory	-40,933.62
5060 Shipping of Trucks for Customiz	76.36
5520 Truck Materials	190,674.33
5520.1 Truck Materials Transferred to Inventory	-191,181.93
5590 Transportation Services	468.00
Overhead	
5525 Bank Charges	42.11
5530 Freight Allocated to Truck Division	948.90
5580 Rent Allocated to Truck Division	20,988.32
5581 Utilities Allocated to Truck Division	1,279.97
5582 Internet Allocated to Truck Division	680.45
5596 Payroll Allocated to Truck Division	51,164.20
5597 Payroll Taxes Allocated to Truck Division	14,749.65
5598 Payroll Fees Allocated to Truck Division	996.42
<b>Total Overhead</b>	<b>90,850.02</b>
<b>Total Cost of Goods Sold</b>	<b>\$281,534.22</b>
<b>GROSS PROFIT</b>	<b>\$479,327.42</b>
Expenses	
6000 General & Administrative Costs	
6005 Auto and Truck Expense	3,065.57
6021 Tolls and Parking and Fuel	6,383.30
6022 Auto Payments	7,154.56
<b>Total 6005 Auto and Truck Expense</b>	<b>16,603.43</b>
6030 Dues and Subscriptions	504.94

# Tikiz Franchising LLC

## Profit and Loss

January - August, 2023

	TOTAL
6040 Internet Expense	680.35
6050 Licences, Fees and Permits	98.67
6100 Education and Training	685.50
6130 Insurance	914.00
6160 Office Expense	7,040.09
6200 Payroll Expenses	90,660.25
6201 Payroll Service Fees	996.41
6202 Payroll Taxes	6,425.85
6205 Guranteed Payments to Partners	140,032.05
<b>Total 6200 Payroll Expenses</b>	<b>238,114.56</b>
6215 Postage	134.24
6230 Professional Fees	
6231 Professional Fees Legal	38,207.27
6233 Professional Fees - Acct & Tax	9,809.50
<b>Total 6230 Professional Fees</b>	<b>48,016.77</b>
6245 Rent	20,988.32
6250 Security	160.50
6255 Software	6,849.35
6260 Storage Expense	160.00
6275 Telephone	2,591.94
6325 Utilities	1,279.93
<b>Total 6000 General &amp; Administrative Costs</b>	<b>344,822.59</b>
7000 Marketing Costs	815.00
7005 Bank Charges	854.98
7010 Franchise Sales Advertising	9,812.70
7020 Commissions	45,000.00
7040 Entertainment and Meals	8,618.81
7050 Marketing Expense	25,145.91
7080 Web Domain Services/Graphic Design Services	5,666.11
7280 Toll Free Number Service	732.93
<b>Total 7000 Marketing Costs</b>	<b>96,646.44</b>
<b>Total Expenses</b>	<b>\$441,469.03</b>
NET OPERATING INCOME	<b>\$37,858.39</b>
Other Income	
8000 Other Non-Operating Income	39,879.23
<b>Total Other Income</b>	<b>\$39,879.23</b>
Other Expenses	
9000 Interest Expense	5,036.53
<b>Total Other Expenses</b>	<b>\$5,036.53</b>
NET OTHER INCOME	<b>\$34,842.70</b>
NET INCOME	<b>\$72,701.09</b>

**FDD - EXHIBIT G**

**SAMPLE COPY OF GENERAL RELEASE**

**TIKIZ FRANCHISING, LLC.**  
**GENERAL RELEASE AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between TIKIZ FRANCHISING, LLC., a Florida corporation having its principal place of business located at 1021 S. Rogers Circle, Suite 1, Boca Raton, FL 33487 (the "Franchisor"), and \_\_\_\_\_ residing at \_\_\_\_\_ ("Releasor"), and the parties, in exchange for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, and in reliance upon the representations, warranties, and comments herein are listed below, do agree as follows:

**1. Release by Releasor:**

Releasor does for itself, its successors and assigns, hereby release and forever discharge generally the Franchisor and any affiliate, wholly owned or controlled corporation, subsidiary, successor or assign thereof and any shareholder, officer, director, employee, or agent of any of them, from any and all claims, demands, damages, injuries, agreements and contracts, indebtedness, accounts of every kind or nature, whether presently known or unknown, suspected or unsuspected, disclosed or undisclosed, actual or potential, which Releasor may now have, or may hereafter claim to have or to have acquired against them of whatever source or origin, arising out of or related to any and all transactions of any kind or character at any time prior to and including the date hereof, including generally any and all claims at law or in equity, those arising under the common law or state or federal statutes, rules or regulations such as, by way of example only, franchising, securities and anti-trust statutes, rules or regulations, in any way arising out of or connected with the Agreement, and further promises never from this day forward, directly or indirectly, to institute, prosecute, commence, join in, or generally attempt to assert or maintain any action thereon against the Franchisor, any affiliate, successor, assign, parent corporation, subsidiary, director, officer, shareholder, employee, agent, executor, administrator, estate, trustee or heir, in any court or tribunal of the United States of America, any state thereof, or any other jurisdiction for any matter or claim arising before execution of this Agreement. In the event Releasor breaches any of the promises covenants, or undertakings made by any act or omission, Releasor shall pay, by way of indemnification, all costs and expenses of the Franchisor caused by the act or omission, including reasonable attorneys' fees.

2. Releasor represents and warrants that no portion of any claim, right, demand, obligation, debt, guarantee, or cause of action released hereby has been assigned or transferred by Releasor party to any other party, firm or entity in any manner including, but not limited to, assignment or transfer by subrogation or by operation of law. In the event that any claim, demand or suit shall be made or institute against any released party because of any such purported assignment, transfer or subrogation, the assigning or transferring party agrees to indemnify and hold such released party free and harmless from and against any such claim, demand or suit, including reasonable costs and attorneys' fees incurred in connection therewith. It is further agreed that this indemnification and hold harmless agreement shall not require payment to such claimant as a condition precedent to recovery under this paragraph.

3. Each party acknowledges and warrants that his, her or its execution of this Agreement is free and voluntary.

4. Florida law shall govern the validity and interpretation of this Agreement, as well as the performance due thereunder. This Agreement is binding upon and inures to the benefit of the respective assigns, successors, heirs and legal representatives of the parties.



5. In the event that any action is filed to interpret any provision of this Agreement, or to enforce any of the terms thereof, the prevailing party shall be entitled to its reasonable attorneys' fees and costs, and said action must be filed in the State of Florida.

6. This Agreement may be signed in counterparts, each of which shall be binding against the party executing it and considered as the original.

IN WITNESS WHEREOF, the parties, intending to be legally bound hereby, have executed this agreement effective as of the date first above.

Witness:

\_\_\_\_\_

RELEASOR:

\_\_\_\_\_

Witness:

\_\_\_\_\_

Tikiz Franchising, LLC.

By: \_\_\_\_\_

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

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

**FDD – EXHIBIT H**

**Agreement to Reserve Additional Territory**

## **Agreement to Reserve Additional Territory**

This AGREEMENT TO RESERVE ADDITIONAL TERRITORY ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date"), by and between Tikiz Franchising, LLC ("Franchisor") and \_\_\_\_\_ ("Franchisee") (Franchisor and Franchisee may be collectively referred to herein as the "Parties").

WHEREAS, on \_\_\_\_\_, 20\_\_\_\_, Franchisor and Franchisee entered into that certain Franchise Agreement ("Franchise Agreement") for the operation of a Tikiz franchised business ("Tikiz Business") within the territory known as \_\_\_\_\_, as further specified in Exhibit A to the Franchise Agreement (the "Territory");

WHEREAS, Franchisee desires to reserve the territory adjacent to the Territory known as \_\_\_\_\_, as further specified by a map or detailed description attached hereto as Exhibit 1 (the "Reserved Territory"), for purchase of an additional Tikiz franchised business; and

WHEREAS, Franchisor agrees to hold and reserve the Reserved Territory for Franchisee for no more than six (6) months from the Effective Date, subject and pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the Parties to this Agreement, the Parties agree as follows:

1. Provided that Franchisee has materially complied with all of the terms and conditions of the Franchise Agreement, Franchisor shall reserve and shall not offer to sell a Tikiz franchised business within the Reserved Territory for a period of six (6) months from the Effective Date of this Agreement (the "Reservation Period"). Upon the expiration of the Reservation Period, or the earlier material breach of the Franchise Agreement by Franchisee, or if Franchisee fails to timely exercise its right to purchase an additional Tikiz franchise, pursuant to Section 4 below, this Agreement and the rights granted to Franchisee hereunder shall automatically expire and be of no further force or effect.

2. In consideration of Franchisor's agreement to reserve the Reserved Territory as provided for in Section 1 above, Franchisee shall pay to Franchisor, upon execution of this Addendum, a non-refundable deposit of Ten Thousand Dollars (\$10,000) ("Reservation Deposit"). If Franchisee purchases an additional Tikiz franchise for the Reserved Territory in accordance with this Agreement, then the Reservation Deposit will be credited against Franchisee's Initial Franchise Fee for the additional Tikiz franchise. In no event shall Franchisee be entitled to any refund of the Reservation Deposit, even if Franchisee does not purchase an additional Tikiz franchise for the Reserved Territory.

3. Any unreserved territory adjacent to the Territory will remain available for sale to other franchisees.

4. Within the Reservation Period, and unless Franchisee has materially breached the Franchise Agreement, Franchisee may elect to purchase an additional Tikiz franchise for the Reserved Territory, as follows:

A. Franchisee shall provide Franchisor with written notice ("Notice") of its desire to purchase an additional Tikiz franchise for the Reserved Territory before the expiration of the Reservation Period, and, if necessary, Franchisor will provide Franchisee with Franchisor's then current Franchise Disclosure Document ("FDD"); and either

(i) If Franchisee must receive Franchisor's then-current FDD, then Franchisee shall have twenty (20) days from its receipt of the FDD to execute and return to Franchisor the receipt page attached to Franchisor's FDD acknowledging receipt of the FDD, and: (a) execute and return to Franchisor the then-current franchise agreement for an additional Tikiz franchise for the Reserved Territory, but not before the expiration of fourteen (14) full days from Franchisee's date of receipt of the FDD, as reflected on Franchisee's executed FDD receipt page; and (b) pay Franchisor, upon execution of the additional franchise agreement for the Reserved Territory, the balance of the Initial Franchise Fee due, but not before the expiration of fourteen (14) full days from Franchisee's date of receipt of the FDD, as reflected on Franchisee's executed FDD receipt page; or

(ii) If re-disclosure of Franchisor's then-current FDD is not required, Franchisee must execute and return to Franchisor the then-current franchise agreement for an additional Tikiz franchise for the Reserved Territory and pay Franchisor the balance of the Initial Franchise Fee due within ten (10) days of Franchisee's delivery of the Notice to Franchisor.

5. This Agreement supersedes all prior and contemporaneous agreements and discussions of the parties hereto regarding the subject matter hereof, and as written, constitutes the entire agreement of the parties.

6. This Agreement may be executed in any number of counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other parties.

7. Franchisee shall not assign this Agreement.

8. The provisions of the Franchise Agreement pertaining to dispute resolution—including governing law, jurisdiction and venue—are incorporated herein and apply with equal force to the terms and conditions of this Agreement as if fully set forth herein.

**IN WITNESS HEREOF**, the Parties have executed this Agreement as of the effective date above.

FRANCHISOR: Tikiz Franchising, LLC

\_\_\_\_\_  
By: Brian Tollefson, as CEO

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

FRANCHISEE: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

## EXHIBIT "1"

The Reserved Territory:

## FDD - EXHIBIT I

### **FRANCHISEE DISCLOSURE ACKNOWLEDGMENT STATEMENT**

As you know, Tikiz Franchising, LLC (the "**Franchisor**") and you are preparing to enter into a franchise agreement (the "**Franchise Agreement**") for the establishment and operation of a Tikiz Business. The purpose of this Questionnaire is to determine whether any statements or promises were made to you by employees or authorized representatives of the Franchisor, or by employees or authorized representatives of a broker acting on behalf of the Franchisor ("**Broker**") that have not been authorized, or that were not disclosed in the Franchise Disclosure Document or that may be untrue, inaccurate or misleading. The Franchisor, through the use of this document, desires to ascertain (a) that the undersigned, individually and as a representative of any legal entity established to acquire the franchise rights, fully understands and comprehends that the purchase of a franchise is a business decision, complete with its associated risks, and (b) that you are not relying upon any oral statement, representations, promises or assurances during the negotiations for the purchase of the franchise which have not been authorized by Franchisor.

In the event that you are intending to purchase an existing Tikiz Business from an existing Franchisee, you may have received information from the transferring Franchisee, who are not employees or representatives of the Franchisor. The questions below do not apply to any communications that you had with the transferring Franchisee. Please review each of the following questions and statements carefully and provide honest and complete responses to each.

1. Are you seeking to enter into the Franchise Agreement in connection with a purchase or transfer of an existing Tikiz Business from an existing Franchisee?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. I had my first face-to-face meeting with a Franchisor representative on \_\_\_\_\_, 20\_\_\_\_.

3. Have you received and personally reviewed the Franchise Agreement, each addendum, and/or related agreement provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Do you understand all of the information contained in the Franchise Agreement, each addendum, and/or related agreement provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

If no, what parts of the Franchise Agreement, any Addendum, and/or related agreement do you not understand? (Attach additional pages, if necessary.)

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5. Have you received and personally reviewed the Franchisor's Franchise Disclosure Document ("**FDD**") that was provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. Did you sign a receipt for the FDD indicating the date you received it?

Yes \_\_\_\_\_ No \_\_\_\_\_

7. Do you understand all of the information contained in the FDD and any state-specific Addendum to the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No, what parts of the FDD and/or Addendum do you not understand? (Attach additional pages, if necessary.)

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8. Have you discussed the benefits and risks of establishing and operating a Tikiz Business with an attorney, accountant, or other professional advisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No, do you wish to have more time to do so?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Do you understand that the success or failure of your Tikiz Business will depend in large part upon your skills and abilities, competition from other businesses, interest rates, inflation, labor and supply costs, location, lease terms, your management capabilities and other economic, and business factors?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise concerning the actual or potential revenues, profits or operating costs of any particular Tikiz Business operated by the Franchisor or its franchisees (or of any group of such businesses), that is contrary to or different from the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

11. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise regarding the amount of money you may earn in operating the franchised business that is contrary to or different from the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

12. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise concerning the total amount of revenue the Tikiz Business will generate, that is contrary to or different from the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise regarding the costs you may incur in operating the Tikiz Business that is contrary to or different from the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

14. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise concerning the likelihood of success that you should or might expect to achieve from operating a Tikiz Business?

Yes \_\_\_\_\_ No \_\_\_\_\_

15. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement, promise or agreement concerning the advertising, marketing, training, support service or assistance that the Franchisor will furnish to you that is contrary to, or different from, the information contained in the FDD or franchise agreement?

Yes \_\_\_\_\_ No \_\_\_\_\_

16. Have you entered into any binding agreement with the Franchisor concerning the purchase of this franchise prior to today?

Yes \_\_\_\_\_ No \_\_\_\_\_

17. Have you paid any money to the Franchisor concerning the purchase of this franchise prior to today?

Yes \_\_\_\_\_ No \_\_\_\_\_

18. Have you spoken to any other Franchisee(s) of this system before deciding to purchase this franchise? If so, who?

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I signed the Franchise Agreement and Addendum (if any) on \_\_\_\_\_, 20\_\_\_\_, and acknowledge that no Agreement or Addendum is effective until signed and dated by the Franchisor.

Please understand that your responses to these questions are important to us and that we will rely on them. By signing this Questionnaire, you are representing that you have responded truthfully to the above questions. In addition, by signing this Questionnaire, you also acknowledge the following:

A. You recognize and understand that business risks, which exist in connection with the purchase of any business, make the success or failure of the franchise subject to many variables, including among other things, your skills and abilities, the hours worked by you, competition, interest rates, the economy, inflation, franchise location, operation costs, lease terms and costs and the marketplace. You hereby acknowledge your awareness of and willingness to undertake these business risks.

B. You acknowledge receipt of the Franchisor's FDD. You acknowledge that you have had the opportunity to personally and carefully review these documents. Furthermore, you have been advised to seek professional assistance, to have professionals review the documents and to consult with other franchisees regarding the risks associated with the purchase of the franchise.

C. You acknowledge and agree that, if we recommend or give you information regarding a site for your Tikiz business, it is not a representation or warranty of any kind, express or implied, of the site's suitability for a Tikiz Business or any other purpose. You further acknowledge that you have not relied on any advice, statement, promise or assurance or otherwise with respect to the suitability of the site for a Tikiz Business. If you believe that such a statement, advice, promise or assurance has been made, please describe such statement, advice, promise or assurance in the space provided below or write "None."

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D. You agree and state that the decision to enter into this business risk is in no manner predicated upon any oral representation, assurances, warranties, guarantees or promises made by Franchisor or any of its officers, employees or agents (including the Broker or any other broker) as to the likelihood of success of the franchise. Except as contained in the FDD, you acknowledge that you have not received any information from the Franchisor or any of its officers, employees or agents (including the Broker or any other broker) concerning actual, projected or forecasted franchise sales, profits or earnings. If you believe that you have received any information concerning actual, average, projected or forecasted franchise sales, profits or earnings other than those contained in the FDD, please describe those in the space provided below or write "None".

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E. You acknowledge that no statement, promise or assurance has been made to you by a Broker concerning the advertising, marketing, training, support services or assistance that we will furnish you that is contrary to, or different from, the information contained in the FDD. If you believe that such a statement, promise or assurance has been made, please describe such statement or promise in the space provided below or write "None".

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F. You acknowledge that no other statement, promise or assurance has been made to you by a Broker concerning any other matter related to a Tikiz Business that is contrary to, or different from, the information contained in the FDD. If you believe that such a statement, promise or assurance has been made, please describe such statement, promise or assurance in the space provided below or write "None".

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G. You further acknowledge that the President of the United States of America has issued Executive Order 13224 (the "Executive Order") prohibiting transactions with terrorists and terrorist organizations and that the United States government has adopted, and in the future may adopt, other anti-terrorism measures (the "Anti-Terrorism Measures"). The Franchisor therefore requires certain certifications that the parties with whom it deals are not directly involved in terrorism. For that reason, you hereby certify that neither you nor any of your employees, agents or representatives, nor any other person or entity associated with you, is:

- (i) a person or entity listed in the Annex to the Executive Order;

(ii) a person or entity otherwise determined by the Executive Order to have committed acts of terrorism or to pose a significant risk of committing acts of terrorism;

(iii) a person or entity who assists, sponsors, or supports terrorists or acts of terrorism; or

(iv) owned or controlled by terrorists or sponsors of terrorism.

You further covenant that neither you nor any of your employees, agents or representatives, nor any other person or entity associated with you, will during the term of the Franchise Agreement become a person or entity described above or otherwise become a target of any Anti-Terrorism Measure.

MARYLAND FRANCHISEES ONLY: All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

Acknowledged this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name of Legal Entity

\_\_\_\_\_  
Print Name

By:\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**FDD - EXHIBIT J STATE ADDENDA**

**ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
TIKIZ FRANCHISING, LLC  
FOR THE STATE OF CALIFORNIA**

THIS ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT ("Addendum") sets forth modifications to the Franchise Disclosure Document ("FDD") for purposes of offering franchises in the State of California (the "State").

WHEREAS, the State has certain laws and regulations affecting the sale of franchises; and

WHEREAS, TIKIZ FRANCHISING, LLC ("TIKIZ ") desires to comply with all such applicable laws and regulations of the State.

NOW, THEREFORE, the FDD is hereby modified as follows solely to the extent that the laws of the State requires such modifications be made to the FDD and apply to either the parties or the transactions described, without acknowledging the application of such laws:

1. The cover page of the FDD is modified by adding the following Risk Factors:
  - i. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.
  - ii. OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [www.dfpi.ca.gov](http://www.dfpi.ca.gov).
2. Item 5 of the FDD is modified to include the following provision:

The Department of Financial Protection and Innovation requires that the Franchisor defer the collection of the initial franchise fee and the costs for the syrup equipment and initial inventory from California franchisees until the Franchisor has completed all of its pre-opening obligations and franchisee is open for business. For any development agreement, the payment of the development and initial fee attributable to a specific unit is deferred until that unit is open.
3. Item 17 of the FDD is modified by adding the following provisions:
  - i. If you must sign a general release of claims upon renewal or transfer of the franchise agreement, California Corporate Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 31000-31516). Business and Professional Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professional Code Section 20000-20043).

- ii. California Corporations Code, Section 31125 requires TIKIZ to give you a disclosure document, approved by the Department of Financial Protection and Innovation before a solicitation of a proposed material modification of an existing franchise.
  - iii. California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer or non-renewal of a franchise. If the franchise agreement is inconsistent with the law, the law will control.
  - iv. The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).
  - v. The franchise agreement requires application of the laws of Florida. This provision may not be enforceable under California law.
  - vi. The franchise agreement contains a covenant not to compete, which extends beyond the termination of the franchise. This provision may not be enforceable under California law.
  - vii. The franchise agreement may contain a liquidated damages clause, under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.
  - viii. Neither TIKIZ, any person or franchise broker in Item 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1939, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.
4. Each owner of the franchise is required to execute a personal guaranty. Doing so could jeopardize the marital assets of non-owner spouses domiciled in community property states such as California.

## **STATE EFFECTIVE DATES**

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

California

Other states may require registration, filing or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

## **RECEIPT**

This disclosure document summarized certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Tikiz Franchising, LLC offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

**[New York and Rhode Island require that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]**

**[Michigan, Oregon, and Wisconsin require that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]**

If Tikiz Franchising, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state agency listed on Exhibit A.

The name, principal business address and telephone number of each franchise seller offering the franchise: Brian Tollefson at 1021 S. Rogers Circle, Suite 1, Boca Raton, Florida 33487, Telephone (407) 383-3872, and: \_\_\_\_\_ *[Any other franchise seller involved in a particular franchise transaction must be disclosed here before the Disclosure Document is given to the prospective franchisee].*

Issuance date: October 10, 2023. Refer to page iii of this disclosure document for state effective dates.

Tikiz Franchising, LLC. authorizes the respective state agencies identified on Exhibit A to receive service of process for it in the particular state.

I received a disclosure document dated October 10, 2023 that included the following Exhibits:

- |    |  |    |   |
|----|--|----|---|
| A. | State Administrators/Agents for Service of Process | E. | List of Franchisees Who have Left System  |
| B. | Franchise Agreement                                | F. | Financial Statements                      |
| C. | Table of Contents of Confidential Manual           | G. | Sample Copy of General Release            |
| D. | List of Franchisees                                | H. | Agreement to Reserve Additional Territory |
|    |  | I. | Franchise Disclosure Acknowledgement      |
|    |  | J. | State Addenda                             |

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Date:

Print Name:

Signature:

You may return the signed receipt either by signing, dating, and mailing it to Tikiz Franchising, LLC., located at 1021 S. Rogers Circle, Suite 1, Boca Raton, FL 33487 (407) 383-3872 or faxing a copy of the signed and dated receipt to Tikiz Franchising, LLC. at 954-354-1472.



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|    |  | J. | State Addenda                             |

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Date:

Print Name:

Signature:

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