

**FRANCHISE DISCLOSURE DOCUMENT**

**TOUS *les* JOURS**

**TOUS LES JOURS INTERNATIONAL CORP.**

## FRANCHISE DISCLOSURE DOCUMENT

### TOUS LES JOURS INTERNATIONAL CORP.

6832 E. Slauson Ave.  
Commerce, CA 90040  
(323) 480-9100  
www.tljus.com

### TOUS *les* JOURS

As a Tous Les Jours franchisee, you will operate a quick casual bakery-café outlet offering a unique selection of bakery and pastry goods, sandwich items and coffee and beverages.

The initial investment necessary to begin operation of a Tous Les Jours franchised business ranges from \$718,230-\$938,894. This includes the franchise fee of \$40,000 for the first outlet that must be paid to the Franchisor. In the case of an area developer, the initial development fee to be paid to the Franchisor is equal to \$40,000 for the first Tous Les Jours outlet to be developed plus \$20,000 for each of the second through fifth outlets to be developed and \$10,000 for each additional outlet to be developed under the Area Development Agreement. The development fee is applied pro rata to the initial franchise fees due for each restaurant to be developed after the first. Your estimated initial investment will vary based on the number of restaurants to be developed.

This Disclosure Document summarizes certain provisions of your franchise agreement, development 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 governmental 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 Tous Les Jours International Corp. at the address and telephone number provided in this page.

The terms of your contract will govern your franchise relationship. Don't rely on the Disclosure Document alone to understand your contract. Read all of your contract carefully and thoroughly. 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, D.C. 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.

Date of Issuance: March 16, 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:

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	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 F and G.
How much will I need to invest?	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.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit G includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only Tous Les Jours bakery-cafe business in my area?	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What's it like to be a Tous Les Jours franchisee?	Item 20 or Exhibits E and F lists current and former franchisees. You can contact them to ask about their experiences.
What else should I know?	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 mediation, arbitration and/or litigation only in California. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in California than in your own state.

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**

- Exhibit A – State Administrators/Agents for Service of Process
- Exhibit B – State Specific Addendum
- Exhibit C – Franchise Agreement and its exhibits
- Exhibit D – Area Development Agreement and its exhibits
- Exhibit E – Table of Contents of Confidential Operating Manual
- Exhibit F – List of Current Franchisees
- Exhibit G – List of Former Franchisees
- Exhibit H – Financial Information

RECEIPT

**TOUS LES JOURS<sup>SM</sup>**  
**FRANCHISE DISCLOSURE DOCUMENT**

**ITEM 1**  
**THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES**

To simplify the language in this Disclosure Document, “we” or “us” means Tous Les Jours International Corp., the Franchisor. “You” means the person that buys the franchise. If the franchisee is a corporation, partnership or other entity, “you” also may mean its owners.

We are a California corporation formed on May 22, 2009. Our principal business address is 6832 E. Slauson Ave., Commerce, CA 90040. Our telephone number is (323) 480-9100, and our website is [www.tljus.com](http://www.tljus.com). We do business under the name, Tous Les Jours. Our agents for service of process are disclosed in Exhibit A to this Disclosure Document.

We are in the business of selling franchises for a retail bakery-café outlet operating under the “Tous Les Jours,” “TLJ” or “Tous Les Jours Fresh Bakery Fresh Everyday” name and related marks (“TLJ Outlet” or “Outlet”). Tous Les Jours (“TLJ”) is a bakery-café concept retail food services operation offering a unique selection of bakery and pastry goods, sandwich items and coffee and beverages made with the highest quality ingredients (“Menu Items”), including on-premises dining and carry-out services.

TLJ Outlets are located at locations approved by us, such as in strip shopping centers, shopping malls, and free-standing units. Our Menu Items are prepared according to proprietary recipes and procedures and use high quality ingredients, including specially formulated and specifically produced frozen doughs and coffee beans (collectively, “TM Products”) that are branded, trademarked, and/or packaged exclusively for our system and our franchise owners. We create and develop the standards and specifications for TM Products. If you acquire a TLJ franchise, you must operate your Outlet according to our business formats, methods, procedures, designs, layouts, standards and specifications (“TLJ System” or the “System”).

Your TLJ Outlet will offer products and services to the general public throughout the year and compete with other bakery and café concept restaurants offering bakery goods, sandwich items and coffee and beverages. The market for your type of products and services generally is developed and remains very competitive. Despite this competition, we believe that TLJ Outlets appeal to consumers because of the outstanding quality of our products and services and the uniqueness of our System. We do not believe that the restaurant market is seasonal.

We have no predecessors. After internal restructuring in December 2014, CJ Foodville USA, Inc., a former affiliate which was incorporated in California on March 1, 2004, became our parent company (“CJ Foodville USA”). CJ Foodville USA’s principal address is 6832 E. Slauson Ave., Commerce, CA 90040. It had previously owned and operated one (1) TLJ Outlet in Garden Grove, California, from 2009 to 2014. CJ Foodville USA sells required kitchen equipment and frozen dough products to all TLJ Outlet franchisees, and you will be required to purchase these equipment and products from CJ Foodville USA. CJ Foodville USA no longer owns or operates any TLJ Outlet, has never offered TLJ Outlet franchises or any other franchises in any other line of business.

We have no other business activities and have not offered franchises in other lines of business.

There are no regulations that apply specifically to the industry in which TLJ Outlets operate. However, in addition to laws and regulations that apply to businesses generally, your franchised business will be subject to various federal, state and local government regulations, including those relating to site location and building construction. You are advised to investigate the laws, regulations and ordinances applicable to your franchised business further.

## **ITEM 2 BUSINESS EXPERIENCE**

### **President and Chief Executive Officer:** Hun Soo Ahn

Hun Soo Ahn was appointed as the President and CEO since January 2017. He also serves as our current Controller and CFO. Prior to taking his current position, Mr. Ahn was the head of Global Business in CJ Foodville Korea in Seoul, Korea from February 2013 to January 2017. From March 2006 to February 2013, he served as the Marketing Director and Head of Administration and CFO at Leading Investment and Securities Co. in Korea.

### **Director of Operations:** Jeong Whan Cho

Jeong Whan Cho has served as the Director of Operations of our company since January 2020. From January 2002 to December 2019, Mr. Cho served as Global Business Director for CJ Foodville Korea in Seoul, Korea.

### **Director of Business Development:** Seokin Hong

Seokin Hong was appointed as our Business Development Director since October 2019. From July 2012 to August 2019, Mr. Hong served as the Franchise District Manager for Paris Baguette America USA, Inc. in Moonachie, New Jersey.

## **ITEM 3 LITIGATION**

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**

### **Franchise Agreement**

You must pay a uniform initial franchise fee of \$40,000.00 (“Initial Franchise Fee”). The Initial



Franchise Fee is paid in a lump sum when you sign the Franchise Agreement, and any Initial Franchise Fee paid is non-refundable. The sum of \$40,000.00 is payable by all franchisees who buy a franchise. For multi-unit franchisees, the Initial Franchise Fee will be reduced to \$20,000.00 for your second through fifth Outlets and further to \$10,000.00 for your sixth Outlet and thereafter.

We use the initial franchise fee to cover the costs of evaluating your proposed site, training you and your employees, and helping you develop and open your TLJ Outlet. There is no reduction or refund of any part of the initial franchise fee even if only one individual attends the initial training program, as discussed in Item 11 herein, and this applies also if you fail to open your TLJ Outlet in compliance with the terms of the Franchise Agreement.

**Area Development Agreement –Deposit Fee**

When you sign the Area Development Agreement, you must pay us a deposit fee equal to the sum of (i) 100% of the initial franchise fee (\$40,000.00) for the first TLJ Outlet to be developed under the Area Development Agreement; (ii) \$20,000.00 for the second through fifth TLJ Outlet, and (iii) \$10,000.00 of the initial franchise fee payable for each succeeding TLJ Outlet to be developed under the same Area Development Agreement (“Deposit Fee”). The pro rata portion of your Deposit Fee allocable to each Outlet will be credited against the initial franchise fee due for that Outlet. The Deposit Fee is calculated in the same way for all franchisees entering into Area Development Agreements, but the actual dollar amount paid will vary depending on the number of TLJ Outlets you agree to develop. The Deposit Fee is not refundable.

**ITEM 6  
OTHER FEES**

Type of Fee <sup>1</sup>	Amount	Due Date	Remarks
Royalty Fees	5% of Gross Sales (however, the royalty fee of 3% of Gross Sales will apply in the case of TLJ Outlets identified as Company or Affiliate owned Outlets in Item 20 of this Franchise Disclosure Document which are subsequently sold to a franchisee and converted into a franchised Outlet)	Paid weekly by electronic funds transfer on the Outlet Sales for the preceding week, or as prescribed by us in writing	“Gross Sales” means all revenue from the sale of services and products and all other income related to the Franchised Business, except sales taxes. Royalty Fees are payable by automatic debit, and funds must be made available in your account for withdrawal. See note 2
Marketing Fees	2% of Gross Sales	Paid weekly by electronic funds transfer on the Outlet Sales for the preceding week, or as prescribed by us in writing	This fee is due and payable at the same time and in the same manner as the Royalty Fee
Supplemental and/or	\$350 per day	Upon confirming the	You must pay ongoing

Additional Training Fee		scheduling of supplementary and/or additional training	training fees for any additional training requested by you or training for replacement Designated Manager
Audits	Cost of audit plus interest at the maximum rate allowable by law	Immediately upon receipt of bill	If we audit you and find that you understated the Gross Sales by 2% or more, you must reimburse us for the cost of the audit, including travel, lodging, and inspection related expenses, legal and accounting fees, and unpaid royalties and interest.
Transfer Fee	50% of the then-current Initial Franchise Fee	Upon request for transfer	No transfer fee is required if the transfer is to a corporation you own 100% of and formed only for the convenience of ownership.
Interest on Understated Sales	1.5% per month or the maximum rate permitted by law, whichever is less	If incurred, on demand	Interest on under-reported sales runs from the date you should have made your payment until the date you pay us.
Interest on Overdue Payments	1.5% per month or the maximum rate permitted by law, whichever is less	If payments are more than 7 days overdue, on demand	Interest on late payments runs from the date you should have made your payment until the date it is received by us.
Insurance	Cost and premiums, plus interest on our outlay and a reasonable administrative fee that we will set	If incurred, on demand	If you do not obtain or maintain insurance coverage and we choose to do so on your behalf, you must reimburse us
Costs and Attorneys' Fees	Will vary under circumstances	If incurred, on demand	These fees are payable if we terminate the Franchise Agreement because of your default. You will also be required to pay all attorneys' fees if you or any of your agents or employees fails or refuses to comply with the required remedial measures relating to any repetition of any adulteration or palming

			off or failure of sanitation in the Outlet
Indemnity	Will vary under circumstances	If incurred, on demand	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
Testing	Costs of testing plus our administrative costs	If incurred, on demand	This covers the costs of testing new products or inspecting new suppliers you propose
Renewal Fee	One-half of the then-current initial franchise fee	Before renewal	You will only need to pay this fee if you renew the Franchise Agreement. There is no renewal under the Area Development Agreement.
Relocation Fee	\$10,000	Before relocation	We may, in our sole discretion, require any or all of the conditions for our approval for relocation. See Item 12.
Remodeling, decoration, structural changes for every 5 years and renewal of franchise agreement	Costs as incurred	If incurred, on demand	Not more than once every 5 years, you will be required to refurbish the Restaurant, at your expense, to conform to our then-current requirements. In addition, you may be required, as a condition for renewing the franchise agreement, to undertake remodeling and decoration of your Outlet, including structural changes, to meet with our standard requirements existing at the time of renewing the

			franchise agreement.
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Note 1: You pay all fees to us unless otherwise noted. All fees are nonrefundable, and all fees are uniformly imposed on all franchisees unless otherwise noted. However, we retain discretion to reduce fees in individual cases in our discretion.

Note 2: "Outlet Gross Sales" includes the total of all revenues and income from the sale of all services and products, and all other income of every kind and nature related to your TLJ Outlet less sales tax. The royalty rate applied to a franchised Outlet is 5%.

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

This chart estimates your initial investment for one TLJ Outlet located in an in-line/in-cap location in a shopping center, with approximately 1,500 to 2,500 square feet.

**YOUR ESTIMATED INITIAL INVESTMENT(11)**

<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>
<b>Initial Franchise Fee (1)</b>	\$40,000	Full payment	At signing of Franchise Agreement	Tous Les Jours International Corp.
<b>Real Estate Security/Utility Deposits, Licenses and Prepaid Fees (2) (10)</b>	\$7,000-\$15,000	As arranged	When Incurred	Suppliers
<b>Equipment &amp; Furniture (3)</b>	\$230,000 - \$262,000	As arranged	When Incurred	Suppliers and/or Tous Les Jours International Corp.
<b>Leasehold Improvements (4)</b>	\$320,000-\$450,000	As arranged	When Incurred	Suppliers
<b>Opening Inventory (5)</b>	\$27,980 - \$40,144	As arranged	When Incurred	Suppliers and/or Tous Les Jours International Corp.
<b>Insurance (6)</b>	\$1,000 - \$1,500	As arranged	When Incurred	Insurance Co.
<b>Signage, Menu Board (7)</b>	\$12,000 - \$15,000	As arranged	When Incurred	Suppliers
<b>Grand Opening Marketing Program (8)</b>	\$10,000-\$20,000	As arranged	When Incurred	Suppliers
<b>POS and Cash Registers/Other Office Equipment (9)</b>	\$10,250 - \$15,250	As arranged	When Incurred	Suppliers
<b>Additional</b>	\$60,000-\$80,000	As arranged	When Incurred	Employees and

<b>Funds – 3 months (10)</b>				Suppliers
<b>TOTAL BASIC PACKAGE</b>	<b>\$718,230- \$938,894 (excluding real estate)</b>			

Notes:

1. The Initial Franchise Fee is non-refundable. All other fees, except as noted above, are non-refundable.
2. A TLJ Outlet occupies approximately 1,500 to 2,500 square feet of space. It is our standard practice to have you identify and select a site within your geographic area. The terms of the lease and the amount of the monthly lease payment and security deposit will depend on the geographic location and size and condition of the premises and the demand for the premises by other prospective tenants. These recurring overhead costs cannot be estimated. You will lease space from the owner of the mall or retail center on terms negotiated by you and the owner. Our staff familiar with commercial real estate contracts and terms can assist in negotiating lease terms with the landlord. The lower figure contemplates a security deposit equal to one month's rent and the higher figure contemplates a security deposit equal to two months.
3. This includes all kitchen equipment/fixtures as well as dining tables and chairs. The estimate may not cover all equipment required by law, local regulations or your lease. Additional equipment may be required at additional cost to you. The estimate does not include the cost of shipping or installing equipment, furnishings or fixtures from suppliers. The cost of transportation will vary with the distance over which equipment must be shipped, the method of shipping, the weight of equipment and other factors and cannot be estimated with any accuracy. Similarly, the cost of installation will vary depending on typical prices for trades in the area.
4. Leasehold improvement and construction costs vary significantly depending on the condition, location, size and configuration of the TLJ Outlet premises, the layout of the mall or retail center, and other factors relating to the geographic location of the business, suppliers, government regulations, labor costs and other considerations. You will contract directly with the architect, construction contractor and possibly other construction suppliers on terms negotiated by you. Construction and leasehold improvements include painting, installation of fixtures and non-moveable equipment, construction to convert premises to typical franchised business, etc. The cost of installation will vary depending on typical prices for trades in the area.
5. This includes food and beverage products, paper products, utensils, cleaning supplies, and printing and other supplies.
6. You must obtain and maintain certain types and amounts of insurance. (See Item 8). Insurance costs depend on policy limits, type of policies, nature and value of physical assets, gross revenue, number of employees, square footage, location, business contents, and other factors bearing on risk exposure. The estimate contemplates insurance costs for 3 months.
7. The lower figure contemplates one menu board and one store front signage. The higher figure is for one menu board and two store signage. Actual costs for external signs may vary depending on landlord requirements and local sign ordinances regarding the size and permitted use of certain signs.
8. This money covers your Grand Opening promotion and first 3 months of marketing. You must spend at least \$5,000 on your Outlet, including newspaper, direct mail advertising, and promotional items and food, such as menu brochures and promotional flyers. However, we recommend spending between \$10,000 and \$20,000. See Item 11 of this disclosure document for details.
9. This includes POS system, printer, computer system, and other office equipment as well as \$250.00 to be paid on a monthly basis for software license fees and maintenance support fees.
10. This item estimates your initial start-up expenses (other than the items identified separately in the table). These expenses include payroll costs but not any draw or salary for you. These figures are estimates, and we cannot guarantee that you will not have additional expenses starting the business. Your costs depend on how much you follow our methods and procedures; your management skill, experience, and business acumen; local economic conditions; the local market for your products and services; the prevailing wage rate; competition, and the sales level reached during the initial period.

**ITEM 8  
RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

You must operate the TLJ Outlet according to the TLJ System Standards. TLJ System Standards regulate, among other things, the types, models and brands of fixtures, furniture, equipment (including a required or recommended computer, facsimile machine, and point of sale information system), furnishings and signs (collectively, "System Assets"), TM Products, Branded Products, other food products, and supplies required for the Outlet; required and authorized Menu Items; inventory requirements; and designated and approved suppliers of System Assets, TM Products, Branded Products, and other items.

#### Product/Service Purchases and Supplies

In the case of TM Products and Branded Products, suppliers will be limited to us, our affiliates and/or other specified exclusive sources, and you must buy TM Products and Branded Products only from us, our affiliates, and other specified exclusive sources. We restrict your sources of TM Products and Branded Products in order to protect our trade secrets, assure a reliable supply of products that meet our standards, achieve better terms of purchase and delivery service, control usage of the Marks by third parties, and monitor the manufacture, packaging, processing, and sale of these items. In the case of System Assets and items other than TM Products and Branded Products, suppliers could, at our option, be limited to us, our affiliates and other specified exclusive sources, in which you would have to buy the System Assets and other items only from us, our affiliates, and/or the other specified exclusive sources. We have the absolute right to limit the suppliers with whom you may deal. We will identify all designated and approved suppliers in the Operations Manuals or other written communications. Besides the TM Products and Branded Products, you currently must buy all of your TLJ Outlet's equipment from our designated suppliers. There are no other goods, services, supplies, fixtures, equipment, inventory, computer hardware and software, or real estate for the TLJ Outlet that you currently must buy or lease from us (or an affiliate) or designated suppliers. Any purchases from us and our affiliates, whether required or voluntary, generally will be at prices exceeding our costs, to account for our administrative and handling costs.

To maintain the quality of the goods and services that TLJ Outlets sell and our System's reputation, we may condition your right to buy or lease System Assets, inventory items, and similar items (besides those described above which you may obtain only from us, our affiliates, and/or other specified exclusive sources) on their meeting our minimum standards and specifications and/or being acquired from supplier that we approve. We will formulate and modify standards and specifications based on our experience in operating TLJ Outlets. Our standards and specifications may impose minimum requirements for production, performance, operation, reputation, prices, quality, design and appearance. Our Operations Manuals or other communications, which will be provided to you, will identify our standards and specifications. We will notify you and, where appropriate, the suppliers. There might be situations where you can obtain other items from any supplier who can satisfy our requirements and, therefore, would be an approved supplier.

If we institute any type of restrictive sourcing program (which, as noted above, we will do for TM Products, Branded Products, and the System Assets and may do for other items) and you want to use any item or service that we have not yet evaluated or to buy or lease from a supplier that we have not yet approved or designated, you first must send us sufficient information, specifications, and samples so that we can determine whether the item or service complies with the TLJ System Standards or the supplier meets approved supplier criteria. We may charge you or the supplier a reasonable fee for the evaluation (see Item 6) and will decide within a reasonable time, but no more than 30 days. We periodically will establish procedures for your requests and may limit the number of approved items, services, and/or suppliers as we think best. Supplier approval might depend on product quality, delivery frequency and reliability, service standards, financial capability, customer relations, concentration of purchases with limited suppliers to obtain better prices and service, and a supplier's willingness to pay us for the right to do business with our system. Upon request by you, we will provide our criteria for supplier approval in

writing. We and any other affiliate have the right to receive payments from suppliers on account of their dealings with you and other franchise owners and to use all amounts that we and our affiliates receive without restrictions (unless we and our affiliates agree otherwise with the supplier) for any purposes we and our affiliates deem appropriate. Supplier approval might be temporary until we evaluate the supplier in more detail. We may inspect a proposed supplier's facilities during and after the approval process to make sure that the supplier meets our standards. If it does not, we may revoke our approval by notifying the supplier and you in writing. We have no obligation to approve any request for a new supplier, product or service.

We reserve the right to receive certain considerations from required purchases or leases by franchisees on account of their dealings with you and other franchise owners and to use all amounts that we receive without restrictions for any purposes we deem appropriate. We also reserve the right to receive certain considerations from suppliers from franchisee purchases. Presently, however, there are no such considerations paid to us from any suppliers of services or products, and we have no revenues derived from such payments.

As reflected in our Audited financial statements as of December 31, 2022, attached to this Disclosure Document as Exhibit H, our total revenue for fiscal year 2022 is \$6,266,893. For fiscal year ending December 31, 2022, \$46,811,690 in revenue was derived by our parent, CJ Foodville USA, Inc., from the sale of frozen doughs and specific equipment to our franchisees, which amount is 77% of CJ Foodville USA, Inc.'s total revenue for 2022. Neither we nor our other affiliates derived any other revenue from required purchases or leases. There are no suppliers to TLJ System in which an officer of our company owns any interest.

You can expect items purchased or leased in accordance with our specifications will represent approximately 60% to 80% of total purchases you will make to begin operations of the business and approximately 50% to 70% of the ongoing costs to operate the business.

There currently are no purchasing or distribution cooperatives. We currently negotiate purchase arrangements with suppliers (including price terms) for TM Products, Branded Products, the TLJ Outlet's equipment, building supplies, and signage. We do not provide material benefits to you for using designated or approved sources.

### Insurance Requirements

Besides these purchases or leases, you must obtain and maintain, at your own expense, the insurance coverage that we periodically require and satisfy other insurance-related obligations. Currently, you must carry the following types and minimum amounts of insurance coverage:

1. Broad Form Comprehensive General Liability with limits of no less than Two Million Dollars (\$2,000,000) in case of damage or injury to one or more persons, including indemnification coverage and property damage insurance of Five Hundred Thousand Dollars (\$500,000), both of which shall be considered primary policies;
2. All risk coverage on all personal property and improvements covering your Outlet and contents thereof, including, without limitation, all supplies, inventory, fixtures, and equipment, with limits of not less than the full replacement value (or greater, if required by applicable law or the lease for your Outlet).
3. Business interruption insurance 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 replacement value endorsement in an amount

not less than ninety percent (90%) of the replacement value thereof, and any loss shall be payable to you and us, as applicable;

4. Worker's Compensation and Disability Insurance as may be required by law;
5. Products Liability Insurance in an amount not less than Two Million Dollars (\$2,000,000), which policy shall be considered primary; and
6. Any other insurance coverage as required by the State, Federal or local municipality in which your Outlet is located.

#### Advertising/Marketing Materials

Before you use them, you must send us samples of all advertising, promotional, and marketing materials that we have not prepared or previously approved for our review. In connection with any video marketing campaigns for television and social media platforms including YouTube, you must submit the final product of all such marketing and promotional plans and materials to us for our prior written approval (except with respect to prices to be charged). If you do not receive written approval within 10 business days after we receive the materials, they are deemed to be disapproved. You may not use any advertising, promotional, or marketing materials that we have not approved or have disapproved.

Your general conduct on the Internet and in the use of any forms of electronic media (including, without limitation, through the use of social technology, social media, social networking platforms, video websites, email marketing sites or other forms of electronic media not yet developed) is subject to terms and conditions of the Franchise Agreement and all other rules, requirements or policies that we may identify from time to time. We may, at any time after you commence use of any approved electronic media, prohibit further use, effective upon receipt of written notice by you.

#### Development of TLJ Outlet

You are responsible for developing the TLJ Outlet. We will give you mandatory and suggested specifications and layouts for a TLJ Outlet, including requirements for dimensions, design, image, interior layout, décor, System Assets, and color scheme. These plans might not reflect the requirements of any federal, state or local law, code or regulation, including those arising under the Americans with Disabilities Act ("ADA") or similar rules governing public accommodations for persons with disabilities. You must prepare a site survey and all required construction plans and specifications for the TLJ Outlet's site and make sure that they comply with the ADA and similar rules governing public accommodations for persons with disabilities, other applicable ordinances, building codes, permit requirements, and lease requirements and restrictions. We must review and approve all final plans and specifications before you begin constructing the TLJ Outlet and all revised or "as built" plans and specifications during construction. Our review is only to ensure your compliance with our design requirements. We may inspect the TLJ Outlet during its development.

The TLJ Outlet must be at a site that we approve. We have the right to approve the Outlet's lease or sublease and to require that it include certain provisions (listed in Article I of the Franchise Agreement), including our right to the TLJ Outlet's site if the franchise is terminated or not renewed or if you lose possession because of your default under the lease.

We retain the option to (i) designate one or more suppliers of design services and/or architecture services to supply their professional services to the System, (ii) require you to provide the layout and dimensions for the site of the Bakery-Cafe to our designated service provider in the manner specified in the Manuals or otherwise in writing and to have our designated service provider prepare a standardized design (a "Preliminary Drawing") of the Bakery-Cafe using such layout and dimensions, and (iii) have



our designated service provider prepare final plans for construction based upon the Preliminary Drawings and specifications at your cost and expense.

**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 documents.**

<b>Obligation</b>	<b>Article/Section in Agreement</b>	<b>Item(s) in Disclosure Document</b>
a. Site selection and acquisition/lease	Franchise Agreement: 1 Area Development Agreement: III	6, 7, 11
b. Pre-opening purchases/ leases	Franchise Agreement: 4, 7, 8 and 10	7, 8, 11
c. Site development and other pre-opening requirements	Franchise Agreement: 5, 6 and 7	7, 8, 11
d. Initial and ongoing training	Franchise Agreement: 6, 7 and 8	7, 11
e. Opening	Franchise Agreement: 5, 6, 7 and 10	11
f. Fees	Franchise Agreement: 1, 4 and 7 Area Development Agreement: II and III	5, 6, 7, 11
g. Compliance with standards and policies/Operating Manuals	Franchise Agreement: 5, 6, 7, 8 and 10	8, 11, 16
h. Trademarks and proprietary information	Franchise Agreement: 1, 7, 9 and 10 Area Development Agreement: VII	13, 14
i. Restrictions on products/ services offered	Franchise Agreement: 7 and 8 Area Development Agreement: VII	8, 16
j. Warranty and customer service requirements	None	None
k. Territorial development and sales quotas	Area Development Agreement: III	12
l. Ongoing product/service purchases	Franchise Agreement: 7 and 8	8, 16
m. Maintenance, appearance and remodeling requirements	Franchise Agreement: 5, 7, 8 and 18	11
n. Insurance	Franchise Agreement: 14	7
o. Advertising	Franchise Agreement: 4, 9 and 13	6, 7, 11
p. Indemnification	Franchise Agreement: 21 Area Development Agreement: XIV	6

<b>Obligation</b>	<b>Article/Section in Agreement</b>	<b>Item(s) in Disclosure Document</b>
q. Owner's participation/management/staffing	Franchise Agreement: 1, 7 and 18 Area Development Agreement: VII	15
r. Records/reports	Franchise Agreement: 7, 8 and 10	6
s. Inspection/audits	Franchise Agreement: 7 and 10 Area Development Agreement: XII	6, 11
t. Transfer	Franchise Agreement: 1, 7 and 15 Area Development Agreement: XI	6, 17
u. Renewal	Franchise Agreement: 2 Area Development Agreement: V	6, 17
v. Post-termination obligations	Franchise Agreement: 17 Area Development Agreement: X	17
w. Non-competition covenants	Franchise Agreement: 18 Area Development Agreement: XII	17
x. Dispute resolution	Franchise Agreement: 27 Area Development Agreement: XIX	17

## **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

#### Area Development Agreement

Except as listed below, we need not provide any assistance to Area Developer.

1. We will grant to you exclusive rights to a Development Area within which you will assume the responsibility to establish and operate an agreed-upon number of Outlets within the Development Area under separate Franchise Agreements. (Sections 1.1, 1.2, and 4.1 of the Area Development Agreement)
2. It is our standard procedure to have you identify and select a site for the TLJ Outlet on your own. However, we will review the site you select for conformity to our standards and criteria for potential sites and, if the site meets our criteria, approve the site for an Outlet. (Sections 3.1 and 8.1 of the Area Development Agreement)
3. We will provide you with standard specifications and layouts for building and furnishing the Outlet. (Section 8.2 of the Area Development Agreement)

4. We will review your site plan and final build-out plans and specifications for conformity to our standards and specifications. (Section 8.3 of the Area Development Agreement)
5. We will conduct one on-site evaluation, as we deem advisable, as part of our evaluation of the site for an Outlet. (Section 8.4 of the Area Development Agreement)
6. We will provide such other resources and assistance as may be developed and offered to our area developers, but we are under no obligation to spend any amount on advertising in an area developer's area or territory. (Section 8.5 of the Area Development Agreement)

Except as listed below, we need not provide any assistance to you.

#### Franchise Agreement

We have the following obligations to you before you open your TLJ Outlet:

1. Give you our site selection criteria for the Outlet. The site must meet our criteria for demographic characteristics, traffic patterns, parking, character of neighborhood, competition from and proximity to other businesses, the nature of other businesses in proximity to the site and other commercial characteristics, and the size, appearance and other physical characteristics of the proposed site. We will accept or deny a location you propose for the Outlet within 30 days after we receive the complete site report and other materials we request. We do not guarantee the success of any site or any lease. (Section 1.2, Section 3.1, Exhibit A to the Franchise Agreement).
2. Our representative will assist you with the purchase of equipment, signs, fixtures and opening inventory and supplies, but we will not install these items. We will assist you in setting up accounts with approved suppliers who are familiar with our specifications and will provide you a copy of such specifications. (Sections 3.2 and 3.4 to the Franchise Agreement).
3. Give you mandatory and suggested specifications and layouts for your Outlet, including requirements for dimensions, design, image, interior layout, decor, fixtures, equipment, signs, furnishings and color scheme. (Section 3.2 to the Franchise Agreement).
4. Train you and your manager. This training is described in detail later in this Item. (Section 3.3, Article 6 to the Franchise Agreement).
5. We will loan you a copy of (or provide you electronic access to) our Confidential Operations Manuals, containing the uniformed standards, specifications and other requirements for operation of your Outlet. (Sections 3.6 and 3.7 to the Franchise Agreement).
6. We will provide assistance and guidance on your initial opening of the Outlet, including dispatching of our representative to help with the opening. (Sections 3.3 and 3.4 to the Franchise Agreement).

#### Continuing Assistance

We have the following obligations to you during the operation of your TLJ Outlet:

During the operation of the TLJ Outlet, we will:

1. Advise you regarding operating issues concerning the Outlet disclosed by reports you submit or inspections we make. In addition, we will give you guidance on standards, specifications and operating procedures and methods used by other TLJ Outlets in the System; new recipe items, menu variations, food preparation and display methods; purchasing required fixtures, furnishings, equipment, signs, products, materials and supplies; advertising and marketing programs; employee training; and administrative, bookkeeping and accounting procedures. This guidance

will, at our discretion, be furnished in our Operations Manuals, bulletins or other written materials and/or during telephone consultations at our office or the Outlet.

2. Will review and approve or disapprove of proposed advertising materials prepared by you for use in local advertising.
3. Inspect and observe the operations of the Outlet from time to time to determine whether you and the Outlet are complying with the Franchise Agreement and all TLJ System standards. The details of inspections will be furnished in our Operations Manuals.
4. Administer the advertising fund in the manner described in the Franchise Agreement.

#### Advertising Fund

We will establish an Advertising Fund (the "Fund") for such advertising, marketing and public relations programs as we, in our sole discretion, may deem necessary or appropriate to promote TLJ Outlets. We may designate the following programs under the Fund, and in such proportions as may be designated by us in writing from time to time: (i) your contributions paid to the Fund, (ii) your expenditures on local advertising and promotion, and/or (iii) your contributions paid to any Cooperative, as may be established if and when appropriate at our sole discretion. We will administer the Fund as follows:

1. We will direct all advertising and public relations programs financed by the Fund, with sole discretion of approval over agencies, spokespersons, creative concepts, materials, and media placements and allocations used in the programs. The Fund will establish and maintain an on-line presence. The Fund may be used to pay the costs of researching, preparing, maintaining, administering and directing advertising and promotional materials and programs (including the costs of preparing and conducting television, radio, magazine, newspaper, direct mail and coupon advertising campaigns and other public relations activities; employing advertising agencies; providing a toll-free number for prospective customers to call for referral purposes; and providing promotional brochures and other marketing materials to franchisees in the System). Also monies in the Fund may be used to cover administrative costs and overhead we may incur including salary costs of employees working for the Fund, up to 15%. You must participate in all advertising and public relations programs instituted by the Fund. All TLJ Outlets owned by us or our affiliates will contribute to the Fund on the same basis as you. See Item 6 for the amount you are required to contribute to the Fund.

2. The Fund will be accounted for separately from our other funds. We may spend in any fiscal year an amount greater or less than the aggregate contribution of all Outlets to the Fund in that year, and the Fund may borrow from us or other lenders at standard commercial interest rates to cover deficits of the Fund or cause the Fund to invest any surplus for future use by the Fund.

3. You authorize us to collect for remission to the Fund any advertising or promotional monies or credits offered by any supplier based upon your purchases. Any advertising or promotional monies or credits we collect from any supplier based upon your purchases will not be credited toward your required contribution to the Fund.

4. An unaudited statement of monies collected and costs incurred by the Fund will be prepared annually by us and will be furnished to you upon written request. We will have the right to cause the Fund to be incorporated or operated through an entity separate from us at such time as we deem appropriate, and such successor entity will have all our rights and duties.

5. The Fund is intended to maximize recognition of the Proprietary Marks and patronage of TLJ Outlets generally. Although we will endeavor to utilize the Fund to develop advertising and marketing materials and programs, and to place advertising, in order to benefit all TLJ Outlets, we are not obligated to spend any of the Fund in your area, and we undertake no obligation to ensure that expenditures by the Fund in or affecting any geographic area are proportionate or equivalent to the

contributions to the Fund by the Outlets operating in that geographic area or that any Outlet will benefit directly or in proportion to its contribution to the Fund from the development of advertising and marketing materials or the placement of advertising. Your failure to derive any such benefit will not serve as a basis for a reduction or elimination of your obligation to contribute to the Fund. We have no fiduciary obligation to you or any other TLJ Outlet in connection with the establishment of the Fund or the collection, control or administration of monies paid into the Fund. Except as expressly provided in the Franchise Agreement, we assume no direct or indirect liability or obligation to you with respect to the maintenance, direction, or administration of the Fund.

Since the Fund is not yet established as of the effective date of this Franchise Disclosure Document, no money has been collected or spent by the Fund. The Fund may place advertising in any media, including print, radio and television. The coverage is typically regional and national in nature. Advertising may be developed in-house and/or by regional and national advertising agencies. No money will be spent by the Fund to solicit new franchisees.

#### Local Advertising

You must obtain and maintain a bold listing in your local white pages directory under the name "Tous Les Jours - bakery-café." If other TLJ Outlets are located in your area, you must participate in any local advertising cooperative that we establish, if we require your participation. Your participation may include paying a pro rata share of a yellow pages advertisement, but if no other Outlets are located in your area, you must maintain a yellow pages advertisement in the form we specify. You may not solicit business through a toll-free number, direct mail or other advertising method without our prior written consent.

All advertising, promotion and marketing must be completely clear and factual and not misleading and conform to the highest standards of ethical marketing and the promotion policies which we prescribe from time to time. You must submit to us, in the form and manner we prescribe, for prior approval, samples of all advertising and promotional materials not prepared or previously approved by us, including materials you wish to present on a website. 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 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. You are not permitted to advertise on the Internet or World Wide Web without our prior written consent.

#### National Advertising Council

We may, in the future, establish a National Advertising Council composed of franchisees. The Council members are selected by the franchisees in the System. The Council will serve in an advisory capacity only, advising us on advertising policies. We will have the authority to dissolve, change and reform the Council. There currently are no advisory councils.

#### Promotional Campaigns

We may conduct promotional campaigns on a national or regional basis to promote products or marketing themes. You must participate in all promotional campaigns which we may establish for the region in which your TLJ Outlet is located.

#### Operating Manuals

Attached as Exhibit "E" is a copy of the table of contents of our current Operating Manuals, which indicates the number of pages devoted to each topic and subtopics in the Operating Manuals. The total number of pages contained in our Operating Manual is 243.

#### Information System/Cash Register/Computer System

You must purchase, use, maintain and update your software, computer and other POS systems that meet our specifications and requirements. There are no contractual limitations on the frequency and cost of upgrades and updates to the systems or programs. You must comply with our then-current terms of use policies and any other requirements regarding any inter/intranet sites we establish for TLJ Outlets. We have presently approved Inoview, Inc. (POS System) as the supplier for this system, and they are located at 6940 Knott Ave, Ste F, Buena Park, CA 90621, and they can be contacted at 714-336-1671. You will be required to pay the initial POS fees as well as any POS and software license and maintenance fees to Inoview, Inc. directly. We reserve the right to replace the above supplier and appoint a new supplier or suppliers as we deem necessary at our discretion.

In this regard, the cost of purchasing the required system is estimated to range between \$10,000-\$15,000. The estimated annual cost of optional or required maintenance, updating, upgrading or support contracts is approximately \$1,200-\$1,500.

You must obtain and maintain at your own expense accounting, sales, reporting and records retention systems conforming to the requirements set by us. We reserve the right to use, and to have full access to, all your cash registers, computers and any other systems, and the information and data they contain. We may charge a reasonable fee for the license, modification, maintenance or support of software or any other goods and/or services that we furnish to you in connection with any of the systems.

We may introduce to the TLJ System additional computer software and hardware (including POS and additional back office systems) which you must purchase, use, maintain and update at your expense, as specifications and requirements may be modified over time. In some cases, these components may only be available through us or approved vendors. You will be responsible for paying all supplier and/or licensor (which may include us) charges for use, maintenance, support and/or updates to any future required systems. We do not have a contractual obligation under the Franchise Agreement to provide any maintenance, repairs, upgrades, or updates on any software or hardware. There are no contractual limitations on the frequency and cost of upgrades and/or updates to the systems or programs.

You will use the computer for basic accounting practices, receiving and responding to emails, submitting monthly reports. We will have access to all data captured by these computers. There is no contractual limitation on our use of the data, although any use by us shall be for reasonable business purposes.

We do not warrant or have any responsibility for the software or hardware you must obtain. Any warranty you may have on equipment or software will be limited to that provided by the applicable manufacturer or licensor.

### Site Selection

It is our standard procedure to have you search, identify and select the site for the TLJ Outlet. If you are an Area Developer and you have found a site which you believe to be suitable for an Outlet, you will be required to submit a completed site approval package to us (the "Site Approval Package") and other materials which we may reasonably require. We must approve the sites of future units and any territories for those units in accordance with the then-current standards for sites and territories. We will have 15 business days to approve or disapprove a site you propose. If you do not receive written notice of our disapproval after 15 business days, the site is deemed approved.

Our site acceptance is based on residential population, traffic counts and patterns, competing establishments, median income levels, availability of parking, rental and lease terms, physical configuration of the site and growth trends in the area. We must approve any site selected, but our consent will not be unreasonably withheld. If you cannot find a suitable site within twelve months from signing the Franchise Agreement, we can terminate the Franchise Agreement and keep the Initial

Franchise Fee.

### Opening the Franchised Business

We estimate that there will be an interval of nine to twelve months between the execution of the Franchise Agreement and the opening of the TLJ Outlet, but the interval may vary based upon such factors as the location and condition of the site, the construction schedule for the TLJ Outlet, the extent to which an existing location must be upgraded or remodeled, the delivery schedule for equipment and supplies, delays in securing financing arrangements and completing training and your compliance with local laws and regulations. More specifically, you must submit to us for our approval information and material necessary for the proposed location for your Outlet no later than 180 days from the execution of the Franchise Agreement. You must also commence construction of the Outlet 90 days after execution of the approved lease/sublease for your Outlet or, if your right to occupy the premises for the Outlet begins after the date of execution of the lease, within 30 days after obtaining possession of such premises. Within 5 days after commencement of construction/renovations, you must provide written notice to us of the commencement date of construction of the Outlet and with such notice submit a construction schedule and proposed opening date, which opening date shall be no more than 180 days from the date of commencement of construction.

You may not open the TLJ Outlet for business until: (1) you and your managers have completed the required training to our satisfaction, (2) you have paid the Initial Franchise Fee and all other amounts due to us, (3) we have received copies of all your required insurance policies or such other evidence of insurance coverage as required, (4) you have completed all preparations for the opening of your Outlet as reasonably determined by us, and (5) we have determined that your Outlet has been constructed and equipped in accordance with approved plans and specifications. You must open the TLJ Outlet for business within 365 days after the execution of the Franchise Agreement and five days after we notify you that the Outlet is ready to open unless there are circumstances beyond your control. We must approve any delay in opening of the TLJ Outlet with approval to be reasonable in nature.

### Pricing Requirements

We reserve the right, to the fullest extent allowed by applicable law, to establish maximum, minimum or other pricing requirements with respect to the prices you may charge for the Products offered and sold at the TLJ Outlet.

### Gift Card Programs

You will be required to participate in promotional programs developed by us for the System, in the manner directed by us in the Manuals or otherwise in writing. We have the right to require you to sell or otherwise issue gift cards or certificates (together "**Gift Cards**") that have been prepared utilizing the standard form of Gift Card provided or designated by us. Gift Cards shall be prepared only in the manner specified by us in the Manuals or otherwise in writing by us. You will be required to fully honor all Gift Cards that are in the form provided or approved by us regardless of whether a Gift Card was issued by us or another franchisee. You will be required to sell, issue and redeem Gift Cards in accordance with procedures and policies specified by us in the Manuals or otherwise in writing, including those relating to procedures by which you can request reimbursement for Gift Cards issued by other franchisees or Tous Les Jours outlets and for making timely payment to us or other franchisees for Gift Cards issued from your Outlet that are honored by us or other franchisees of the System.

### Training

Our new franchisee training program consists of five (5) days of instruction by our current management team concerning all aspects of the operation and management of the Franchised Business.

The training includes review and discussion of the Confidential Operations Manuals and all aspects of the operation of your business. The training should be scheduled near the time of the completion of the construction of your TLJ Outlet and after hiring your key employees. The training will take place at our business located in Los Angeles, California, or at another location or locations as we may designate, and will be conducted by our certified instructors. All participants must attend the training together and comply with the training schedule set by us. The initial training will not be provided if you or your affiliate already owns or operates a Tous Les Jours Bakery-Café and/or have already completed our training (including, at the time of your renewal of the Franchise Agreement). You must meet all of the pre-opening obligations (including, without limitation, the minimum staffing requirements for the Franchised Business) before being able to schedule your initial training. You and/or your designated manager(s) attending the training are required to complete the training to our reasonable satisfaction. We may require that any persons subsequently employed by you in the position of general manager, assistant manager or kitchen manager attend such further training programs as we shall from time to time reasonably prescribe and complete the programs to our satisfaction. There may be a fee for refresher courses, but not exceeding \$350.00 per day. The fee will be primarily to compensate the personnel who teach the courses and to defray the expenses of such courses. A person who has successfully completed our new franchisee training program must at all times actively supervise the operation of your TLJ Outlet.

For all required initial training courses, we will provide, at no charge to you, instructors and training materials. You will be responsible for all other expenses which you or your employees incur for the purpose of this training, including the cost of transportation, lodging, meals and wages. If you need to replace your Designated Manager, the replacement Designated Manager must attend and complete the supplemental training program to TLJ's satisfaction as soon as is practicable. For this training, we charge a Supplemental Training Fee to train replacement Designated Managers, which is currently \$350.00 per day.

You are responsible for the recruitment and hiring of *all* of your employees. You are also responsible for the training of all TLJ Outlet employees. For all of your Outlets, one of our representatives will advise and assist you in opening the TLJ Outlet by coordinating your pre-opening activities and being available to assist in setting up your operations for up to five (5) days for the opening of your Outlet.

After the opening of your TLJ Outlet, you may request that we provide supplemental or additional training to assist in the store operations. Upon your request, we will have the option at our sole discretion, but not the obligation, to provide the requested assistance, which will be subject to, among others, the availability of the required staff for the requested duration of time. If we agree to provide supplemental or additional training to your TLJ Outlet, you will be required to pay us for the full labor cost (including overtime pay) of our staff, any and all out of pocket costs for lodging/meal/transportation and our applicable administrative charges, if any. We will issue our invoice for such costs on a weekly or biweekly basis, at our option, which invoice shall be paid by you promptly within seven (7) days.

We will be available to consult with you and/or your Designated Manager by telephone, Monday through Friday 9:00 a.m. to 6:00 p.m. (Los Angeles, California time), with respect to all aspects of starting and operating your TLJ Outlet.

Listed below is a chart showing our tentative training schedule, the principal instructors, the instructional material you will use, and the location of the training:

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The-Job Training</b>	<b>Location</b>
Orientation	0.5	-	Los Angeles, CA



Concept, History, Business Model	0.5	-	Los Angeles, CA
Human Resources Management	2	-	Los Angeles, CA
Customer Service and Sales Techniques	1	3	Los Angeles, CA
Food Preparation	2	14	Los Angeles, CA
Menu/Plate Presentation	-	4	Los Angeles, CA
Product Ordering – Specifications and Inventory Control	2	1	Los Angeles, CA
Marketing and Advertising	2	-	Los Angeles, CA
Accounting	2	-	Los Angeles, CA
Distribution System	1	-	Los Angeles, CA
Quality Standards and Store Sanitation	2	-	Los Angeles, CA
General Store Operation (opening & closing)	1	2	Los Angeles, CA
Total	16	24	

All aspects of training are integrated. There are no definitive starting and stopping times. The training program will be supervised by Jong Hoon Oh, our sole certified trainer, who serves as our Quality Control and R&D Manager since May 2009 and who served as CJ Foodville USA, Inc.'s Quality Control and R&D Manager since January 2005.

We can require that you and/or your Manager attend additional and/or refresher training programs, including national and regional conferences, conventions and meetings, as we may reasonably require, to correct, improve and enhance your operations, the System, and its members at our corporate headquarters, with durations not longer than 3 days and not more than 2 times in any given year. You will be responsible for all travel, living, incidental and other expenses for you and your personnel attending optional or mandatory training programs, seminars or meetings. We may charge a reasonable fee for any training program, conference, convention or other events.

## **ITEM 12 TERRITORY**

### Area Development Agreement

Under the Area Development Agreement, we grant you the right to develop and operate the number of TLJ Outlets in the Development Area that is specified in the Development Schedule, which is an exhibit to the Area Development Agreement. The Development Area is typically described in terms of municipal or county boundaries but may be defined as a specified trade area in a municipality or an area having a radius of a specified distance based on a specific reference location (and, if necessary, further specified by a map on which such Development Area is marked). The actual size of the Development Area will vary depending upon the availability of contiguous markets, our long-range development plans, your financial and operational resources, population and market conditions. Our designation of a particular Development Area is not an assurance or warranty that there are a sufficient number of suitable sites for TLJ Outlets in the Development Area for you to meet your Development Schedule. The responsibility to locate and prepare a sufficient number of suitable sites is solely yours,

and we have no obligation to approve sites which do not meet our criteria in order for you to meet the Development Schedule. Under the Area Development Agreement, we also grant you the right to select the site for your TLJ Outlet. If you have found a site which you believe to be suitable for an Outlet, you will be required to submit a completed site approval package to us (the "Site Approval Package") and other materials which we may reasonably require. We must approve the sites of future units and any territories for those units in accordance with the then-current standards for sites and territories.

Except as described below, during the term of the Area Development Agreement, we and our affiliates will not operate or grant a franchise for the operation of TLJ Outlets to be located within the Development Area. However, we have the right to terminate this exclusivity if you are not in full compliance with all of the terms and conditions of the Area Development Agreement and all of the Franchise Agreements executed under it.

Except as expressly limited by the Area Development Agreement, we and our affiliates retain all rights with respect to the TLJ Outlets, the Proprietary Marks, and any products and services anywhere including, without limitation, the right: (a) to produce, offer and sell and to grant others the right to produce, offer and sell the products offered at TLJ Outlets and any other goods through similar or dissimilar channels of distribution, both within and outside the Development Area, under trade and service marks other than the Proprietary Marks and under any terms and conditions we deem appropriate; (b) to operate and to grant others the right to operate TLJ Outlets located outside the Development Area under any terms and conditions we deem appropriate and regardless of proximity to your TLJ Outlets; and (c) subject to the option described below, the right to acquire and operate a business operating one or more food service restaurants other than the TLJ Outlets located or operating in your Development Area.

We may during the term of the Area Development Agreement acquire the shares or assets of a business operating one or more other food service businesses ("Acquired Outlets"). If after the acquisition we own one or more Acquired Outlets located in your Development Area which we intend to operate as TLJ Outlets or as Competitive Businesses (the "Optioned Outlets"), we will first offer to sell the Optioned Outlets to you for the price we paid including that portion of the direct and indirect costs and liabilities we incurred or assumed in making such acquisition that is allocated to the Optioned Outlet, whether paid or owed to the seller of such Optioned Outlet, to us, to our affiliates or to third parties and other expenses allocated to such Optioned Outlet including losses, plus interest at our cost of money on the balance of such amounts from time to time. We are required to sell to you the Optioned Outlets described above only if: (1) such sale will not conflict with any of our existing legal obligations or the business being acquired; (2) such sale will not preclude the completion of the acquisition on the terms which we agreed upon with the seller; (3) such sale will not interfere with any other legal agreement, arrangement or combination; and (4) you agree to execute upon acquisition a Franchise Agreement for each and every such Optioned Outlet and convert each such Optioned Outlet to a TLJ Outlet as soon as practicable thereafter in accordance with the required standards and specifications. You will have 30 days in which to accept or reject such offer. In the event you reject or fail to timely accept our offer to sell an Optioned Outlet or we are unable to extend such offer for any of the aforementioned reasons, we may incorporate and use certain elements of the system at the Optioned Outlets. We agree that, provided you are in full compliance with the Area Development Agreement and all Franchise Agreements, we will neither use nor authorize the use of any of the Marks at such Optioned Outlets located in the Development Area whether owned or franchised by us for two years or during the remaining term of the Area Development Agreement, whichever is less. For purposes of this paragraph, all references to us shall be deemed to include our affiliates.

To maintain your rights under the Area Development Agreement you must have open and in operation the cumulative number of TLJ Outlets set forth on the Development Schedule by the dates set forth in the Development Schedule. Failure to do so will be grounds for either a loss of exclusivity or a termination of the Area Development Agreement.

In addition, upon the earlier of the expiration of the term of the Area Development Agreement or

upon your execution of a Franchise Agreement for the last TLJ Outlet to be developed within the Development Area, your exclusive rights under the Area Development Agreement with respect to the Development Area will terminate, and we and our affiliates will have the right to operate and to grant to others development rights and franchises to develop and operate TLJ Outlets within the Development Area. This right will be subject only to the territorial rights under the franchise agreements entered into by you for the TLJ Outlets in the Development Area. The Development Area may not be altered unless we and you mutually agree to do so. It will not be affected by your sales volume. Except as the Area Development Agreement grants you the right to acquire the Optioned Outlets described above, you are not granted any other option, right of first refusal or similar right to acquire additional TLJ Outlets in your Development Area under the Area Development Agreement.

#### Franchise Agreement

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. Under the Franchise Agreement we grant you the right to operate a TLJ Outlet at a specific location and within the Territory. Your Territory will be measured by an area having a radius of one mile from your TLJ Outlet, unless your TLJ Outlet is located in a "City Center Zone" in which case we may, at our discretion, reduce your Territory to a (i) ½-mile radius for areas with greater than 50,000 and less than 100,000 population within a 1-mile radius and (ii) ¼-mile radius for areas with greater than 100,000 population within a 1-mile radius. It is our standard procedure to have you search, identify and select the site for the TLJ Outlet. We must approve the proposed location for your TLJ Outlet based on our then-current standards for sites and territories.

Except as otherwise provided, during the term of the Franchise Agreement, we will not establish or operate, or franchise or license any other person to establish or operate, a TOUS LES JOURS Bakery-Cafe selling the TM Products under the System at a location within the Territory, without first offering to you a first right of refusal in the proposed location within the Territory. You will have seven days from our notice of the proposed location to accept or reject the proposed location. If you reject the proposed location, or if you fail to notify us of your acceptance or rejection within the seven days, you will be deemed to have rejected the location and we will have the right to open a corporate store or offer the proposed location to another new or existing franchisee even though it will be located within the Territory. Further, we retain the following rights, and without granting you any rights therein:

(i) To own, acquire, establish and/or operate, and franchise and/or license others to establish and operate, Tous Les Jours Bakery-Cafes selling the Products at any location outside the Territory;

(ii) To own, acquire, establish and/or operate, and franchise and/or license others to operate, businesses under other proprietary marks and other systems, whether such businesses are similar (including offering products that are the same or similar to those offered from the Bakery-Cafe) or different from the Bakery-Cafe, at any location within or outside the Territory;

(iii) To own, acquire, establish and/or operate, and franchise and/or license others to establish and operate, Tous Les Jours Bakery-Cafes under the Marks at limited purpose, limited access and captive audience facilities, and other types of institutional accounts (which shall include, without limitation, airports and other public transportation facilities, parks, stadiums, business and industrial and military complexes, theaters, amusement centers, museums, educational facilities, hospitals and other health care facilities, and art centers) (collectively, "Institutional Facilities") at any location within or outside the Territory;

(iv) To sell or distribute, directly or indirectly, or license other to sell or distribute, under the Marks, at any location (notwithstanding its proximity to the Accepted Location) whether within or outside the Territory, products and services through any distribution channel or method, including grocery stores, convenience stores, retail outlets, mail order, toll-free numbers, Internet (or any other existing or

future form of electronic commerce) and delivery services, irrespective of the proximity to the Bakery-Cafe without compensation to you; provided, however, any such sales will not be made from a TOUS LES JOURS Bakery-Cafe located in the Territory;

(v) To sell or distribute, directly or indirectly, or franchise and/or license others to sell or distribute, under the Marks, at any location (notwithstanding its proximity to the Accepted Location), whether within or outside the Territory, any products, other than food products;

(vi) To give, donate or contribute to charitable and community organizations and events for fund raising and other events and use the Products for promotions and product demonstrations in the Territory; and to offer Products for sampling by consumers and organizations for product testing, promotions and demonstrations in the Territory; and

(vii) To engage in any other activity, action or undertaking that we are not expressly prohibited from taking under the franchise agreement.

**Relocation**






You may not relocate your TLJ Outlet without our prior written approval. Before we approve, we may request that you submit certain materials and information regarding your relocation plan, and we may, at our sole discretion, require that you satisfy any or all of the following as conditions of our approval:

- (i) You must not be in default under any provision of any agreement between us;
- (ii) The substitute location must meet our then-current standards for Tous Les Jours Bakery-Cafes;
- (iii) You must possess the financial resources to meet the costs associated with relocating;
- (iv) You must enter into our then-current form of franchise agreement for the remainder of the term of the existing franchise right granted. However, you will not be required to pay an initial fee associated with that franchise agreement;
- (v) You must pay a relocation fee of \$10,000.


**ITEM 13  
TRADEMARKS**

The following trademarks related to the operation of TLJ Outlets have been filed and are either registered with or pending before the United States Patent and Trademark Office (“USPTO”):

TRADEMARK	STATUS	REGISTRATION DATE OR FILING DATE	REGISTRATION NUMBER OR SERIAL NUMBER
<b>TOUS <i>les</i> JOURS</b>	REGISTERED ON PRINCIPAL REGISTER FOR MOBILE AND COMPUTER	REGISTERED ON SEPTEMBER 1, 2020	REG NO. 6139135

	SOFTWARE APPLICATION IN INT'L CLASS 9		
	REGISTERED ON PRINCIPAL REGISTER FOR MOBILE AND COMPUTER SOFTWARE APPLICATION IN INT'L CLASS 9	REGISTERED ON APRIL 7, 2020	REG NO. 6026687
	REGISTERED ON PRINCIPAL REGISTER FOR BAKERY SHOPS AND CAFES IN INT'L CLASSES 35 AND 43	REGISTERED ON APRIL 30, 2019	REG NO. 5740648
	REGISTERED ON PRINCIPAL REGISTER FOR BISCUITS, CAKES AND RELATED PRODUCTS IN INT'L CLASS 30	REGISTERED ON APRIL 30, 2019	REG NO. 5740643
	REGISTERED ON PRINCIPAL REGISTER FOR RETAIL BAKERY SHOPS IN INT'L CLASS 35 AND 43	REGISTERED ON JULY 15, 2014	REG. NO 4566602
	REGISTERED ON PRINCIPAL REGISTER FOR BREAD, CAKES AND RELATED PRODUCTS IN INT'L CLASS 30	REGISTERED ON OCTOBER 7, 2014	REG. NO 4615944
	REGISTERED ON PRINCIPAL REGISTER FOR BAKERY SHOPS AND CAFES IN INT'L CLASSES 35 AND 43	REGISTERED ON JANUARY 1, 2013	REG NO. 4266422

			
	REGISTERED ON PRINCIPAL REGISTER FOR BISCUITS, CAKES AND RELATED PRODUCTS IN INT'L CLASS 30	REGISTERED ON DECEMBER 11, 2012	REG NO. 4255950
<b>TOUS les JOURS</b>	REGISTERED ON PRINCIPAL REGISTER FOR BISCUITS, CAKES AND RELATED PRODUCTS IN INT'L CLASS 30	REGISTERED ON DECEMBER 18, 2012	REG NO. 4259935
<b>TOUS les JOURS</b>	REGISTERED ON PRINCIPAL REGISTER FOR RETAIL BAKERY SHOPS AND RESTAURANTS IN INT'L CLASSES 35 AND 43	REGISTERED ON DECEMBER 11, 2012	REG NO. 4255949
	REGISTERED ON PRINCIPAL REGISTER FOR RETAIL BAKERY SHOPS IN INT'L CLASS 43	REGISTERED ON MARCH 17, 2009; RENEWED ON MARCH 13, 2019	REG NO. 3591779
	REGISTERED ON PRINCIPAL REGISTER FOR RETAIL BAKERY SHOPS IN INT'L CLASS 35	REGISTERED ON MARCH 17, 2009; RENEWED ON MARCH 13, 2019	REG NO. 3591778
	REGISTERED ON PRINCIPAL	REGISTERED ON JULY 26,	REG NO. 2976489

	REGISTER FOR RESTAURANT CHAINS, RESTAURANTS, CAFETERIAS AND SNACK BARS IN INT'L CLASS 42	2005; RENEWED ON MARCH 18, 2015	
Tous Les Jours	REGISTERED ON PRINCIPAL REGISTER FOR SANDWICHES, DONUTS AND RELATED PRODUCTS IN INT'L CLASS 30	REGISTERED ON MAY 29, 2007; RENEWED ON MARCH 14, 2017	REG NO. 3248115
Tous Les Jours	REGISTERED ON PRINCIPAL REGISTER FOR RETAIL BAKERY SHOPS IN INT'L CLASS 43	REGISTERED ON MAY 29, 2007; RENEWED ON MARCH 14, 2017	REG NO. 3248116
Tous Les Jours	REGISTERED ON PRINCIPAL REGISTER FOR RETAIL BAKERY SHOPS IN INT'L CLASS 35	REGISTERED ON MAY 29, 2007; RENEWED ON MARCH 15, 2017	REG NO. 3248346

\*CJ Foodville Corp., an affiliated company of ours, is the registered owner for all of the marks identified above and has granted us the exclusive license to use and license the above trademarks, and we in turn will grant you a non-exclusive right to use the marks “Tous Les Jours” as well as other trademarks, service marks, trade names and commercial symbols we may authorize in the future (collectively, the “Marks”). This initial term of this license for the use of the Marks, which was entered into in 2005, is ten years, with an automatic renewal for successive five year periods unless terminated by either party. The Marks may only be used at the location we approve for your TLJ Outlet and for the sale of products and services we authorize under the Franchise Agreement.

Your use of the Marks and any goodwill is to our exclusive benefit and you retain no rights in the Marks. You also retain no rights in the Marks upon expiration or termination of your Franchise Agreement. You are not permitted to make any changes or substitutions of any kind in or to the use of the Marks unless we direct in writing. We may change the System presently identified by the Marks, including the adoption of new Marks, new products, new equipment or new techniques and you must adopt the changes in the System. You must comply within a reasonable time if we notify you to discontinue or modify your use of any Mark. We will have no liability or obligation as to your modification or discontinuance of any Mark.

There are currently no effective material determinations by the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state, or

any court, or any pending infringement, opposition or cancellation proceeding, or any pending material litigation, involving the Marks. There are currently no agreements in effect that significantly limit our rights to use or license the use of any Marks in any manner material to the franchise. There are no superior prior rights or infringing uses actually known to us that could materially affect your use of the Marks. All required affidavits have been filed, and all required renewals have been filed. All required affidavits and other documents pertaining to the Marks will be filed when necessary to maintain the Marks and all renewals will be filed when necessary to renew the registrations of the Marks.

You must notify us promptly of any infringement or unauthorized use of the Marks that you may become aware. We are obligated to protect you against infringement or unfair competition claims arising out of your use of the Marks or to participate in your defense or indemnify you, provided that you have timely notified us of such claim or proceedings, have otherwise complied with the terms of the Franchise Agreement and have tendered complete control of the defense of such proceedings to us.

#### **ITEM 14 PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

There are no patents or copyrights currently registered or patent or copyright applications pending that are material to the franchise.

Our Manuals, other manuals, training material, merchandise and vendor lists and updates, action plans, and other directives contain material which we consider to be trade secrets. We claim trade secret and copyright protection for these manuals and materials although we have not filed any corresponding applications concerning them. You have to follow our direction in protecting the manuals and other trade secret material from unauthorized disclosure. You must use our proprietary materials only as we direct.

We can require your managers and supervisors to sign a confidentiality agreement in which they promise to keep all of our proprietary information confidential and to follow our directions regarding its use.

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

##### Franchise Agreement

You must at all times directly supervise the operation of the TLJ Outlet, or you may employ a manager for this purpose. If you appoint a manager for these duties, we must train him or her. Also, you must inform us of your manager's identity, and each manager must sign an agreement not to divulge any trade secret or confidential or proprietary information, or to engage in any other business. Your manager need not have an ownership interest in a corporate or partnership franchisee, but he or she must have substantial food service experience, demonstrate strong management abilities and promote the TLJ image to the public.

You must devote your full time and efforts to managing the general business matters of the TLJ Outlet. Further, you may not, during the term of the Franchise Agreement, engage in any conflicting enterprises. Also, you are bound by confidentiality requirements as well as non-competition covenants discussed in the Franchise Agreement.



## Area Development Agreement

Area Developer must devote his or her full time to the supervision of TLJ Outlets operating in the Development Area unless Area Developer designates an individual (“Operator”) to supervise the Outlets. Area Developer, if it is a corporation or a partnership, may not engage in any other related business activity during the term of the Area Development Agreement without our consent.

We may require Area Developer to hire an experienced food service professional who will operate Area Developer’s Outlets.

Area Developer, or the Operator designated by the Area Developer, must successfully complete our training course. Any Operator designated by Area Developer must (i) devote his or her full time to the development and supervision of the TLJ Outlets; (ii) sign the confidentiality and non-competition covenants by which Area Developer is bound; and (iii) be approved in writing by us. Also, Area Developer is bound by confidentiality requirements and non-competition covenants discussed in the Area Development Agreement.

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

You must operate your TLJ Outlet in accordance with the System standards (including required products and services). We have the right, without limitation, to change the types of products and services that you are authorized to sell at our sole discretion. We may also, at any time, and in our sole discretion, disapprove the sale of certain items sold at your TLJ Outlet, and you must stop selling those items upon written notice from us to do so.

There are no restrictions on the customers to whom you can sell the products at your TLJ Outlet. However, you may not use your TLJ Outlet for any purposes other than the operation of the TLJ Outlet in full compliance with the Franchise Agreement and Manuals, without our prior written approval. You must purchase, use and offer each of and only the types, brands and quality of products and services we designate.

### **ITEM 17 RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

#### **FRANCHISE AGREEMENT**

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a. Term of the franchise	2	10 years
b. Renewal or extension of the term	2	Two additional terms of 5 years
c. Requirements for you to renew or extend	2	You may apply to operate the Outlet for two additional consecutive terms of 5 years each if the

		<p>following preconditions are met prior to each renewal term: (i) you give us written notice of your election to renew at least 12 months, but not more than 18 months, prior to the end of the Term; (ii) you do not have any past due monetary obligations or other outstanding obligations; (iii) you are not in default of any provision of the Franchise Agreement, or any other related agreements; (iv) you execute a general release; (v) you execute our then-current form of the franchise agreement; (vi) you comply with the then-current qualification and training requirements; (vii) you make or provide for, in a manner satisfactory to us, such renovation and modernization of the Outlet as we may reasonably require to reflect the then-current standards and image of the System; (viii) you present evidence satisfactory to us that you have the right to remain in possession of the premises for the location of the Outlet for the duration of the renewal term; and (ix) you pay us a renewal fee in an amount of 50% of our then-current initial franchise fee. When renewing, you may be asked to sign a contract with materially different terms and conditions than your original contract.</p>
d. Termination by you	None	The Franchise Agreement does not provide for this. But you may seek to terminate on any grounds available to you under applicable law.
e. Termination by us without cause	None	We may not terminate the Franchise Agreement without cause.
f. Termination by us with cause	16	We can terminate the Franchise Agreement if you material default under your Franchise Agreement, any other individual Franchise Agreement, any Area Development Agreement (other than solely for your failure to meet your development obligation), or any other agreement between you and us.
g. "Cause" defined – defaults which can be cured	16	You have 5 days to cure non-payment of fees, 10 days to cure non-compliance with laws, and 30 days to cure any default not listed in Section 16.2 of the Franchise Agreement (subject to state law).
h. "Cause" defined – defaults which cannot be cured	16	Failure to obtain our approval for the location of the Outlet, to take possession or to open the Outlet within the required time; Loss of the premises for the Outlet; Conviction of or pleading guilty or no contest to a felony or other crimes; Material misrepresentations in connection with the execution of the Franchise Agreement or the operations of the Outlet; Unauthorized use, disclosure or duplication of our confidential information; Threat or danger to public health; Failure for 10 days after having received notice to comply with any law applicable to the operation of the Outlet; Under-reporting Gross Sales; Knowingly maintaining false books or records; Failure to purchase and maintain the

		required inventories; Purchasing TM Products from other than the approved suppliers and failure to cease use of non-complying products within 3 days after having received notice; Failure to make a payment within 10 days after receipt of written notice from us that any required payment is overdue; Your default in the repayment or performance of any obligation or financing transaction with third parties under which your performance is secured by the Franchised Business; Abandonment of the Outlet; Conviction of a felony or other crimes, Threat or danger to public health; Under-reporting Gross Sales; Abandonment of the Outlet; Abandonment of the Outlet, Unapproved transfers, Bankruptcy, Assignment for benefit of Creditors; Repeated defaults (2 or more notices of default within 12 month period).
i. Your obligations on termination/non-renewal	17	Pay liquidated damages and outstanding amounts; De-identification; Cancel any name registration containing any Proprietary Mark; Assign the lease/sublease for the premises of the Outlet at our option; Return of confidential information, proprietary items and telephone numbers (see also below)  If applicable, termination of the Area Development Agreement will not terminate any of the Franchise Agreements you already signed with us, so long as you are not in default of the subject Franchise Agreements.
j. Assignment of contract by us	15	No restriction on our right to assign. However, no assignment will be made except to an assignee who, in our good faith judgment is willing and able to assume our obligations under the Franchise Agreement.
k. "Transfer" by you – definition	15	Includes transfer of contract of assets or any ownership change.
l. Our approval of transfer by you	15	We have the right to approve all transfers, our consent not to be unreasonably withheld.
m. Conditions for our approval of transfer	15	All amounts due are paid in full; You are not in default of Franchise Agreement and related agreements; You and transferee execute a general release and agree to the then-current form of the Franchise Agreement, at our option; Transferee/Assignee shall not be in the same or competing business as us and must complete our training program; Pay transfer fee; Transferee agree to complete a renovation in the amount and scope as determined by us.
n. Our right of first refusal to acquire your business	15	We can match any offer.
o. Our option to purchase your business	15	We have the right and option, exercisable within 30 days after receipt of your written transfer request

		and the required information and documentation related to the offer from a third party, to purchase the seller's interest on the same terms and conditions offered by the third party.
p. Your death or disability	14 and 29	Franchise must be assigned to approved buyer within 12 months or transferred to an heir or representative.
q. Non-competition covenants during the term of the franchise	18	Can't divert business, employ or recruit to employ any person employed by us or other System franchisee or operate a competing business within the Minimum Area of Competition, an area which is within a radius of fifteen (15) miles from your Outlet (subject to state law).
r. Non-competition covenants after the franchise is terminated or expires	18	Can't divert business, employ or recruit to employ any person employed by us or other System franchisee or operate a competing business within the Minimum Area of Competition, an area which is within a radius of fifteen (15) miles from your Outlet (subject to state law).
s. Modification of the agreement	25	No modifications generally but Operations Manuals subject to change. Revisions to the Operations Manuals will not unreasonably affect your obligations, including economic requirements, under the Franchise Agreement.
t. Integration/merger clause	25	Only the terms of the franchise agreement and other related written agreements are binding (subject to state law). Any representations or promises outside of the disclosure document and franchise agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	27	Except for certain claims, all disputes must be arbitrated in California (subject to state law).
v. Choice of forum	27	Arbitration in California (subject to state law).
w. Choice of law	27	California law applies (subject to state law).

### AREA DEVELOPMENT AGREEMENT

Provision	Section in Area Development Agreement	Summary
a. Term of the Area Development Agreement	VI	Length of the Development Schedule, which can be as short as three years or as long as 20 years.
b. Renewal or extension of the term	V	After all Outlets have been developed, we will negotiate in good faith another Area Development Agreement.
c. Requirements for you to renew or extend	V	None.
d. Termination by you	None	The Agreement does not provide for this. But you may seek to terminate on any grounds available to you at law.

e. Termination by us without cause	None	We may not terminate the Area Development Agreement without cause.
f. Termination by us with cause	IX	We can terminate if you commit any one of several listed violations, which include failure to meet the development schedule, unauthorized use of the Proprietary Marks, sale of competing products, failure to make required payments, illegal assignments, making of material misrepresentations, failure to obtain approval for a site, breach of any Franchise Agreement if it results in the termination of the Franchise Agreement, any other breach of the agreement or a bankruptcy.  We can terminate the Area Development Agreement if you default in the performance of any obligation under any Franchise Agreement with us, provided such default results in the termination of the Franchise Agreement.
g. “Cause” defined – defaults which can be cured	IX	These are listed in this Section. Except for defaults described in h below, you have 30 days to cure any default under the Area Development Agreement.
h. “Cause” defined – defaults which cannot be cured	IX	Any one of several listed violations, which include failure to meet the development schedule, unauthorized use of the Proprietary Marks, sale of competing products, failure to make required payments, illegal assignments, making of material misrepresentations, failure to obtain approval for a site, breach of any Franchise Agreement if it results in the termination of the Franchise Agreement, any other breach of the agreement or a bankruptcy.
i. Your obligations on termination/non-renewal	X	Stop selecting sites, can’t open Outlet.
j. Assignment of contract by us	XI	No restriction on our right to assign. However, no assignment will be made except to an assignee who, in our good faith judgment, is willing and able to assume our obligations under the Area Development Agreement.
k. “Transfer” by you – definition	XI	Includes transfer of any interest in the Area Development Agreement.
l. Our approval of transfer by you	XI	We have the right to approve all transfers, our consent not to be unreasonably withheld.
m. Conditions for our approval of transfer	XI	Conditions for transfer include not being in default, all debts are paid, the buyer meets our current criteria for new area developers, execution of a general release (where legal), payment of 10% transfer fee (10% of development fee), buyer personally guarantees all obligations.
n. Our right of first refusal to acquire your business	XI	We have the right to match the offer.

o. Our option to purchase your business	None	We have the right and option, exercisable within 30 days after receipt of your written transfer request and the required information and documentation related to the offer from a third party, to purchase the seller's interest on the same terms and conditions offered by the third party.
p. Your death or disability	XI	Option passes to estate.
q. Non-competition covenants during the term of the franchise	XII	Can't divert business or operate a competing business anywhere.
r. Non-competition covenants after the franchise is terminated or expires	XII	No competing business for two years and within a 10 mile radius of any Outlet.
s. Modification of the agreement	XVIII	No modifications except by mutual agreement of the parties. Revisions to the Area Development Agreement will not unreasonably affect your obligations, including economic requirements under the Area Development Agreement.
t. Integration/merger clause	XVIII	Only the terms of the Area Development Agreement and other related written agreements are binding (subject to state law). Any representations or promises outside of the disclosure document and development agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	XIX	Except for certain claims, all disputes must be arbitrated in California (subject to state law).
v. Choice of forum	XIX	Arbitration in California (subject to state law).
w. Choice of law	XVIII	California (subject to state law).

Please refer to the disclosure addenda and contractual amendments appended to this Disclosure Document for additional terms that may be required under applicable state law.

### **ITEM 18 PUBLIC FIGURES**

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

### **ITEM 19 FINANCIAL PERFORMANCE REPRESENTATIONS**

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 any 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 your future income, you should report it to our management by contacting Jeong Whan Cho at 6832 E. Slauson Ave., Commerce, CA 90040, (323) 480-9100, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

**Item 20(1) Table –  
System Wide Outlet Summary  
For years 2020 to 2022**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
<b>Franchised</b>	<b>2020</b>	<b>58</b>	<b>62</b>	<b>+4</b>
	<b>2021</b>	<b>62</b>	<b>71</b>	<b>+9</b>
	<b>2022</b>	<b>71</b>	<b>83</b>	<b>+12</b>
<b>Company or Affiliate-Owned</b>	<b>2020</b>	<b>1</b>	<b>2</b>	<b>+1</b>
	<b>2021</b>	<b>2</b>	<b>2</b>	<b>0</b>
	<b>2022</b>	<b>2</b>	<b>2</b>	<b>0</b>
<b>Total Outlets</b>	<b>2020</b>	<b>59</b>	<b>64</b>	<b>+5</b>
	<b>2021</b>	<b>64</b>	<b>73</b>	<b>+9</b>
	<b>2022</b>	<b>73</b>	<b>86</b>	<b>+13</b>

**Item 20(2) Table –  
Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)  
For years 2020 to 2022**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
<b>California</b>	<b>2020</b>	<b>2</b>
	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>1</b>
<b>Maryland</b>	<b>2020</b>	<b>1</b>
	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>0</b>
<b>Texas</b>	<b>2020</b>	<b>1</b>
	<b>2021</b>	<b>2</b>
	<b>2022</b>	<b>0</b>
<b>Total</b>	<b>2020</b>	<b>4</b>
	<b>2021</b>	<b>2</b>

	2022	1
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**Item 20(3) Table –  
Status of Franchised Outlets  
For years 2020 to 2022**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at the end of the Year
Arizona	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
California	2020	18	0	0	0	0	1	17
	2021	17	0	0	0	0	0	17
	2022	17	1	0	0	0	0	18
Colorado	2020	0	1	0	0	0	0	1
	2021	1	2	0	0	0	0	3
	2022	3	0	0	0	0	0	3
Connecticut	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Florida	2020	0	0	0	0	0	0	0
	2021	0	2	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Georgia	2020	4	0	0	0	0	0	4
	2021	4	0	0	0	0	0	4
	2022	4	0	0	0	0	0	4
Illinois	2020	7	0	0	0	0	0	7
	2021	7	0	0	0	0	1	6
	2022	6	0	0	0	0	0	6
Indiana	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Kansas	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
Maryland	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Massachusetts	2020	3	0	0	0	0	0	3
	2021	3	2	0	0	0	0	5
	2022	5	0	0	0	0	0	5
Michigan	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Nebraska	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2020	0	0	0	0	0	0	0



Nevada	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
New Jersey	2020	4	2	0	0	0	0	6
	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
New York	2020	7	0	0	0	0	0	7
	2021	7	0	0	0	0	0	7
	2022	7	0	0	0	0	0	7
North Carolina	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
Ohio	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Oregon	2020	1	1	0	0	0	0	2
	2021	2	1	0	0	0	0	3
	2022	3	0	0	0	0	0	3
Texas	2020	7	0	0	0	0	0	7
	2021	7	2	0	0	0	0	9
	2022	9	0	0	0	0	0	9
Utah	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Virginia	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	3	1	0	0	0	3
Washington	2020	2	1	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	1	0	0	0	0	4
Totals	2020	58	4	0	0	0	0	62
	2021	62	10	0	0	0	1	71
	2022	71	14	1	0	0	0	84

**Item 20(4) Table –  
Status of Company or Affiliate-Owned Outlets  
For years 2020 to 2022**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at the end of the Year
CA	2020	0	1	0	0	0	1
	2021	1	1	0	0	0	1
	2022	1	0	0	0	0	1
NY	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
Totals	2020	1	1	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2

**Item 20(5) Table –  
Projected Openings As of Dec. 31, 2022**

<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Opened</b>	<b>Projected New Franchised Outlet In The Next Fiscal Year</b>	<b>Projected New Company-Owned Outlets In The Next Fiscal Year</b>
<b>Alabama</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Arizona</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>California</b>	<b>4</b>	<b>3</b>	<b>0</b>
<b>Colorado</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Connecticut</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Florida</b>	<b>2</b>	<b>2</b>	<b>0</b>
<b>Hawaii</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Illinois</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Indiana</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Kansas</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>Maryland</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Massachusetts</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Michigan</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Minnesota</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Nebraska</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Nevada</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>New Jersey</b>	<b>3</b>	<b>3</b>	<b>0</b>
<b>New York</b>	<b>5</b>	<b>4</b>	<b>0</b>
<b>North Carolina</b>	<b>2</b>	<b>2</b>	<b>0</b>
<b>Ohio</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Oklahoma</b>	<b>2</b>	<b>1</b>	<b>0</b>
<b>Oregon</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Pennsylvania</b>	<b>2</b>	<b>2</b>	<b>0</b>
<b>Texas</b>	<b>4</b>	<b>1</b>	<b>0</b>
<b>Utah</b>	<b>3</b>	<b>0</b>	<b>0</b>
<b>Virginia</b>	<b>2</b>	<b>1</b>	<b>0</b>
<b>Washington</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Total</b>	<b>41</b>	<b>26</b>	<b>0</b>

If you buy a TLJ Outlet franchise, your contact information may be disclosed to other buyers when you leave the franchise system. Exhibit F shows the name, address, and telephone number of the TLJ franchisees and the franchised Outlets as of December 31, 2022. Exhibit G shows the name, last-known business or home city and state and business or home telephone number of each franchisee whose franchise was terminated, canceled, not renewed, or who otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year or who has not communicated with the franchisor within 10 weeks of the disclosure document issuance date. As a standard practice, we require all franchisees to sign a confidentiality agreement when we enter into a franchise agreement. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with TLJ Outlet franchise. You may wish to speak with

current and former franchisees, but be aware that not all of those franchisees will be able to communicate with you. To the extent that we are aware, there is currently no trademark-specific franchisee organization associated with the TLJ franchise system.

**ITEM 21  
FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit H are our Audited financial statements as of December 31, 2020, 2021 and 2022. Our fiscal year end is December 31<sup>st</sup>.

**ITEM 22  
CONTRACTS**

This Disclosure Document includes a sample of the following documents:

Franchise Agreement – Exhibit C  
Area Development Agreement – Exhibit D

**ITEM 23  
RECEIPT**

The last two pages of this Disclosure Document are an acknowledgement of your Receipt of this Disclosure Document form which you must date, sign, and return to us immediately upon your receipt of this Disclosure Document. Please return one copy to us and retain the other for your records.

## EXHIBIT A

### STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS

#### CALIFORNIA

Department of Financial Protection and  
Innovation  
Suite 750  
320 West 4th Street  
Los Angeles, CA 90013  
(213) 738-2741  
Toll Free No.: 1 866 275 2677

Agent: California Commissioner of Financial  
Protection and Innovation

#### HAWAII

Department of Commerce and Consumer Affairs  
Business Registration Division  
Commissioner of Securities  
335 Merchant Street, Room 203  
Honolulu, HI 96813  
(808) 586-2744

Agent: Director of Hawaii Department  
of Commerce and Consumer Affairs

#### ILLINOIS

Franchise Bureau  
Office of Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-4465

Agent: Illinois Attorney General

#### MARYLAND

Office of the Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202-2020  
(410) 576-6360

Agent: Maryland Securities Commissioner  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

#### MICHIGAN

Consumer Protection Division  
Antitrust and Franchise Unit  
Michigan Department of Attorney  
General  
670 Law Building  
Lansing, Michigan 48913  
(517) 373-7177

Agent: Michigan Department of Commerce  
Corporations and Securities Bureau

#### MINNESOTA

Minnesota Department of Commerce  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, Minnesota 55101-2198  
(651) 296-4026

Agent: Minnesota Commissioner of Commerce

INDIANA

Franchise Section  
Indiana Securities Division  
Room E-111  
302 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-6681

Agent: Indiana Secretary of State  
Indiana Securities Division  
201 State House  
Indianapolis, IN 46204

NEW YORK

NYS Department of Law  
Investor Protection Bureau  
28 Liberty St. 21<sup>st</sup> Fl  
New York, New York 10005  
(212) 416-8222

Agent: Secretary of State  
99 Washington Avenue  
Albany, NY 12231

NORTH DAKOTA

Office of Securities Commissioner  
Fifth Floor  
600 East Boulevard  
Bismarck, North Dakota 58505  
(701) 328-2910

Agent: North Dakota Securities Commissioner

OREGON

Department of Insurance and Finance  
Corporate Securities Section  
Labor and Industries Building  
Salem, Oregon 97310  
(503) 378-4387

Agent: Director of Oregon Department  
of Insurance and Finance

NEBRASKA

Nebraska Department of  
Banking and Finance  
1200 N Street  
P.O. Box 95006  
Lincoln, Nebraska 68509-5006

SOUTH DAKOTA

Division of Securities  
c/o 118 West Capitol  
Pierre, South Dakota 57501  
(605) 773-4013

Agent: Director of South Dakota Division  
Securities

TEXAS

Secretary of State  
P.O. Box 12887  
Austin, Texas 78711

VIRGINIA

State Corporation Commission  
Division of Securities and Retail Franchising  
1300 East Main Street  
Richmond, Virginia 23219  
(804) 371-9051

Agent: Clerk of the State Corporation  
Commission

RHODE ISLAND

Division of Securities  
Suite 232  
233 Richmond Street  
Providence, Rhode Island 02903  
(401) 222-3048

Agent: Director of Rhode Island Department  
of Business Regulation

WISCONSIN

Securities and Franchise Registration  
Wisconsin Securities Commission  
P.O. Box 1768  
Madison, Wisconsin 53703  
(608) 266-8559

Agent: Wisconsin Commissioner of Securities

WASHINGTON

Director  
Department of Financial Institutions  
Securities Division  
P.O. Box 9033  
Olympia, Washington 98507  
(360) 902-8760

Agent: Securities Administrator, Director of  
Department of Financial Institutions  
150 Israel Rd SW  
Tumwater, WA 98501

**EXHIBIT B**

**STATE SPECIFIC ADDENDUM**

## CALIFORNIA

Neither the franchisor nor any person identified in Item 2 of this Disclosure Document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling the person from membership in the association or exchange.

California Business and Professions Code §§ 20000 through 20043 provide rights to the franchisee concerning termination, transfer or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

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.)

The Franchise Agreement contains a covenant not to compete that continues after the termination of the franchise. This provision may not be enforceable under California law.

Under both the California Franchise Relations Act and the Franchise Investment Law, a provision in a Franchise Agreement that requires you to waive your rights under either or both of these laws is void. Any release of claims that the franchisor asks you to sign will specifically exclude claims under these franchise laws.

Section 31125 of the California Corporations Code requires the franchisor to give the franchisee a special disclosure document before soliciting a proposed material modification of an existing franchise.

The franchise agreement and development agreement contain a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

The franchise agreement and development agreement require binding arbitration. The arbitration will occur at Los Angeles, California and the arbitrators have the discretion to assess the costs of arbitration, including reasonable arbitrators' and attorneys' fees in proportions as the arbitrators may determine. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

You must sign a general release of claims if you renew or transfer your franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).



OUR WEBSITE ADDRESS IS [HTTP://WWW.TLJUS.COM](http://www.tljus.com). 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).

THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF EACH PROPOSED AGREEMENT RELATING TO THE GRANT OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

## HAWAII

The Disclosure Document is amended as follows:

1. THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.
2. THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR,WHICHEVER OCCURS FIRST, A COPY OF THE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.
3. THIS DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

## ILLINOIS

Many states have status concerning the relationship between franchisor and franchisee. These statutes deal with such matters as renewal and termination of franchises. Provisions of this sort will prevail over inconsistent terms in a franchise agreement. Illinois has such a statute (915 ILCS 705/19 and 705/20).

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.).

The Franchise Agreement includes a choice of law clause designating another state's law as the governing law. Under Illinois law, a Franchise Agreement may not provide for a choice of law of any state other than Illinois. Accordingly, Item 17 w. is amended to state "none" under the heading for "Summary." The Franchise Agreement is amended to omit Section XXV.

The Franchise Agreement requires franchisee to sign a release of claims as a condition for transfer or renewal of the franchise. Under the law of Illinois, any provision that purports to bind a person acquiring a franchise to waive compliance with the franchise disclosure law of Illinois is void. Accordingly, insofar as the Franchise Agreement requires franchisee to waive franchisee's rights under the Illinois franchise law, these requirements are deleted from the Franchise Agreement. This provision will not prevent the franchisor from requiring franchisee to sign a release of claims as part of a negotiated settlement of a dispute.

Franchisor

Franchisee

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

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

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

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

## **MARYLAND**

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.).

The Franchise Agreement says that franchisor may require franchisee to sign a release of claims, other than claims that may not be waived in advance under applicable law, as a condition of renewal or transfer of your franchise. Under Maryland law, the release will not apply to any liability under the Maryland Franchise Registration and Disclosure law.

Under the Franchise Agreement, franchisee must disclaim the occurrence and/or acknowledge the non-occurrence of acts that might constitute a violation of the Maryland franchise law. These representations are not intended to nor do they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the franchise is granted.

## MICHIGAN

### **1. THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.**

Each of the following provisions is void and unenforceable if contained in any documents related to a franchise:

- (a) A prohibition on the right of a franchisee to join an association of franchises.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty (30) days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) the term of the franchise is less than five (5) years, and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least six (6) months' advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from

exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:

(i) Failure of the proposed transferee to meet the franchisor's then-current reasonable qualifications or standards.

(ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

2. If the franchisor's most recent financial statements are unaudited and show a net worth of less than \$100,000.00 the franchisor shall, at the request of a franchisee, arrange for the escrow of initial investment and other funds paid by the franchisee until the obligations to provide real estate, improvements, equipment, inventory, training or other items included in the franchise offering are fulfilled. At the option of the franchisor, a surety bond may be provided in place of escrow.

3. THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENFORCEMENT BY THE ATTORNEY GENERAL. Any questions regarding this notice should be direct to:

Michigan Department of Attorney General  
Consumer Protection Division  
Attention: Franchise Section  
G. Mennen Williams Building  
525 West Ottawa  
Lansing, MI 48933  
(517) 373-7117

## MINNESOTA

The Franchise Agreement requires binding arbitration. The arbitration will occur in a state other than Minnesota, with costs being borne by the non-prevailing party. Under Minnesota Statutes § 80C.21 and Minnesota Rule Part 2860.4400J, this provision may not in any way invalidate or reduce any of the franchise owner's rights that are listed in Chapter 80C of the Minnesota Statutes.

The Franchise Agreement requires application of the laws of a state other than Minnesota. Under Minnesota Statutes § 80C.21 and Minnesota Rule Part 2860.4400J, this provision may not in any way invalidate or reduce any of the franchise owner's rights that are listed in Chapter 80C of the Minnesota Statutes.

With respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80C. 14, Subds. 3, 4, and 5 which require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice of non-renewal of the Franchise Agreement.

The Franchise Agreement requires you to sign a release of claims as a condition of renewing or transferring a franchise. Minnesota Rule Part 2860.4400J prohibits franchisor from requiring franchisee to sign a release of claims arising under the Minnesota Franchise Law. Therefore, any release we require you to sign will exclude claims arising under the Minnesota Franchise Law.

The Franchise Agreement provides that franchisor is entitled to a temporary injunction or decree of specific performance. The Franchise Agreement is amended to provide that we are entitled to seek a temporary injunction or decree of specific performance if we can demonstrate to a court of competent jurisdiction that there is substantial likelihood of franchisee's breach or threatened breach of any of the terms of the Franchise Agreement, not that franchisor is necessarily entitled to obtain this relief.

Under Minnesota law, any claim arising under §80C may be brought within three years after the cause of action accrues. The Franchise Agreement is amended to provide for a three-year period within which to bring any Minnesota claims.

## NEW YORK

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SERVICES OR INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person



from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled **“Requirements for franchisee to renew or extend,”** and Item 17(m), entitled **“Conditions for franchisor approval of transfer”**:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled **“Termination by franchisee”**:

You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the “Summary” sections of Item 17(v), titled **“Choice of forum”**, and Item 17(w), titled **“Choice of law”**:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

## **NORTH DAKOTA**

In North Dakota, the Disclosure Document is amended as follows to conform to North Dakota law:

Item 17c is revised to omit any requirement that a general release be signed as a condition of renewal.

Item 17r is amended to add the following: “To the extent that covenants not to compete apply to periods after the term of the franchise, they are generally considered unenforceable in the State of North Dakota.”

Item 17u is amended to omit any reference to the location or mediation or arbitration.

Item 17w is amended to state “None.”

## **RHODE ISLAND**

The Rhode Island Securities Division requires the following specific disclosures to be made to prospective Rhode Island franchisees:

In spite of the provisions of Item 17v and Item 17w of the Disclosure Document, any litigation or arbitration arising under the Franchise Agreement will take place in Rhode Island or other place mutually agreed to by the franchisee and franchisor.

To the extent required by § 19-28.1-14 of the Rhode Island Franchise Investment Act, the Franchise Agreement will be governed by the laws of the State of Rhode Island.

## **SOUTH DAKOTA**

The Franchise Agreement includes a covenant not to compete after termination of the franchise. Covenants not to compete upon termination or expiration of the Franchise Agreement are generally unenforceable in the State of South Dakota, except in certain instances provided by law. The Franchise Agreement provides for arbitration in a state other than South Dakota. Under South Dakota law, arbitration must be conducted at a mutually agreed upon site in accordance with §11 of the Commercial Arbitration Rules of the American Arbitration Association.

The Franchise Agreement designates the law of a state other than South Dakota as the governing law, except that trademark issues are to be under the Landham Act. Franchise registration, employment, covenants not to compete, and other matters of local concern will be governed by the laws of the State of South Dakota, but contractual and all other matters will be subject to application, construction, enforcement and interpretation under the governing law specified by the Franchise Agreement.

Under South Dakota law, any provision in a Franchise Agreement which designates jurisdiction or venue or requires the franchisee to agree to jurisdiction or venue outside South Dakota is void with respect to any cause of action which is governed by the law of South Dakota.

Under South Dakota law, termination provisions covering breach of the Franchise Agreement, failure to meet performance and quality standards, and failure to make royalty payments contained in the Disclosure Document and Franchise Agreement must afford a franchisee thirty (30) days written notice with an opportunity to cur the default prior to termination. Under SDL 37-5A-86, any condition, stipulation or provision purporting to waive compliance with any provision of this chapter, or any rule or order is void.

An acknowledgment, provision, disclaimer or integration clause or a provision having a similar effect in a Franchise Agreement does not negate or act to remove from judicial review any statement, misrepresentation or action that would violate the South Dakota franchise law or a rule or order under the South Dakota franchise law.

## **VIRGINIA**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Franchisor's use in the Commonwealth of Virginia shall be amended as follows:

1. Additional Disclosure: The following statements are added to Item 17.h:

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the franchise agreement does not constitute "reasonable cause," as that the term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, the provision may not be enforceable.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Franchise Agreement involves the use of undue influence by the franchisor to induce a franchisee to surrender any rights given to him under the franchise, that provision may not be enforceable.

## WASHINGTON

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

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor, including the areas of termination and renewal of the franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

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

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

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

The undersigned does hereby acknowledge receipt of this addendum.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Franchisor

\_\_\_\_\_  
Franchisee

**EXHIBIT C**

**TOUS LES JOURS INTERNATIONAL CORP**

**FRANCHISE AGREEMENT**



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## FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this "**Agreement**") is made and entered into on \_\_\_\_\_, 20\_\_ (the "Effective Date") by and between Tous Les Jours International Corp., a California Corporation with its principal place of business at 6832 E. Slauson Ave., Commerce, CA 90040 ("**FRANCHISOR**"), and \_\_\_\_\_, a \_\_\_\_\_, with its principal place of business at \_\_\_\_\_ ("**FRANCHISEE**"). The term "Franchisee" shall include all persons who succeed to the interest of the original Franchisee by transfer or operation of law, and shall be deemed to include not only the individual or entity defined as "Franchisee" in the introductory paragraph of this Agreement, but shall also include partners of the entity that execute this Agreement in the event the entity is a partnership, and all shareholders, officers and directors of the entity that execute this Agreement in the event the entity is a corporation. By their signatures to this Agreement, all partners, shareholders, officers and directors of the entity that signs this Agreement as Franchisee acknowledge and accept, jointly and severally, 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.

### BACKGROUND:

A. FRANCHISOR and its affiliates, as the result of the expenditure of time, skill, effort and money, have developed a distinctive system (the "System") relating to the establishment and operation of Bakery-Cafes that specialize in bakery and pastry goods, sandwich items and coffee and beverage products ("**Tous Les Jours Bakery-Cafes**") and operate under the Proprietary Marks (defined below).

B. Tous Les Jours Bakery-Cafes are engaged in the sale of food and drink items prepared based on (i) FRANCHISOR's recipes and/or using products, items, foods, ingredients, mixes, doughs, frozen doughs, coffee beans, flavorings, seasonings and/or beverages developed by or for FRANCHISOR ("**TM Products**") and (ii) other recipes and/or using other products, items, foods, ingredients, mixes, doughs, frozen doughs, coffee beans, flavoring, seasonings and/or beverages designated by FRANCHISOR (the "**Specified Products**").

C. The distinguishing characteristics of the System include distinctive exterior and interior design, decor, color schemes, fixtures and furnishings; standards and specifications for products, equipment, materials and supplies; uniform standards, specifications and procedures for operations; procedures for inventory and management control; training and assistance; and marketing and promotional programs; all of which may be changed, improved and further developed by FRANCHISOR from time to time.

D. The System and Tous Les Jours Bakery-Cafes are identified by certain trade names, service marks, trademarks, logos, emblems, and indicia of origin as are now designated and may be designated in the future by FRANCHISOR in writing for use in connection with the System including the mark "Tous Les Jours" and other marks (the "**Proprietary Marks**").

E. FRANCHISEE desires to enter into the business of operating a Bakery-Cafe under the System and using the Proprietary Marks, and wishes to enter into this Agreement with FRANCHISOR for that purpose, and to receive the training and other assistance provided by FRANCHISOR in connection therewith.

F. FRANCHISEE understands and acknowledges the importance of the high standards of

FRANCHISOR for quality, cleanliness, appearance, and service and the necessity of operating the business franchised hereunder in conformity with FRANCHISOR's standards and specifications.

NOW, THEREFORE, the parties agree as follows:

## 1. GRANT

1.1 FRANCHISOR grants to FRANCHISEE the right, and FRANCHISEE hereby undertakes the obligation, upon the terms and conditions set forth in this Agreement: (a) to establish and operate a TOUS LES JOURS Bakery-Cafe that offers products designated by FRANCHISOR (the "**Bakery-Cafe**"), (b) to establish and operate the Bakery-Cafe in compliance with all mandatory specification, standards, operating procedures, and rules, as set forth herein, the Manuals, and by policy or directive by FRANCHISOR as may be promulgated from time to time (collectively, "**System Standards**") that FRANCHISOR periodically prescribes for Tous Les Jours Bakery-Cafes, and (c) to use the Proprietary Marks and the System solely in connection with operating the Bakery-Cafe.

1.2 FRANCHISEE shall operate the Bakery-Cafe only at the authorized location (the "**Accepted Location**") specified in Exhibit A. If, at the time of signing this Agreement, a location for the Bakery-Cafe has not been authorized by FRANCHISOR as the Accepted Location, FRANCHISEE shall look for proposed locations for the Bakery-Cafe in the "Site Selection Area" specified in Exhibit A and obtain FRANCHISOR's authorization for an Accepted Location for the Bakery-Cafe. In connection with obtaining FRANCHISOR's authorization for the Accepted Location, FRANCHISEE must provide to FRANCHISOR any information FRANCHISOR requests in considering the proposed location as the Accepted Location. FRANCHISOR will authorize a location that meets with FRANCHISOR's standards, requirements and criteria for an Accepted Location. Once FRANCHISOR has authorized a location proposed by FRANCHISEE, FRANCHISEE and FRANCHISOR shall execute the Accepted Location Addendum attached to this Agreement as Exhibit B documenting the Accepted Location and specifying the Territory (defined below) designated by FRANCHISOR. Section 5 of this Agreement specifies the time frames in which FRANCHISEE must (i) obtain FRANCHISOR's authorization for the Accepted Location, (ii) commence construction of the Bakery-Cafe, (iii) complete construction and/or remodeling of the Bakery-Cafe, and (iv) open the Bakery-Cafe.

1.3 FRANCHISEE shall not relocate the Bakery-Cafe from the Accepted Location's premises (the "**Premises**") without the prior written authorization of FRANCHISOR, and shall be subject to the terms of Section 7.23 below. Any authorizations furnished by FRANCHISOR pursuant to Section 1.2 or assistance in selecting a location, shall be at the sole discretion of FRANCHISOR, and are not, and shall not be, a guarantee or assurance by FRANCHISOR that the Bakery-Cafe shall be profitable or successful.

1.4 FRANCHISOR grants to FRANCHISEE the right, but not the obligation, to engage in off Premises special events where the products will be served, including specialty parties, festivals and business events ("**Special Events**"), provided that (i) Special Events must be approved by FRANCHISOR and shall not be conducted outside the Territory, and (ii) Special Events activities are conducted in accordance with the terms and conditions stated in this Agreement, FRANCHISOR's Confidential Operating Manuals (the "**Manuals**"), which are more fully described in Section 10 hereof, and any other terms and conditions placed on FRANCHISOR's approval.

1.5 Except as otherwise provided in this Agreement, during the Term (defined below), FRANCHISOR shall not establish or operate, nor franchise or license any other person to establish or

operate, a TOUS LES JOURS Bakery-Cafe selling the TM Products and Specified Products (collectively, the "**Products**") under the System at a location within the territory (the "**Territory**") specified in Exhibit A, without first offering to FRANCHISEE a first right of refusal in the proposed location within the Territory. FRANCHISEE shall have seven days from its notice of the proposed location to accept or reject the proposed location. If FRANCHISEE rejects the proposed location, or if FRANCHISEE fails to notify FRANCHISOR of its acceptance or rejection within the seven days, FRANCHISEE shall be deemed to have rejected the location and FRANCHISOR shall have the right to open a corporate store or offer the proposed location to another new or existing franchisee even though it will be located within the Territory. FRANCHISOR retains the rights, among others, on any terms and conditions FRANCHISOR deems advisable, and without granting FRANCHISEE any rights therein:

1.5.1 To own, acquire, establish and/or operate, and franchise and/or license others to establish and operate, Tous Les Jours Bakery-Cafes selling the Products at any location outside the Territory;

1.5.2 To own, acquire, establish and/or operate, and franchise and/or license others to operate, businesses under other proprietary marks and other systems, whether such businesses are similar (including offering products that are the same or similar to those offered from the Bakery-Cafe) or different from the Bakery-Cafe, at any location within or outside the Territory;

1.5.3 To own, acquire, establish and/or operate, and franchise and/or license others to establish and operate, Tous Les Jours Bakery-Cafes under the Proprietary Marks at limited purpose, limited access and captive audience facilities, and other types of institutional accounts (which shall include, without limitation, airports and other public transportation facilities, parks, stadiums, business and industrial and military complexes, theaters, amusement centers, museums, educational facilities, hospitals and other health care facilities, and art centers) (collectively, "**Institutional Facilities**") at any location within or outside the Territory;

1.5.4 To sell or distribute, directly or indirectly, or license other to sell or distribute, under the Proprietary Marks, at any location (notwithstanding its proximity to the Accepted Location) whether within or outside the Territory, products and services through any distribution channel or method, including grocery stores, convenience stores, retail outlets, mail order, toll-free numbers, Internet (or any other existing or future form of electronic commerce) and delivery services, irrespective of the proximity to the Bakery-Cafe without compensation to FRANCHISEE; provided, however, any such sales will not be made from a TOUS LES JOURS Bakery-Cafe located in the Territory;

1.5.5 To sell or distribute, directly or indirectly, or franchise and/or license others to sell or distribute, under the Proprietary Marks, at any location (notwithstanding its proximity to the Accepted Location) whether within or outside the Territory, any products, other than Products;

1.5.6 To give, donate or contribute to charitable and community organizations and events for fund raising and other events and use the Products for promotions and product demonstrations in the Territory; and to offer Products for sampling by consumers and organizations for product testing, promotions and demonstrations in the Territory; and

1.5.7 To engage in any other activity, action or undertaking that FRANCHISOR is not expressly prohibited from taking under this Agreement.

1.6 FRANCHISEE shall not sell any Products or services by catalog, direct mail, toll-free numbers or by use of the Internet (or any other existing or future form of electronic commerce or communication); provided, however, FRANCHISEE may sell the Products through delivery services (including, without limitation, any third party aggregators, such as Uber Eats, Eat24, Grubhub, and DoorDash) with FRANCHISOR's prior written approval.

1.7 FRANCHISEE acknowledges that the System may be supplemented, improved and otherwise modified from time to time by FRANCHISOR; and FRANCHISEE agrees to comply with all reasonable requirements of FRANCHISOR in that regard, including offering and selling new or different Products or services as specified by FRANCHISOR.

## **2. TERM AND RENEWAL**

2.1 Unless this Agreement is sooner terminated as provided herein, this Agreement shall be in effect upon its acceptance and execution by FRANCHISOR and expire 10 years from the opening date of the Bakery-Cafe (the "Initial Term"). FRANCHISEE acknowledges that the rights granted under this Agreement are of limited duration, and do not convey any rights of ownership or goodwill whatsoever in the Proprietary Marks.

2.2 FRANCHISEE may apply to operate a Bakery-Cafe for two additional consecutive terms of 5 years each (each, a "Renewal Term" and together with the Initial Term, the "Term") if the following preconditions are met prior to each Renewal Term:

2.2.1 FRANCHISEE shall give FRANCHISOR written notice of FRANCHISEE's election to renew at least 12 months, but not more than 18 months, prior to the end of the then-current Initial Term or Renewal Term, as the case may be;

2.2.2 FRANCHISEE shall not have any past due monetary obligations or other outstanding obligations to FRANCHISOR and its affiliates, the approved suppliers for the System or the lessor of the Premises;

2.2.3 FRANCHISEE shall not be in default of any provision of this Agreement, or successor hereto, or any other agreement between FRANCHISEE (or any of FRANCHISEE's Owners as defined below) and FRANCHISOR, FRANCHISOR's affiliates, the approved suppliers for the System or the lessor of the Premises; and FRANCHISEE shall have substantially complied with all the terms and conditions of such agreements during the Initial Term or Renewal Term, as applicable;

2.2.4 FRANCHISEE shall execute a general release, in a form prescribed by FRANCHISOR, of any and all claims against FRANCHISOR and its affiliates and subsidiaries, and their respective officers, directors, agents and employees;

2.2.5 FRANCHISEE shall execute the then-current form of franchise agreement offered by FRANCHISOR, which shall supersede this Agreement in all respects, and the terms of which may differ from the terms of this Agreement including requirements to pay a higher percentage royalty fee, a higher Advertising Obligation (defined below) and/or a different Territory;

2.2.6 FRANCHISEE shall comply with the then-current qualification and training requirements of FRANCHISOR and pay any training fees associated with meeting such then-current

qualifications and training requirements;

2.2.7 FRANCHISEE shall make or provide for, in a manner satisfactory to FRANCHISOR, such renovation and modernization of the Premises of the Bakery-Cafe as FRANCHISOR may reasonably require, including installation of new Operating Assets (defined below) and/or renovation of Operating Assets to reflect the then-current standards and image of the System;

2.2.8 FRANCHISEE shall present evidence satisfactory to FRANCHISOR that FRANCHISEE has the right to remain in possession of the Premises for the duration of the Renewal Term;

2.2.9 FRANCHISEE or Owner shall not have committed any act that results in a conviction of an indictable offense or any summary conviction which, in FRANCHISOR's opinion, would affect adversely the good name, goodwill, or reputation of FRANCHISOR, the System, the Proprietary Marks, the Products, the goodwill associated therewith or the interest of FRANCHISOR therein; and

2.2.10 FRANCHISEE shall pay FRANCHISOR a renewal fee in an amount of 50% of FRANCHISOR's then-current initial franchise fee.

An "**Owner**" as used in this Agreement shall mean each of the individuals listed on Exhibit D and each future direct or indirect shareholder, member, general or limited partner or other equity or beneficial owner of FRANCHISEE, each of whom must be listed on Exhibit D.

### **3. DUTIES OF FRANCHISOR**

3.1 FRANCHISOR shall make available standardized design plans and specifications for the Bakery-Cafe. Such standard design plans and specifications shall not contain the requirements of any present or future federal, state or local law, code or regulation, including those concerning the Americans With Disabilities Act ("ADA") or similar rules governing public accommodations for persons with disabilities, nor shall such plans contain the requirements of, or be used for, construction drawings or other documentation as may be necessary to obtain licenses, permits or authorizations to build a Bakery-Cafe. FRANCHISEE shall adapt the standard plans to the Bakery-Cafe's location and all applicable laws, regulations, and ordinances at FRANCHISEE's expense, as provided in Section 5.3 hereof, subject to FRANCHISOR's approval.

3.2 FRANCHISOR shall make available specifications for required fixtures, furniture, furnishings, signs, decor and equipment (including the Computer System (defined below)) (collectively, "**Operating Assets**").

3.3 FRANCHISOR shall provide its initial training for an Owner, a general manager, an assistant manager and kitchen manager of FRANCHISEE ("**TLJ Training**"), as described in Section 6 of this Agreement, for up to five (5) trainees, at no charge to FRANCHISEE. After TLJ Training, FRANCHISOR may require that FRANCHISEE pay FRANCHISOR's then-current training fees for any such training provided by FRANCHISOR. Nothing in this Section 3.3 shall limit or otherwise affect the obligations of FRANCHISEE to satisfy the training requirements set forth in Section 6 below.

3.4 FRANCHISOR may provide such on-site pre-opening and opening supervision and assistance as FRANCHISOR deems advisable.

3.5 FRANCHISOR may make available to FRANCHISEE marketing and promotional materials produced from contributions to the Fund (defined below in Section 13.2) in accordance with Section 13.6 hereof. FRANCHISOR may also make available to FRANCHISEE from time to time, in the discretion of FRANCHISOR, additional marketing materials not produced with contributions from the Fund.

3.6 FRANCHISOR shall provide FRANCHISEE with a copy or electronic access to the Manuals of FRANCHISOR, as more fully described in Section 10 hereof.

3.7 FRANCHISOR may provide to FRANCHISEE, from time to time, as FRANCHISOR deems appropriate, advice and written materials concerning techniques of managing and operating the Bakery-Cafe, including required and suggested inventory and cost control methods, new developments in TOUS LES JOURS Bakery-Cafe equipment, food products packaging and preparation; new developments and improvements in TOUS LES JOURS Bakery-Cafe layout and design, and new developments in products and marketing techniques.

3.8 FRANCHISOR may conduct, as it deems advisable, inspections of the operation of the Bakery-Cafe by FRANCHISEE.

3.9 FRANCHISEE acknowledges and agrees that any duty or obligation imposed on FRANCHISOR by this Agreement may be performed by any affiliate, independent contractor, distributor, designee, employee or agent of FRANCHISOR, as FRANCHISOR may direct.

3.10 FRANCHISOR shall not, by virtue of any acceptance, approval, authorization, advice, forms or services provided to FRANCHISEE, assume responsibility or liability to FRANCHISEE or any third parties to which FRANCHISOR would not otherwise be subject.

#### **4. FEES**

4.1 The initial franchise fee is Forty Thousand Dollars (\$40,000) (the “**Initial Franchise Fee**”) which is due upon execution of this Agreement and paid in consideration for the grant of the franchise. The Initial Franchise Fee, receipt of which is hereby acknowledged, is earned and non-refundable in consideration of administrative and other expenses incurred by FRANCHISOR in entering into this Agreement. Notwithstanding the foregoing, if FRANCHISOR determines in its sole and reasonable discretion that the individuals required under Section 6.1 are unable to satisfactorily complete TLJ Training, FRANCHISOR may terminate this Agreement and retain the Initial Franchise Fee. For multi-unit franchisee, the applicable Franchise Fee for FRANCHISEE’s second through fifth outlets shall be Twenty Thousand Dollars (\$20,000.00) and Ten Thousand Dollars (\$10,000.00) for FRANCHISEE’s sixth outlet and thereafter.

4.2 During the Term, FRANCHISEE shall pay FRANCHISOR a continuing royalty fee in an amount equal to 5% of the Gross Sales (as defined in Section 4.4 below) of the Bakery-Cafe, payable within fourteen (14) days from the date of invoice (“Invoice Date”) (or on such other basis as may be set forth in the Manuals or otherwise agreed to in writing by FRANCHISOR) (hereinafter the “Royalty Fee”). From time to time, FRANCHISOR will designate the Periods for each of FRANCHISOR’s fiscal years during the

Term and FRANCHISOR may change the Periods from year to year.

4.3 In accordance with Section 13.1 below, FRANCHISEE shall make (i) contributions to the Fund payable within fourteen (14) days from the Invoice Date and/or (ii) quarterly expenditures on local advertising and promotion and/or contributions to the Cooperative (defined below) for marketing and promotion based on the Gross Sales of the Bakery-Cafe.

4.4 As used in this Agreement, "Gross Sales" means revenue from the sale of all products and services and all other income, whether for cash or on a charge, credit and debit card, barter or time basis, of every kind and nature related to or derived from the Bakery-Cafe, including Special Events and all products and services sold in, on about or from the Bakery-Cafe, regardless of collection in the case of credit. Gross Sales shall not include (i) any sales taxes or other taxes collected from customers by FRANCHISEE and paid directly to the appropriate taxing authority, (ii) the amount of discounts to customers in the form of coupon sales up to 3% of Gross Sales, provided the related sales have been included in Gross Sales, (iii) returns to shippers or manufacturers, and (iv) proceeds from isolated sales of trade fixtures not constituting any part of Franchisee's products and services offered for resale at the Bakery-Cafe nor having any material effect upon the ongoing operation of the Bakery-Cafe required under this Agreement.

4.5 All payments and contributions due as provided under this Section 4 shall be paid within fourteen (14) days from the Invoice Date, calculated on the Gross Sales for the preceding Period in the manner specified by FRANCHISOR from time to time. All expenditures and contributions due or required each quarter as provided under this Section 4 shall be made within fourteen (14) days from the Invoice Date, calculated on the Gross Sales for the preceding fiscal quarter in the manner specified by FRANCHISOR from time to time. Concurrent with such payments, FRANCHISEE shall submit to FRANCHISOR any reports or statements required under Section 12.3 below. For any payments required under Sections 4 or 13, FRANCHISEE shall, upon request by FRANCHISOR, make each payment in accordance with the procedures and processes specified by FRANCHISOR. As of the date of this Agreement, the payment method designated by FRANCHISOR is by electronic transfer of funds via ACH or other electronic funds transfer, which shall be in place before FRANCHISEE opens for business, and which shall not be cancelable without FRANCHISOR'S permission. FRANCHISEE shall execute FRANCHISOR's current form of "**Authorization Agreement for Prearranged Payments**," a copy of which is attached to this Agreement as Exhibit E, and FRANCHISEE shall comply with the payment and reporting procedures and processes specified by FRANCHISOR in the Manuals. FRANCHISOR reserves the right to change the payment procedures and processes upon notice to FRANCHISEE and FRANCHISEE agrees to immediately comply with any new payment procedures or processes (including executing any new or additional forms which grant FRANCHISOR the right to debit FRANCHISEE's account for payment of royalty fees and contributions to the Fund and other fees or contributions to be paid to FRANCHISOR or required by FRANCHISOR under this Agreement).

4.5.1 Any payment, contribution, statement, or report not actually received by FRANCHISOR on or before the due date shall be overdue. If any contribution or payment is overdue, FRANCHISEE shall pay FRANCHISOR immediately upon demand, in addition to the overdue amount, interest on such amount from the date it was due until paid, at the rate of 1.5% per month, or the maximum rate permitted by law, whichever is less. Entitlement to such interest shall be in addition to any other remedies FRANCHISOR may have. If any payment or contribution submitted by check or draft is returned or dishonored, FRANCHISEE shall pay FRANCHISOR immediately upon demand, in addition to the amount due, an amount to compensate FRANCHISOR for any fees or



charges that FRANCHISOR incurs due to such returned or dishonored check or draft.

4.6 Despite any designation FRANCHISEE makes, FRANCHISOR may apply any of FRANCHISEE's payments to any part of FRANCHISEE's past due indebtedness to FRANCHISOR or FRANCHISOR's affiliates. FRANCHISOR may set off any amounts that FRANCHISEE or FRANCHISEE's Owners owe FRANCHISOR or FRANCHISOR's affiliates against any amounts that FRANCHISOR or FRANCHISOR's affiliates owe FRANCHISEE or FRANCHISEE's Owners. FRANCHISEE's obligations for the full and timely payment of the continuing royalty fee and all other amounts provided for in this Agreement shall be absolute, unconditional and fully earned by FRANCHISOR. FRANCHISEE may not withhold payment of any amounts FRANCHISEE owes FRANCHISOR or FRANCHISOR's affiliates due to FRANCHISOR's alleged nonperformance of any of FRANCHISOR's obligations under this Agreement.

4.7 Acceptance by FRANCHISOR of the payment of any Royalty Fee or any and all other payments provided for in this Agreement shall not be conclusive or binding on FRANCHISOR with respect to the accuracy of such payment until two (2) years after the effective date of expiration, transfer, termination or non-renewal of this Agreement. 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 FRANCHISOR's rights under this Agreement.

## **5. CONSTRUCTION AND OPENING OF TOUS LES JOURS BAKERY-CAFE**

FRANCHISEE understands and acknowledges that every detail of the System is important to FRANCHISEE, FRANCHISOR, and other System Franchisees in order to develop and maintain high operating standards, to increase the demand for the products and services sold by all System Franchisees and to protect FRANCHISOR's reputation and goodwill.

5.1 **FRANCHISOR** shall have the right, in its sole discretion, to require:

5.1.1 FRANCHISEE to execute a Site Location Addendum in the form attached as Exhibit "B" to this Agreement;

5.1.2 FRANCHISEE to include the following provisions in any Site Location retail space lease:

5.1.2.1 Anything contained in this lease to the contrary notwithstanding, Lessor agrees that without its consent, this lease and the right, title and interest of the Lessee hereunder may be assigned by the Lessee to Tous Les Jours International Corp., or its designee.

5.1.2.2 The premises being leased hereunder shall be used solely for the operation of a Bakery-Cafe outlet.

5.1.2.3 Lessee may not sublease or assign all or any part of its occupancy rights, or extend the term or renew the lease, without Franchisor's prior written consent.

5.1.2.4. Lessee agrees that Lessor may, upon the written request of Tous Les Jours International Corp., disclose to Tous Les Jours International Corp. all reports, information or data in Lessor's possession respecting sales made in, upon or from the leased premises.

5.1.2.5 A provision which requires the landlord concurrently to provide FRANCHISOR with a copy of any written notice of breach or default under the lease/sublease sent to FRANCHISEE; and which grants to FRANCHISOR, in its sole discretion, the right (but not the obligation) to cure any breach or default under the lease/sublease, should FRANCHISEE fail to do so, within 15 days after the expiration of the period in which FRANCHISEE may cure the breach or default.

5.1.2.6 A provision that provides that upon FRANCHISEE's default under the lease/sublease or under the Franchise Agreement, FRANCHISOR shall, without the landlord's further consent, have a continuing right of entry into the Premises, the right to operate a Tous Les Jours Bakery-Cafe therein, the right but not the obligation to assume FRANCHISEE's interests under the existing terms, conditions and covenants of the lease/sublease, and should FRANCHISOR assume FRANCHISEE's position under the lease/sublease, the right to assign the lease/sublease or sublet the premises to a third party which will operate a Tous Les Jours Bakery-Cafe on the Premises.

5.2. FRANCHISOR shall have the right to approve the terms of any sublease or lease for the premises of the Bakery-Cafe. If FRANCHISOR cures any default by FRANCHISEE under such lease, the total amount of all costs and payments incurred by FRANCHISOR in effecting such cure shall be immediately due and owing by FRANCHISEE to FRANCHISOR.

5.3 FRANCHISOR shall have the right to designate one or more suppliers of design services and/or architecture services (a "**Required Design Firm**") to supply such services to the System. FRANCHISEE shall provide the layout and dimensions for the site of the Bakery-Cafe to a Required Design Firm in the manner specified in the Manuals or otherwise in writing, which will prepare a standardized design (a "**Preliminary Drawing**") of the Bakery-Cafe using such layout and dimensions. The Required Design Firm shall prepare final plans for construction based upon the Preliminary Drawings and specifications. Such final plans shall be submitted to FRANCHISOR, approval of which may be granted or withheld at FRANCHISOR's sole discretion. Upon FRANCHISOR's approval, the final plans for construction shall not thereafter be materially changed or modified without the prior written permission of FRANCHISOR. FRANCHISEE shall be solely responsible for payments for all design and architecture services and ensuring that the final plans for construction are in strict compliance with all applicable ordinances and laws, building codes, permit requirements, lease or deed requirements and restrictions. FRANCHISEE shall renovate or construct, and equip the Bakery-Cafe according to the final plans for construction, at FRANCHISEE's own expense.

5.4 Before commencing any construction or renovation of the Bakery-Cafe, FRANCHISEE, at its expense, shall comply, to FRANCHISOR's satisfaction, with all of the following requirements:

5.4.1 FRANCHISEE shall employ a qualified general contractor, who is reputable *and* experienced in building units of similar retail concepts, to construct the Bakery-Cafe and to complete all improvements. FRANCHISOR shall have the right, but not the obligation, to designate a single approved contractor or furnish FRANCHISEE with a list of approved contractors for FRANCHISEE to employ in the construction of the Bakery-Cafe. FRANCHISEE acknowledges and agrees that FRANCHISOR is not liable for the unsatisfactory performance of any contractor retained by FRANCHISEE, even if such contractor was designated by FRANCHISOR. Prior to construction, FRANCHISEE shall comply with the insurance requirements described in Section 14;

5.4.2 FRANCHISEE shall use, in the construction and operation of the Bakery-Cafe, only those brands, types or models of construction and Operating Assets that FRANCHISOR has approved for the Bakery-Cafe as meeting its specifications and standards for quality, design, appearance, function and performance. FRANCHISEE shall purchase approved types or models of construction materials and Operating Assets from suppliers approved or designated by FRANCHISOR (which may include FRANCHISOR and/or its affiliates), which approval may not be unreasonably withheld. If FRANCHISEE proposes to purchase any type or model of construction or decorating materials, fixture, equipment, furniture or sign not then approved by FRANCHISOR, and/or any such item from any supplier which is not then approved by FRANCHISOR, FRANCHISEE shall first notify FRANCHISOR in writing and shall submit to FRANCHISOR sufficient specifications, photographs, drawings, and/or other information or samples for a determination by FRANCHISOR of whether such brand or type of construction or decorating material, fixture, equipment, furniture or sign complies with its specifications and standards. FRANCHISOR may, in its sole discretion, refuse to approve any such item(s) and/or supplier(s) that does not meet FRANCHISOR's standards or specifications;

5.4.3 FRANCHISEE shall be responsible for obtaining all zoning classifications and clearances that may be required by state or local laws, ordinances, or regulations or that may be necessary or advisable owing to any restrictive covenants relate to the Bakery-Cafe; and

5.4.4 FRANCHISEE shall, using only FRANCHISEE's legal name, use its best efforts to obtain all permits and certifications required for lawful construction and operation of the Bakery-Cafe, including, without limitation, zoning, access, sign and fire requirements and shall certify in writing to FRANCHISOR that all such permits and certifications have been obtained.

5.5 Recognizing that time is of the essence, FRANCHISEE shall submit to FRANCHISOR for its approval such information and material for the proposed location for the Bakery-Café no later than 180 days from the execution of this Agreement. FRANCHISEE shall commence construction or renovation of the Bakery-Cafe within 90 days after execution of the approved lease/sublease for the Bakery-Cafe or purchase of the site for the Bakery-Cafe or, if FRANCHISEE's right to occupy the Accepted Location begins after the date of execution of the lease, within 30 days after obtaining possession of the Premises. Within 5 days after commencement of construction/renovations, FRANCHISEE shall provide written notice to FRANCHISOR of the date construction/renovation of the Bakery-Cafe commenced and with such notice submit a construction/renovation schedule and proposed opening date, which opening date shall be no more than 180 days from the date of commencement of construction/renovation of the Bakery-Cafe. Unless delayed by the occurrence of events constituting "**force majeure**" as defined in Section 29.4 below, FRANCHISEE shall maintain continuous construction/renovation of the Bakery-Cafe and shall complete construction/renovation, including all exterior and interior carpentry, electrical, painting and finishing work, and installation of all Operating Assets, in accordance with the approved site-adapted plans and specifications, at FRANCHISEE's expense, within 180 days after commencement of construction/renovation. FRANCHISEE further agrees that FRANCHISOR and its agents shall have the right to inspect the construction/renovation at all reasonable times. FRANCHISEE shall obtain all required building, utility, sign, health, sanitation, business, and other permits and licenses for the Bakery-Cafe for the lawful construction and operation of the Bakery-Cafe. Within a reasonable time after the completion of development, FRANCHISEE shall provide to FRANCHISOR a final accounting of all costs of development of the Bakery-Cafe, along with copies of all contracts, lien waivers, other paid receipts and equipment warranties.

5.6 Prior to opening the Bakery-Cafe, FRANCHISEE shall comply with all pre-Opening

requirements set forth in this Agreement, the Manuals and/or elsewhere in writing by FRANCHISOR, including, without limitations, the following: (a) FRANCHISEE and its managers have completed training required hereunder to FRANCHISOR's satisfaction, (b) FRANCHISEE pays the Initial Franchise Fee and all other amounts due to FRANCHISOR under this Agreement and any other related agreements to which FRANCHISEE is a party, (c) FRANCHISOR has been furnished with copies of all insurance policies required under this Agreement, or such other evidence of insurance coverage as FRANCHISOR requests, (d) FRANCHISEE has completed all preparations for the opening of the Bakery-Cafe as reasonably determined by FRANCHISOR, and (e) FRANCHISOR determines that the Bakery-Cafe has been constructed and equipped in accordance with approved plans and specifications. FRANCHISEE shall notify FRANCHISOR in writing of the scheduled opening date of the Bakery-Cafe at least 30 days prior to such date. After completion of construction/renovation, FRANCHISEE shall obtain all permits necessary to commence operation of the Bakery-Cafe and, after obtaining FRANCHISOR's approval in writing for opening, shall open the Bakery-Cafe within 30 days from the date construction/renovation is completed. FRANCHISEE shall not open the Bakery-Cafe for business until FRANCHISOR's written approval to open has been obtained. If FRANCHISEE fails the opening inspection, FRANCHISEE shall reimburse FRANCHISOR for the travel expenses and room and board of representatives of FRANCHISOR for each additional inspection after the first. If FRANCHISOR's approval to open is subject to certain changes being made, the failure to timely make such changes shall cause FRANCHISEE to be in default. FRANCHISEE and FRANCHISOR agree that time is of the essence in the construction/renovation and opening of the Bakery-Cafe. In the event that FRANCHISEE's opening is delayed by a force majeure event, FRANCHISEE's time to open the Bakery-Cafe shall be extended by the shorter of: (a) the delay caused by such event, or (b) 30 days.

5.7 In constructing, renovating and equipping the Bakery-Cafe, FRANCHISEE shall comply with all of the applicable provisions of the ADA and shall not discriminate against anyone on the basis of disability or any other protected class. Prior to opening the Bakery-Cafe and prior to renovating the Bakery-Cafe after the initial opening of the Bakery-Cafe, FRANCHISEE shall execute an ADA Certification in the form attached to this Agreement as Exhibit C that certifies in writing to FRANCHISOR that the Bakery-Cafe and any proposed renovations comply with the ADA. In the event FRANCHISEE receives any complaint, claim or other notice alleging a failure to comply with the ADA, FRANCHISEE shall provide FRANCHISOR with a copy of such notice 5 days after receipt thereof.

5.8 Except as otherwise specifically stated in this Agreement as to be performed by FRANCHISOR, it is FRANCHISEE's responsibility to undertake all actions necessary to acquire, construct/renovate and open the Bakery-Cafe at FRANCHISEE's sole cost and expense, which responsibility includes but is not limited; (a) to identify any potential site to be developed; (b) to negotiate for the acquisition of such site by lease or purchase; (c) to obtain necessary and appropriate governmental approvals; (d) to supervise and monitor the general contractor and the budget for construction/renovation; (e) to obtain financing as needed for acquisition and construction of the Bakery-Cafe and the purchase of all Operating Assets for the Accepted Location; and to construct the Bakery-Cafe at the Accepted Location.

5.9 FRANCHISEE must spend at least Five Thousand Dollars (\$5,000), as FRANCHISOR deems best based on FRANCHISEE's particular market, to advertise and promote the Bakery-Cafe during the 30 days before the Bakery-Cafe opens and the 60 days after the Bakery-Cafe opens in compliance with the Manuals ("**Grand Opening Marketing Program**"). If FRANCHISEE does not comply with the Grand Opening Marketing Program, FRANCHISOR may conduct the Grand Opening Marketing Program for FRANCHISEE, in which case FRANCHISEE must, at FRANCHISOR's request, pay FRANCHISOR the applicable amount.

## **6. TRAINING**

6.1 During the time period prior to the opening of the Bakery-Café, but not less than one week prior thereto, (i) FRANCHISEE (or, if FRANCHISEE is other than an individual, the Designated Owner as defined in Section 19.1 below), (ii) FRANCHISEE's general manager (if FRANCHISEE or an Owner will not be the on-Premises general manager of the Bakery-Cafe on a full-time basis), and (iii) FRANCHISEE's managers or personnel in charge of sales/cashier area, cake, and bakery products, respectively, shall attend and complete to FRANCHISOR's satisfaction the TLJ Training (defined in Section 3.3 above) at FRANCHISOR's location. If FRANCHISEE is an individual who will not manage the Bakery-Cafe personally, FRANCHISOR may require FRANCHISEE to attend and complete to FRANCHISOR's satisfaction, the TLJ Training or some modified initial training as determined by FRANCHISOR. All participants must attend the training together and comply with the training schedule set by FRANCHISOR. During the TLJ Training, FRANCHISEE shall receive instruction, training and education in the operation of the Bakery-Café and indoctrination into the System. The TLJ Training shall not be provided to FRANCHISEE by FRANCHISOR if (i) FRANCHISEE or any affiliate of FRANCHISEE owns or operates a Tous Les Jours Bakery-Café as of the Effective Date and/or has already completed a TLJ Training; (ii) this Agreement is executed as a Renewal Franchise Agreement; or (iii) FRANCHISEE fails to meet all of the pre-opening obligations (including the minimum staffing requirements for the Bakery-Café), in which case FRANCHISEE must satisfy all such pre-opening obligations before being able to schedule the TLJ Training. In FRANCHISOR's discretion, FRANCHISOR may vary the length and content of the TLJ Training based on the experience and skill level for each individual attending the TLJ Training.

6.2 FRANCHISOR may designate employees of FRANCHISEE that must successfully complete designated third-party training programs (including the ServSafe® Food Safety Programs) and obtain certification through such programs, and FRANCHISEE shall make sure the employees designated by FRANCHISOR have training and/or certification designated by FRANCHISOR for such employees' position.

6.3 In addition to pre-opening training, FRANCHISOR may require any persons subsequently employed by FRANCHISEE in the position of general manager, assistant manager or kitchen manager to attend and complete to FRANCHISOR's satisfaction, TLJ Training for such managers, for which training FRANCHISOR may charge FRANCHISEE a fee. FRANCHISEE, and FRANCHISEE's manager and other employees, shall also attend such additional courses, seminars, and other training programs as FRANCHISOR may reasonably require from time to time.

6.4 All training programs conducted by FRANCHISOR shall be at such times and places as may be designated by FRANCHISOR. FRANCHISEE may be required to pay a fee to FRANCHISOR, or to trainers designated by FRANCHISOR, for training courses, seminars and programs provided after the pre-opening training described in Section 6.1. FRANCHISEE or its employees shall be responsible for any and all other expenses incurred by them in connection with TLJ Training and any other training, including the costs of transportation, lodging, meals and wages. Trainees will not receive compensation from FRANCHISOR for work performed during TLJ Training or such other training.

6.5 FRANCHISOR may require FRANCHISEE and/or one or more of the managers of the Bakery-Cafe (designated by FRANCHISOR) to attend refresher, supplemental training programs, conferences, or conventions which may be offered by FRANCHISOR from time to time and any training programs and

workshops offered at such additional training programs, conferences or conventions. FRANCHISEE will be responsible for the travel and living expenses of such persons, and FRANCHISOR reserves the right to charge its then-current tuition rates and reasonable fees to cover the costs and expenses for such additional training, conferences or conventions.

6.6 FRANCHISEE shall be responsible, at its own expense for identifying and obtaining any and all training, licensing, or other professional or non-professional designations required by all applicable laws, regulations or ordinances. FRANCHISEE shall indemnify FRANCHISOR for any and all liability of FRANCHISOR for any loss, cost, or damage incurred by FRANCHISOR for FRANCHISEE's breach under this provision.

6.7 FRANCHISEE acknowledges and agrees that FRANCHISOR may provide any or all portions of the TLJ Training and any additional or supplemental training programs, onsite opening assistance, consultations and/or post-opening inspections remotely over a virtual communication platform designated by FRANCHISOR.

## **7. DUTIES OF FRANCHISEE**

7.1 FRANCHISEE understands and acknowledges that every detail of the System and this Agreement is important to FRANCHISEE, FRANCHISOR, and other System Franchisees in order to develop and maintain high operating, quality and service standards, to increase the demand for the products sold under the System, to protect Tous Les Jours Bakery-Cafes operating under the System and to protect the reputation and goodwill of FRANCHISOR. At all times, FRANCHISEE shall operate the Bakery-Cafe in strict conformity with the System Standards as FRANCHISOR periodically issues, modifies, and supplements them in the Manuals or otherwise in writing or another tangible form (for example, via intranet, Extranet, or Website), even if FRANCHISEE believes that a standard of the System, as originally issued or subsequently modified, is not in the System's or the Franchised Business's best interests and shall refrain from deviating from the System Standards without the prior written consent of FRANCHISOR.

7.2 FRANCHISEE shall use the Premises solely for the operation of the Bakery-Cafe; shall keep the Bakery-Cafe open and in normal operation for such minimum and maximum hours and days as FRANCHISOR may specify from time to time; shall only use the Premises for authorized purposes and activities; and shall refrain from using or permitting the use of the Premises for any unauthorized or unlawful purpose or activity. As described in Section 1.4 above, FRANCHISEE may engage in Special Events within the Territory, but only in accordance with the terms and conditions stated in this Agreement and in the Manuals, including without limitation guidelines and requirements relating to insurance coverage and vehicle use for Special Events activities.

7.3 FRANCHISEE shall purchase and install all Operating Assets and maintain in sufficient supply supplies and materials, as FRANCHISOR may prescribe in the Manuals or otherwise in writing. FRANCHISEE shall refrain from deviating therefrom by the use of any nonapproved item without the prior written consent of FRANCHISOR.

7.4 In no way limiting Section 7.3 above, FRANCHISEE shall not install or permit to be installed any vending machine, game, or coin, card or electronic operated device, automated teller machine, computer for public use, or other device for customer use, unless specifically approved in writing, in advance, by FRANCHISOR.

7.5 To maintain the high standards of quality and uniformity associated with the System, FRANCHISEE shall offer and sell only Products that FRANCHISOR specifies from time to time, unless otherwise approved in writing by FRANCHISOR; and FRANCHISEE shall offer and sell all Products as FRANCHISOR may specify from time to time as required offerings at the Bakery-Cafe. FRANCHISEE is prohibited from offering or selling any products or services at or from the Bakery-Cafe that have not previously been authorized by FRANCHISOR. If FRANCHISEE wishes to offer or sell any products or services that have not previously been authorized by FRANCHISOR, FRANCHISEE must first make a written request to FRANCHISOR, requesting authorization to offer or sell such services or products. FRANCHISOR may deny such approval for any reason. In connection with such request for approval, FRANCHISEE must submit to FRANCHISOR such information and samples as FRANCHISOR desires. FRANCHISEE agrees to pay to FRANCHISOR such amount as is necessary to cover FRANCHISOR's costs of reviewing and evaluating such requests for approval submitted by FRANCHISEE.

7.6 FRANCHISEE must comply with FRANCHISOR's System Standards and specifications relating to the purchase of any products and services used or offered for sale at the Bakery-Café. FRANCHISEE acknowledges that (i) the TM Products offered and sold under the System are prepared from proprietary recipes developed by and, in some cases, exclusively for FRANCHISOR; (ii) the TM Products are unique and their formulae and manufacturing processes constitute trade secrets essential to the success of the System; (iii) the TM Products may include items and clothing bearing the Proprietary Marks, and (iv) FRANCHISEE has entered into this Agreement in order to, among other things, obtain the right to offer and sell the TM Products. In order to protect the interest of FRANCHISOR in the TM Products and to *ensure* the quality, uniformity, and distinctiveness of the TM Products, FRANCHISEE agrees to purchase, solely from FRANCHISOR or suppliers designated by FRANCHISOR, all of the TM Products in accordance with the ordering format and procedures directed by FRANCHISOR and at the prices and on delivery terms and other terms in accordance with the System Standards, all of which may be modified from time to time at FRANCHISOR's discretion. FRANCHISOR, in its sole and absolute discretion, may establish the credit terms, if any, upon which it will accept FRANCHISEE's orders, and may require FRANCHISEE to pay for orders on a cash-in-advance or cash-on-delivery basis. On the expiration or termination of this Agreement, or in the event of any default by FRANCHISEE under this Agreement, FRANCHISOR shall not be obliged to fill or ship any orders then pending or, in the case of termination or non-renewal, made any time thereafter by FRANCHISEE and may, among other things, only deliver the quantities reasonably necessary to supply FRANCHISEE's needs prior to the expiration or termination of this Agreement. FRANCHISEE acknowledges that the requirements of this Section 7.6 are in addition to the requirements of Section 7.7 below, which apply, generally, to Products.

To the fullest extent allowed by applicable law, FRANCHISEE may be required to purchase only from FRANCHISOR or its designee certain packaging supplies, paper goods and other product service items for the preparation and service of the Products which bear any of the Proprietary Marks (“**Branded Products**”) and/or Proprietary Operating Assets, comprised of certain kitchen equipment and instruments which are proprietary in nature and unique to the Bakery-Cafe, that are specified by FRANCHISOR from time to time.

FRANCHISEE acknowledges and agrees that in purchasing or leasing supplies, equipment, Products, Operating Assets and/or any other materials from FRANCHISOR or from suppliers designated by FRANCHISOR, **FRANCHISOR EXPRESSLY DISCLAIMS ANY WARRANTIES, CONDITIONS OR REPRESENTATIONS AS TO THE CONDITION OF THE SAME, INCLUDING WITHOUT LIMITATION, EXPRESS OR IMPLIED WARRANTIES AS TO**

**MERCHANTABILITY OR FITNESS FOR ANY INTENDED PURPOSE AND/OR NON-INFRINGEMENT. FRANCHISEE AGREES TO LOOK SOLELY TO THE MANUFACTURER OR SUPPLIER OF THE SAME FOR ANY REMEDY OR LIABILITY IN THE EVENT OF ANY DEFECTS THEREIN.**

7.7 In no way limiting the terms of Section 7.6, all Products sold or offered for sale at the Bakery-Cafe shall meet the System Standards, as established in the Manuals or otherwise in writing, and in accordance with Section 7.8 below. FRANCHISEE further agrees:

7.7.1 Not to sell or otherwise market the Products for subsequent resale unless approved in writing by FRANCHISOR;

7.7.2 To handle and store the Products solely in the manner directed by FRANCHISOR in the Manuals or otherwise in writing; and

7.7.3 Not to sell, offer for sale or sample, and to destroy immediately in accordance with procedures set forth in the Manuals, any Product that it knows, or should know through the exercise of reasonable care, to be adulterated, tainted, contaminated, spoiled, unsafe or otherwise unfit for human consumption.

7.8 FRANCHISEE agrees that FRANCHISOR reserves the right, to the fullest extent allowed by applicable law, to establish maximum, minimum or other pricing requirements with respect to the prices FRANCHISEE may charge for the Products offered and sold under this Agreement.

7.9 FRANCHISOR and/or its designated distributor/supplier shall make reasonable efforts to provide the TM Products. If FRANCHISOR is the direct source of the TM Products and FRANCHISOR is unable to provide the TM Products to all of its customers, FRANCHISOR shall provide the TM Products first to distributors/suppliers, on a pro-rata basis, and request the distributors/suppliers to provide the TM Products to System Franchisees first, on a pro-rata basis. FRANCHISOR and its designated distributors/suppliers shall not be liable to FRANCHISEE, or be in default of this Agreement, for any delay of delivery of the TM Products supplied by FRANCHISOR and/or its designated distributors/suppliers to FRANCHISEE resulting from any cause beyond the control of FRANCHISOR and/or its designated distributors/suppliers, including weather conditions and the occurrence of events constituting "force majeure" as set forth in Section 29.4 below.

7.10 To ensure the efficient management and operation of the Bakery-Cafe, the processing of gift, loyalty and/or similar card programs, and the transmission of data to and from FRANCHISOR, FRANCHISEE, at FRANCHISEE's expense, shall (i) purchase or lease, and thereafter maintain, such computer and communication hardware and point-of-sale system hardware, required dedicated telephone, broadband and/or other internet and communication access services and power lines, modems, printers, facsimile, and other computer-related accessories or peripheral equipment as FRANCHISOR specifies in the Manuals or otherwise in writing and (ii) acquire computer and communication software as FRANCHISOR specifies in the Manuals or otherwise in writing from FRANCHISOR or, if any, approved suppliers or vendors (collectively, the "**Computer System**"). FRANCHISEE acknowledges that FRANCHISOR shall have no liability to FRANCHISEE in connection with any Computer System problems, including problems caused by any approved supplier of any Computer System. Additionally, FRANCHISOR has established and may establish other Websites, including a Website providing private and secure communications between FRANCHISOR, FRANCHISEE, System Franchisees, licensees and other persons and entities as determined by FRANCHISOR, in its sole discretion ("**Extranet**"). FRANCHISEE agrees to the following:

7.10.1 FRANCHISEE's Computer System shall have the capacity to electronically



exchange information, messages and other data with other computers, by such means (including but not limited to the Internet and the Extranet), and using such protocols (e.g., TCP/IP), as FRANCHISOR may reasonably prescribe in the Manuals or otherwise in writing. FRANCHISEE shall maintain at all times, access to the Extranet in the manner specified by FRANCHISOR in the Manuals or otherwise in writing. If required by FRANCHISOR, FRANCHISEE shall from time to time execute such agreements or acknowledge such policies as FRANCHISOR may prepare to set forth the terms of use for the Extranet, and FRANCHISEE agrees at all times to comply;

7.10.2 FRANCHISEE will provide FRANCHISOR with unimpeded access to the Computer System. FRANCHISOR shall have the right from time to time (including on a daily basis), and at any time, to retrieve data and information relating to the operations of the Bakery-Cafe from FRANCHISEE's Computer System, by modem or other requested means, and use it for any reasonable business purpose both during and after the Term of this Agreement. FRANCHISOR may, from time to time, specify in the Manuals or otherwise in writing the information that FRANCHISEE shall collect and maintain on the Computer System installed at the Bakery-Cafe, and FRANCHISEE shall provide to FRANCHISOR such reports as FRANCHISOR may reasonably request from the data so collected and maintained, which shall be in the form and format prescribed or approved by FRANCHISOR;

7.10.3 FRANCHISEE shall keep its Computer System in good maintenance and repair and, at its expense, shall promptly install such additions, changes, updates, upgrades, modifications, substitutions and/or replacements to the Computer System, telephone and power lines and other computer-related facilities, as FRANCHISOR directs. FRANCHISEE shall have the sole and complete responsibility for: (a) acquiring, operating, maintaining and upgrading its Computer System; (b) the manner in which FRANCHISEE's Computer System interfaces with FRANCHISOR's computer systems and the computer systems of third parties; and (c) any and all consequences that may arise if FRANCHISEE's Computer System is not properly operated, maintained or upgraded;

7.10.4 FRANCHISOR may from time to time develop or authorize others to develop software programs for use in the System, which FRANCHISEE may be required to purchase and/or license, and use, in connection with the Bakery-Cafe and for which FRANCHISEE may be required to execute a license, sublicense or maintenance agreement with FRANCHISOR or the approved vendor;

7.10.5 FRANCHISEE shall abide by all applicable laws pertaining to the privacy of consumers, employees, and transactional information ("Privacy Laws"). FRANCHISEE shall also comply with any System Standards established by FRANCHISOR pertaining to personal information. In the event of any conflict between standards of FRANCHISOR related to personal information and the Privacy Laws, FRANCHISEE shall (i) comply with the Privacy Laws, (ii) immediately give FRANCHISOR written notice of said conflict, and (iii) promptly and fully cooperate with FRANCHISOR and its counsel in determining the most effective way, if any, to meet FRANCHISOR's standards pertaining to personal information; and

7.10.6 FRANCHISEE shall comply with the System Standards developed by FRANCHISOR for the System, in the manner directed by FRANCHISOR in the Manuals or otherwise, with regard to FRANCHISOR's authorization to use, and use of, blogs, common social networks (including "Facebook" and "Instagram"), professional networks (including "LinkedIn"), live blogging tools (including "Twitter"), virtual worlds, file, audio and video sharing sites (including "YouTube") and other similar social networking media or tools (collectively, "Social Media") that in any way references the Proprietary Marks or involves the System or Bakery-Cafe.

7.11 At the time the Bakery-Cafe opens, FRANCHISEE shall stock and display the initial inventory of Products and supplies prescribed by FRANCHISOR in the Manuals or otherwise in writing. Thereafter, FRANCHISEE shall stock and maintain all types of approved Products in quantities sufficient

to meet reasonably anticipated customer demand.

7.12 FRANCHISEE shall permit FRANCHISOR and its agents (and FRANCHISOR and its agents shall have the right) to enter upon the Premises, with or without notice to FRANCHISEE at any time during normal business hours for the purpose of conducting inspections of the Premises, books, records, business, operations and/or accounts of FRANCHISEE; FRANCHISEE shall permit FRANCHISOR and its agents to obtain and take samples of ingredients, products and supplies, free of charge, for testing by FRANCHISOR in order to assure that FRANCHISEE complies with the System Standards; FRANCHISEE shall cooperate with representatives of FRANCHISOR in such inspections by rendering such assistance as they may reasonably request; and, upon notice from FRANCHISOR or its agents, and without limiting other rights of FRANCHISOR under this Agreement, shall take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection. During the course of any inspection, FRANCHISOR and/or its agent may photograph or videotape any part of the Bakery-Cafe, whether or not FRANCHISEE is present. If FRANCHISOR determines, based on unsatisfactory findings of an inspection, that a re-inspection is required, FRANCHISEE shall reimburse FRANCHISOR for the travel expenses and room and board of FRANCHISOR's representatives for subsequent inspections to ensure all deficiencies have been corrected. Should FRANCHISEE, for any reason, fail to correct such deficiencies within a reasonable time as determined by FRANCHISOR, FRANCHISOR shall have the right, but not the obligation, to correct any deficiencies which may be susceptible to correction by FRANCHISOR and to charge FRANCHISEE the actual expenses of FRANCHISOR in so acting, payable by FRANCHISEE upon demand. FRANCHISEE agrees to present to customers of the Bakery-Cafe any evaluation forms that FRANCHISOR periodically prescribes and to participate and/or request that customers of the Bakery-Cafe participate in any surveys performed by or for FRANCHISOR. FRANCHISOR shall provide FRANCHISEE with the results of such surveys upon request. The foregoing shall be in addition to such other remedies FRANCHISOR may have.

7.13 Subject to any applicable laws or landlord restrictions, FRANCHISEE shall ensure that all marketing and promotional materials, signs, decorations, paper goods (including disposable food containers, napkins and all forms and stationery used in the Bakery-Cafe), Products and other items specified by FRANCHISOR bear the Proprietary Marks in the form, color, location and manner prescribed by FRANCHISOR. FRANCHISEE shall place and illuminate all signs in accordance with the specifications of FRANCHISOR.

7.14 FRANCHISEE shall participate in national, regional, or local promotional programs developed by FRANCHISOR for the System, in the manner directed by FRANCHISOR in the Manuals or otherwise in writing. FRANCHISOR shall have the right to require FRANCHISEE to sell or otherwise issue gift cards or certificates (together "**Gift Cards**") that have been prepared utilizing the standard form of Gift Card provided or designated by FRANCHISOR. Gift Cards shall be prepared only in the manner specified by FRANCHISOR in the Manuals or otherwise in writing by FRANCHISOR. FRANCHISEE shall fully honor all Gift Cards that are in the form provided or approved by FRANCHISOR regardless of whether a Gift Card was issued by FRANCHISOR, FRANCHISEE or other System Franchisees. FRANCHISEE shall sell, issue and redeem Gift Cards in accordance with procedures and policies specified by FRANCHISOR in the Manuals or otherwise in writing, including those relating to procedures by which FRANCHISEE shall request reimbursement for Gift Cards issued by other Tous Les Jours Bakery-Cafes and for making timely payment to FRANCHISOR or other System Franchisees of Tous Les Jours Bakery-Cafes for Gift Cards issued from the Bakery-Cafe that are honored by FRANCHISOR or other System Franchisees.

7.15 At all times, FRANCHISEE shall maintain the Premises (including adjacent public areas) and all fixtures, furnishings, signs and equipment in the highest degree of cleanliness, orderliness,

sanitation and repair, as determined by FRANCHISOR; and, in connection therewith, FRANCHISEE shall, at its expense, make such repairs and replacements thereto (but no others without prior written consent of FRANCHISOR) as may be required for that purpose, including such periodic repainting or replacement of obsolete Operating Assets as FRANCHISOR may reasonably direct. Any replacement, reconstruction, addition or modification to the Bakery-Cafe must be approved by FRANCHISOR and comply with the specifications of FRANCHISOR.

7.16 FRANCHISEE acknowledges and agrees that it is in FRANCHISEE's best interest, and in the best interests of the System, that the Bakery-Café be clean, up-to-date, well-maintained and well-appointed. Therefore, FRANCHISEE acknowledges and agrees that FRANCHISEE will, at FRANCHISOR's request, remodel and refurbish the Bakery-Café periodically. At the request of FRANCHISOR, but not more often than once every 5 years, unless sooner required by FRANCHISEE's lease, FRANCHISEE shall refurbish the Premises, at its expense, to conform to the Bakery-Cafe design, trade dress, color schemes and presentation of the Proprietary Marks in a manner consistent with the then-current image for new Tous Les Jours Bakery-Cafes. Such refurbishment may include structural changes, installation of new Operating Assets, remodeling, redecoration and modifications to existing improvements. The time limitations of this Section 7.16 shall not apply to renovations, refurbishment, and modernization required pursuant to (i) Section 2.2.7 relating to the renewal of franchise rights; (ii) Section 15.3.11 relating to transfers under this Agreement, and (iii) expenses related to repairs and replacement of Operating Assets and other items to operate the Bakery-Cafe in compliance with this Agreement and the Manuals.

7.17 The Bakery-Cafe shall be under the direct supervision of FRANCHISEE or a general manager of FRANCHISEE who has satisfactorily completed TLJ Training. FRANCHISEE shall not commence operation of the Bakery-Café until the TLJ Training has been completed. FRANCHISEE shall pay all transportation costs, food, lodging and similar costs incurred by FRANCHISEE for its general manager and other employees who attend the TLJ Training, for FRANCHISOR, in the event FRANCHISOR's trainer travels to provide the TLJ Training. FRANCHISEE acknowledges that because of FRANCHISOR's superior skill and knowledge with respect to the training and skill required to manage a Tous Les Jours Bakery-Café, FRANCHISOR, in its sole discretion, shall determine if FRANCHISEE or its general manager has satisfactorily completed the TLJ Training. Any general manager of FRANCHISEE must be approved by FRANCHISOR and possess the experience and credentials that FRANCHISOR requires. FRANCHISEE will inform FRANCHISOR in writing as to the identity of any general manager, including all additions to and successors. FRANCHISEE shall maintain a competent, conscientious, trained staff, including a fully-trained general manager (who may be FRANCHISEE). FRANCHISEE shall take such steps as are necessary to ensure that its employees preserve good customer relations; render competent, prompt, courteous and knowledgeable service; and meet such minimum standards as FRANCHISOR may establish from time to time in the Manuals. FRANCHISEE and its employees shall handle all customer complaints, refunds, returns and other adjustments in a manner that will not detract from the name and goodwill of FRANCHISOR. FRANCHISEE will use the system designed by FRANCHISOR for training employees.

7.18 FRANCHISEE shall not implement any change to the System (including, without limitation, the use of any products, services or supplies not already approved by FRANCHISOR) without the prior written consent of FRANCHISOR. Without limiting any other provisions in this Agreement, FRANCHISOR has the perpetual and exclusive (i) right of ownership and use and (ii) authority to license, all ideas, plans, innovation, enhancement, improvements, invention, concepts, formulas, recipes, methods and techniques relating to the development or operation of a TOUS LES JOURS Bakery-Cafe or any similar business conceived or developed by FRANCHISEE or FRANCHISEE's employees during the Term (collectively, "**Innovations**"). FRANCHISEE hereby waives, and ensure that any individual involved in the creation of the Innovations waives, all author's and moral rights. FRANCHISOR shall have all right, title and interest in any Innovations, without compensation to FRANCHISEE, and FRANCHISEE shall have no right, title or interest whatsoever in any and all Innovations. FRANCHISEE will immediately disclose to

FRANCHISOR any Innovations. If FRANCHISOR, at FRANCHISOR's sole discretion and expense, elects to file a copyright, domain name registration or similar protection relating to any such Innovations, FRANCHISEE will execute such documents and provide FRANCHISOR with such information as FRANCHISOR may reasonably request in order to perfect such a filing. FRANCHISOR shall not be obligated to approve or accept any request to implement any Innovation. FRANCHISOR may from time to time revoke its approval of any particular change or amendment to the System. Upon receipt of written notice of such revocation, FRANCHISEE shall, at its expense, modify its activities in the manner described by FRANCHISOR.

7.19 FRANCHISEE shall comply with all terms of its lease or sublease, its financing agreements (if any) and all other agreements affecting the operation of the Bakery-Cafe; shall undertake best efforts to maintain a good and positive working relationship with its landlord and/or lessor; and shall not engage in any activity which may jeopardize FRANCHISEE's right to remain in possession of, or to renew the lease or sublease for, the Premises.

7.20 FRANCHISEE must at all times pay its distributors, contractors, suppliers, trade creditors, employees and other creditors promptly as the debts and obligations to such persons become due, and failure to do so shall constitute a breach of this Agreement.

7.21 FRANCHISEE understands and agrees that the operation of the Bakery-Café, maintenance of its Premises and Operating Assets, conduct and appearance of its Personnel, and the preparation and sale of Products therefrom are all regulated by governmental statutes and regulations. To this end, FRANCHISEE owes an obligation to the patrons of FRANCHISEE's Bakery-Café, FRANCHISOR, and to its customers, to fully and faithfully comply with all those applicable governing authorities. FRANCHISEE shall meet and maintain, at all times during the Term of this Agreement, at FRANCHISEE's sole cost, the highest grade (90% or above or comparative) of health and safety standards set by all applicable governing authorities and the highest standards of cleanliness, health and sanitation to the Franchised Business, as FRANCHISOR may reasonably require. If any Product dispensed at FRANCHISEE's Bakery-Café evidences adulteration from the standards of FRANCHISOR's Products, or is in violation of applicable laws, ordinances or regulations, or in the event the Products, Premises, Operating Assets, Personnel or operation of the Bakery-Café fail to be maintained in accordance with the governmental requirements referred to above, FRANCHISEE shall immediately notify FRANCHISOR and provide all relevant information requested by FRANCHISOR, close the Bakery-Café, terminate selling operations at the Bakery-Café, destroy all contaminated or adulterated products and eliminate the source thereof, and remedy all unsanitary conditions present, reopening for business only after FRANCHISOR's inspection and provided that laboratory analysis from samples obtained for that purpose by FRANCHISOR evidence a compliance with the applicable governmental requirements and with the standards of FRANCHISOR. If FRANCHISEE passes the minimum health, sanitation or safety standards required by the applicable governing authorities but fails to meet the highest grade available, then FRANCHISEE shall immediately notify FRANCHISOR and provide all relevant information, and remedy all unsatisfactory conditions present within 24 hours after notice to obtain the highest grade of health, sanitation or safety standards available by the applicable governing authorities. If FRANCHISEE or any of FRANCHISEE's agents or employees fails or refuses to comply with all of the above remedial measures or in the event of any repetition of any adulteration or palming off or failure of sanitation in the Bakery-Café:

7.21.1 FRANCHISEE shall pay the costs and expenses, including attorneys' fees, of both parties, incurred in enforcing the provisions of this Subsection or any provision of this Agreement in obtaining FRANCHISEE's compliance with the Agreement. The remedies set forth in this paragraph are in addition to and not in substitution for those set forth in Section 16 of this Franchise Agreement.

7.21.2 In furtherance of the foregoing, FRANCHISEE must submit copies of all health,

sanitation or other regulatory agency inspection reports to FRANCHISOR immediately upon receipt thereof. FRANCHISEE must also report to FRANCHISOR, within 48 hours of any inspections by applicable health, sanitation or other regulatory government agencies, any and all actions taken by FRANCHISEE pursuant to such inspections by applicable health, sanitation or other regulatory agencies.

7.22 FRANCHISEE shall notify FRANCHISOR in writing within 5 days of the commencement of any suit to foreclose any lien or mortgage, or any action, application, suit, or proceeding, and of the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, including health agencies, which (i) relates to the operation of the Bakery-Cafe, (ii) may adversely affect the operation or financial condition of the Bakery-Cafe, or (iii) may adversely affect FRANCHISEE's financial condition.

7.23 FRANCHISEE shall not relocate the Bakery-Cafe from the Accepted Location without the prior written approval of FRANCHISOR. If FRANCHISEE desires to relocate the Bakery-Cafe, FRANCHISEE shall submit such materials and information as FRANCHISOR may request for the evaluation of the requested plan of relocation. FRANCHISOR may, in its sole discretion, require any or all of the following as conditions of its approval for relocation: (i) FRANCHISEE must not be in default under any provision of this Agreement or any other agreement between FRANCHISEE and FRANCHISOR; (ii) the proposed substitute location must meet FRANCHISOR's then-current standards for Tous Les Jours Bakery-Cafes; (iii) FRANCHISEE must possess the financial resources to meet the costs associated with relocating; (iv) FRANCHISEE must enter into FRANCHISOR's then-current form of Franchise Agreement (which shall replace this Agreement) for the remainder of the term of the franchise granted hereunder, provided that FRANCHISEE shall not be required to pay an initial fee; and (v) FRANCHISEE must pay a relocation fee of Ten Thousand Dollars (\$10,000). If, through no fault of FRANCHISEE, the Premises are damaged or destroyed by an event such that repairs or reconstruction cannot be completed within 60 days thereafter, then FRANCHISEE shall have 45 days after such event in which to apply for approval by FRANCHISOR to relocate and/or reconstruct the Premises at FRANCHISEE's expense, which approval shall not be unreasonably withheld and, in such event, the relocation fee described above will not be required.

In the event of a relocation of the Bakery-Cafe, FRANCHISEE shall promptly remove from the first Bakery-Cafe premises, and discontinue using for any purposes, any and all signs, fixtures, furniture, posters, furnishings, equipment, menus, advertising materials, stationery supplies, forms and other article which display any of the Proprietary Marks or any distinctive features or designs associated with Tous Les Jours Bakery-Cafes. Furthermore, FRANCHISEE shall, at FRANCHISEE's expense, immediately make such changes, modifications or alterations as may be necessary to distinguish the first location clearly from its former appearance and from other Tous Les Jours Bakery-Cafe outlets and to prevent any possibility of confusion of the first location with a Tous Les Jours Bakery-Cafe outlet by the public (including, without limitation, removal of all distinctive physical and structural features identifying Tous Les Jours Bakery-Cafe outlets and removal of all distinctive signs and emblems). FRANCHISEE shall, at FRANCHISEE's expense, make such specific additional changes as FRANCHISOR may reasonably request for this purpose. If FRANCHISEE fails to initiate immediately or complete such alterations within such period of time as FRANCHISOR deems appropriate, FRANCHISEE agrees that FRANCHISOR or its designated agents may enter the premises of the first location and adjacent areas at any time to make such alterations, at FRANCHISEE's sole risk and expense, without responsibility for any actual or consequential damages to the property of FRANCHISEE or others, and without liability for trespass or other tort or criminal act. FRANCHISEE expressly acknowledges that FRANCHISEE's failure to make such alterations will cause irreparable injury to FRANCHISOR, and consents to entry, at FRANCHISEE's expense, of an ex-parte order by a court of competent jurisdiction authorizing

FRANCHISOR or its agents to take such action, if FRANCHISOR seeks such an order. Compliance with the foregoing shall be a condition subsequent to FRANCHISOR's approval of any relocation request by FRANCHISEE, and in the event complete de-identification of the first outlet premises is not promptly and completely undertaken, FRANCHISOR may then revoke its permission for relocation and declare a default under this Agreement pursuant to Article 16 below.

7.24 FRANCHISEE acknowledges and agrees that from time to time hereafter FRANCHISOR may change or modify the System as FRANCHISOR deems appropriate, including without limitation to reflect the changing market and to meet new and changing consumer demands, and that variations and additions to the System may be required from time to time to preserve and enhance the public image of the System and operations of Tous Les Jours Bakery-Cafes. FRANCHISOR's changes to the System may include, without limitation, the adoption and use of new or modified products, services, and Operating Assets and new System Standards, and (as described in Section 8 below) trademarks, service marks and copyrighted materials. FRANCHISEE shall, upon reasonable notice, accept, implement, use and display in the operation of the Bakery-Cafe any such changes in the System, as if they were part of this Agreement at the time of execution hereof, at FRANCHISEE's sole expense. Additionally, FRANCHISOR reserves the right, in its sole discretion, to vary the System Standards throughout the System, as well as the services and assistance that FRANCHISOR may provide to some System Franchisees based upon the peculiarities of a particular site or circumstance, existing business practices or other factors that FRANCHISOR deems to be important to the operation of any Tous Les Jours Bakery-Cafe or the System. FRANCHISEE shall have no recourse against FRANCHISOR on account of any variation to any System Franchisee and shall not be entitled to require FRANCHISOR to provide FRANCHISEE with a like or similar variation hereunder.

7.25 FRANCHISEE acknowledges and agrees that FRANCHISOR will own all rights to and interest in each telephone number and telephone directory listing used by FRANCHISEE that is associated in any manner with FRANCHISEE's Bakery-Cafe and/or with any Proprietary Mark ("**Telephone Listing**"). FRANCHISEE acknowledges and agrees that all goodwill arising from or in connection with the use of each Telephone Listing will inure to FRANCHISOR's benefit. Promptly after the expiration, transfer or termination of the franchise, and at FRANCHISEE's own expense, FRANCHISEE will notify all telephone companies with whom FRANCHISEE has any Telephone Listing and direct them to transfer the Telephone Listing to FRANCHISOR or to any person(s) FRANCHISOR designates, and FRANCHISEE will execute any and all documents necessary to complete these transfer(s). Upon the execution of this Agreement, FRANCHISEE will sign a telephone transfer consent and authorization, in a form substantially similar to Exhibit F, granting FRANCHISOR the authority to change, transfer or terminate FRANCHISEE's Telephone Listing(s) on FRANCHISEE's behalf. FRANCHISOR will use this authorization only if FRANCHISEE does not comply fully with this Section 7.25 after the expiration, termination or transfer of the franchise.

7.26 FRANCHISEE must, in accordance with Franchisor's standards and to the extent FRANCHISOR designates from time to time, recruit, train and develop all employees, independent contractors, and any other personnel or staff as may be needed ("**Personnel**"). When hiring Personnel, FRANCHISEE shall use its best efforts to hire qualified and competent employees. FRANCHISEE is responsible for making sure all Personnel are capable of performing their duties in accordance with the System Standards. FRANCHISEE is solely responsible for the supervision of its Personnel and setting the schedule thereof. FRANCHISEE will decide the compensation to be paid to its Personnel. FRANCHISOR will not be responsible for payment of any compensation, salaries, benefits and employment-related liabilities to FRANCHISEE or its Personnel. FRANCHISEE is solely responsible for all hiring and firing decisions as well as all training, establishing remuneration, compliance with

wage and hour requirements, personnel policies, benefits, recordkeeping, task assignment, supervision and discipline of employees regardless of whether FRANCHISEE has received advice from FRANCHISOR on these subjects or not. Further, FRANCHISEE hereby acknowledge and agree that:

7.26.1 FRANCHISEE's employees are employed exclusively by FRANCHISEE and are not employed, jointly employed or co-employed by FRANCHISOR and FRANCHISEE must inform its employees verbally and on all written documentation outlining such employment (including any employee handbooks) that FRANCHISEE is the employer of such employees and that FRANCHISOR is not the employer of FRANCHISEE's employees.

7.26.2 Each of FRANCHISEE's employees are under the exclusive dominion and control of it and never under the direct or indirect control of FRANCHISOR in any fashion whatsoever.

7.26.3 FRANCHISEE must comply with FRANCHISOR's minimum staffing requirements as established and modified from time to time by FRANCHISOR. Any minimum staffing requirements established by FRANCHISOR is solely for the purpose of ensuring that the Bakery-Café is at all times staffed at those levels necessary to operate it in conformity with the System and the Products, services, standards of quality and efficiency, and other Tous Les Jours brand attributes known to and desired by the consuming public and associated with the Proprietary Marks.

7.26.4 FRANCHISEE may staff the Bakery-Café with as many employees as it desires at any time so long as our minimal staffing levels are achieved.

7.26.5 Any recommendations FRANCHISEE may receive from FRANCHISOR regarding salaries, hourly wages or other compensation for employees are recommendations only, designed to assist FRANCHISEE to efficiently operate the Bakery-Café, and that FRANCHISEE is entirely free to disregard such recommendations regarding such employee compensation.

7.26.6 Any training provided by FRANCHISOR for FRANCHISEE's employees is geared to impart to those employees, with its ultimate authority, the various procedures, protocols, systems and operations of a Bakery-Café and in no fashion reflects any employment relationship between the FRANCHISOR and FRANCHISEE's employees.

7.26.7 FRANCHISEE shall require all personnel employed by FRANCHISEE to wear standard related uniforms and attire during business hours in order to further enhance FRANCHISOR's product and format. FRANCHISEE shall be permitted to purchase such uniforms and attire from manufacturers or distributors approved by FRANCHISOR, which uniforms and attire must be in strict accord with FRANCHISOR's design and other specifications.

7.26.8 Should a third party ever assert that FRANCHISOR is the employer, joint employer or co-employer of any of FRANCHISEE's employees in any private or government investigation, action, proceeding, arbitration or other setting, FRANCHISEE agrees to assist FRANCHISOR in defending said allegation, including (if necessary) appearing at any venue to testify on FRANCHISOR's behalf (and, as may be necessary, submitting FRANCHISEE to depositions, other appearances and/or preparing affidavits dismissive of any allegation that we are the employer, joint employer or co-employer of any of your employees). To the extent FRANCHISOR is the only named party in any such investigation, action, proceeding, arbitration or other setting to the exclusion of FRANCHISEE, should any such appearance by FRANCHISEE be required or requested by FRANCHISOR, FRANCHISOR will recompense FRANCHISEE the reasonable costs associated with FRANCHISEE's appearance at any such venue.

7.27 FRANCHISEE shall respond promptly to each customer inquiry or complaint and resolve all reasonable complaints to the customer's satisfaction. FRANCHISEE shall at all times cooperate with FRANCHISOR and other franchisees of FRANCHISOR and shall actively participate in any and all sales, public relations, marketing, cooperative marketing and purchasing programs or promotional programs which may be developed and implemented by FRANCHISOR which call for the cooperation of

FRANCHISEE and other franchisees of FRANCHISOR. FRANCHISEE shall further cooperate in any additional programs which may be established and designated by FRANCHISOR from time to time including participating in coupon, giveaway, and loyalty programs, the system-wide use of gift cards, and other similar programs for the benefit of the System, and shall comply with FRANCHISOR's rules and regulations established from time to time in connection herewith. FRANCHISEE shall cooperate with FRANCHISOR in connection with the test marketing of products and services at the Bakery-Café and shall comply with the System Standards established by FRANCHISOR from time to time in connection herewith.

## **8. SYSTEM STANDARDS**

8.1 FRANCHISEE acknowledges and agrees that operating and maintaining the Bakery-Cafe in compliance with System Standards are essential to preserve the goodwill of the Proprietary Marks and all Bakery-Cafes. Therefore, FRANCHISEE agrees at all times to operate and maintain the Bakery-Cafe in strict compliance with all mandatory System Standards, as FRANCHISOR periodically issues, modifies, and supplements them, even if FRANCHISEE believes that a System Standard, as originally issued or subsequently modified, is not in the System's or the Bakery-Cafe's best interests. Although FRANCHISOR retains the right to establish and periodically modify System Standards that FRANCHISEE has agreed to follow, FRANCHISEE retains the right to control, and responsibility for, the Bakery-Cafe's day to day management and operation and implementing and maintaining System Standards at the Bakery-Cafe.

8.2 System Standards may, without limitations, regulate any one or more of the following:

8.2.1 Design, layout, decor, appearance, and lighting of the Bakery-Cafe; periodic maintenance, cleaning, and sanitation; periodic remodeling and painting; replacing obsolete or worn out leasehold improvements and Operating Assets; and using interior and exterior signs, emblems, lettering, and logos. (If at any time the appearance or condition of the Premises, the Bakery-Cafe, or Operating Assets does not meet the System Standards, FRANCHISOR will notify FRANCHISEE and identify the action that FRANCHISEE must take to correct the deficiency. If FRANCHISEE fails to correct the deficiency within 30 days after delivery of FRANCHISOR's notice, FRANCHISOR may enter the Premises and Bakery-Cafe and take the required action on FRANCHISEE's behalf, in which case FRANCHISEE must reimburse all of FRANCHISOR's costs.).

8.2.2 Types, models, and brands of required Operating Assets, Products, and other food and beverage products, services and supplies and minimum standards and specifications that FRANCHISEE must satisfy;

8.2.3 Required and/or authorized Products; unauthorized and prohibited food and beverage products and services; and purchase, storage, preparation, handling, and packaging procedures and techniques, as well as inventory requirements, for Products. FRANCHISOR always has the right to approve or disapprove in advance all items to be sold by the Bakery-Cafe. FRANCHISOR may withdraw its approval of previously authorized Products;

8.2.4 Designated and approved suppliers of Operating Assets, Products, and other items and services. In the case of Products, suppliers may be limited to FRANCHISOR, its affiliates, and/or other specified exclusive sources as FRANCHISOR designates, and FRANCHISEE must acquire such Products during this Agreement's term only from FRANCHISOR, FRANCHISOR's affiliates,



and/or the other specified exclusive sources at the prices that FRANCHISOR or FRANCHISOR's affiliates decide to charge. FRANCHISOR reserves the right to restrict FRANCHISEE's sources of Products in order to protect FRANCHISOR's trade secrets, assure quality, assure a reliable supply of products that meet FRANCHISOR's standards, achieve better terms of purchase and delivery service, control usage of the Proprietary Marks by third parties, and monitor the manufacture, packaging, processing, and sale of such items;

8.2.5 In the case of Operating Assets, items other than Products, and services, suppliers may at FRANCHISOR's option be limited to FRANCHISOR, FRANCHISOR's affiliates, and/or other specified exclusive sources, in which case FRANCHISEE must (at FRANCHISOR's direction) acquire such Operating Assets, other items, and services (including Gift Cards and loyalty card processing services, "mystery" and "secret" shopper services, and consumer satisfaction survey processes) during this Agreement's term only from FRANCHISOR, FRANCHISOR's affiliates, and/or the other specified exclusive sources at the prices that FRANCHISOR or FRANCHISOR's affiliate decide to charge. FRANCHISOR has the absolute right to limit the suppliers with whom FRANCHISEE may deal;

8.2.6 Supply and supplier approval procedures and criteria for items and services that FRANCHISEE needs in order to operate FRANCHISEE's Bakery-Cafe and that FRANCHISEE may obtain from sources other than FRANCHISOR, FRANCHISOR's affiliates, and/or other specified exclusive sources. If FRANCHISEE proposes to offer for sale or use at the Bakery-Cafe any product brand, ingredient, supply, or service that FRANCHISOR has not then approved as meeting FRANCHISOR's minimum specifications and standards, or to purchase any item or service from a supplier that FRANCHISOR has not then approved or designated, FRANCHISEE first must notify FRANCHISOR and, at FRANCHISOR's request, submit samples and any other information FRANCHISOR requires to determine whether the item, service, or supplier meets FRANCHISOR's System Standards. FRANCHISOR may charge FRANCHISEE or the supplier a reasonable amount for the inspection and evaluation. FRANCHISOR need not approve FRANCHISEE's request and FRANCHISOR does not intend to do so if FRANCHISOR already has designated specific items, services, and/or suppliers or otherwise have imposed restrictions on the supply system. FRANCHISOR also has the right to re-inspect any supplier's products, services, and facilities and to revoke FRANCHISOR's approval of any item, service, or supplier;

8.2.7 Terms and conditions of the sale and delivery of, and terms and methods of payment for, Products, and other products and services that FRANCHISEE obtains from FRANCHISOR and affiliated and unaffiliated suppliers. This includes FRANCHISOR and FRANCHISOR's affiliates' right to establish an electronic product ordering and payment systems (whether through a Website, email, or other means) and to require FRANCHISEE'S payment via electronic means (pre-authorized debit, ACH or otherwise) before FRANCHISOR prepares for shipment and send FRANCHISEE Products, and other items FRANCHISEE has ordered. FRANCHISOR and FRANCHISOR's affiliates have the right not to sell FRANCHISEE any Products, or other products and not to provide FRANCHISEE with services, or to do so (if FRANCHISOR has not established or are not then operating an advanced electronic payment system) only on a "cash-on-delivery" or other basis, if FRANCHISEE is in default under any agreement with FRANCHISOR or FRANCHISEE's affiliates (and have been notified of that default). FRANCHISOR may take this action even if FRANCHISEE is forced to suspend operation of the Bakery-Cafe due to an inadequate inventory of Products, or other products, and FRANCHISEE may not use any unapproved products as replacements;

8.2.8 FRANCHISOR's and FRANCHISOR's affiliates' right (without liability) to

consult with FRANCHISEE's suppliers about the status of FRANCHISEE's account with them and to advise FRANCHISEE's suppliers and others with whom FRANCHISEE, FRANCHISOR, FRANCHISOR's affiliates, and other franchisees deal that FRANCHISEE is in default under any agreement with FRANCHISOR or FRANCHISOR's affiliates (but only if FRANCHISOR has notified FRANCHISEE of such default);

8.2.9 FRANCHISOR's and FRANCHISOR's affiliates' right to receive payments from suppliers on account of their actual or prospective dealings with FRANCHISEE and other franchisees and to use all amounts FRANCHISOR and FRANCHISOR's affiliates receive without restriction for any purposes FRANCHISOR and FRANCHISOR's affiliates deem appropriate (unless FRANCHISOR and FRANCHISOR's affiliates agree otherwise with the supplier);

8.2.10 Sales, marketing, advertising, and promotional programs and materials and media used in these programs. FRANCHISEE must participate in, and comply with the requirements of, any special promotional programs FRANCHISOR implements;

8.2.11 Use and display of the Proprietary Marks at the Bakery-Cafe and on caps, aprons, shirts, napkins, bags, wrapping paper, labels, forms, paper and plastic products, and other supplies;

8.2.12 Issuing and honoring Gift Cards, coupons, giveaways and loyalty cards and administering customer loyalty and similar programs. FRANCHISEE must participate in, and comply with the requirements (including the payment of any fees related to administering the programs) of, FRANCHISOR's Gift Card and any other customer loyalty programs (including giving FRANCHISOR all customer-specific information that FRANCHISEE receives or generates from operating the Bakery-Cafe, which customer-specific information FRANCHISOR will be deemed to own). FRANCHISOR or FRANCHISOR's designee (which may be a vendor or an affiliate of FRANCHISOR) will hold all monies paid by customers for Gift Cards and loyalty cards until the Gift Card and loyalty cards are used by customers for purchases (at which time FRANCHISOR or FRANCHISOR's designee will reimburse the honoring TOUS LES JOURS Bakery-Cafe FRANCHISOR's then standard reimbursement amount in compliance with FRANCHISOR's then current Gift Card and loyalty card policies and procedures). FRANCHISOR may keep any monies that are not used by customers;

8.2.13 Staffing levels for the Bakery-Cafe, including a full-time general manager, assistant manager and kitchen manager; identifying the Bakery-Cafe's personnel; and employee qualifications, training, dress, and appearance (although FRANCHISEE has sole responsibility and authority concerning, among other things, employee selection and promotion, hours worked, rates of pay and other benefits, work assigned, and working conditions);

8.2.14 Days and hours of operation (including FRANCHISEE's obligation to operate the Bakery-Cafe every day of the week except as FRANCHISOR otherwise allow) and operation and use of the System Website (defined below);

8.2.15 Participation in market research and testing and product and service development programs; FRANCHISOR may, from time to time, conduct market research and testing to determine consumer trends and the salability of new food products and services. FRANCHISEE shall cooperate by participating in FRANCHISOR's market research programs, test marketing new food products and services in the Bakery-Cafe, and providing FRANCHISOR with timely reports and other relevant

information regarding such market research. In connection with any such test marketing, FRANCHISEE shall purchase a reasonable quantity of the tested products and effectively promote and make a reasonable effort to sell such products.

8.2.16 Complying with FRANCHISOR's customer complaint resolution procedures and FRANCHISOR's commitment to customer satisfaction policy and reimbursing FRANCHISOR promptly if FRANCHISOR chooses to resolve a customer complaint because FRANCHISEE fails to do so as or when FRANCHISOR requires;

8.2.17 Accepting credit and debit cards, and other payment systems;

8.2.18 Bookkeeping, accounting, data processing, and recordkeeping systems and forms; formats, content, and frequency (including daily) of reports to FRANCHISOR of sales, revenue, product mix, financial performance, and condition; and giving FRANCHISOR copies of tax returns and other operating and financial information concerning the Bakery-Cafe;

8.2.19 Types, amounts, terms, and conditions of insurance coverage required for the Bakery-Cafe; FRANCHISOR and FRANCHISOR's affiliates' protection and rights under insurance policies as additional named insureds with respect to FRANCHISEE's actions at the Bakery-Cafe; required and impermissible insurance contract provisions; assignment of policy rights to FRANCHISOR; periodic verification of insurance coverage; FRANCHISOR's right to defend claims; and similar matters relating to insured and uninsured claims;

8.2.20 The maximum, minimum, or other prices for Products and services sold by the Bakery-Cafe;

8.2.21 Complying with applicable laws, including those relating to terrorist activities; labor and employment practices (including equal employment opportunity laws), obtaining required licenses and permits; adhering to good business practices; observing high standards of honesty, integrity, fair dealing, and ethical business conduct in all dealings with customers, suppliers, and us; and notifying FRANCHISOR if any action, suit, or proceeding is commenced against FRANCHISEE or the Bakery-Cafe or if FRANCHISEE receives any report, citation, or notice regarding the Bakery-Cafe's failure to comply with any licensing, health, cleanliness, or safety standard; and

8.2.22 Any other aspects of operating and maintaining the Bakery-Cafe that FRANCHISOR determines to be useful to preserve or enhance the efficient operation, image, or goodwill of the Proprietary Marks and Tous Les Jours Bakery-Cafes, including but not limited to standard uniforms/attires and standard menu formats.

8.3 FRANCHISEE agrees that System Standards FRANCHISOR prescribes in the Manuals, or otherwise communicate to FRANCHISEE in writing or another tangible form (for example, via Extranet or another intranet, extranet, or Website), are part of this Agreement as if fully set forth within its text. All references to this Agreement include all System Standards as periodically modified.

8.4 FRANCHISOR periodically may modify System Standards, which may accommodate regional or local variations, consumer or societal trends, market place variables and the needs of customers, and these modifications may obligate FRANCHISEE to invest additional capital in the Bakery-Cafe and/or incur higher operating costs. FRANCHISEE agrees to implement any changes in System Standards within the time period FRANCHISOR requests, whether they involve refurbishing or

remodeling the Premises or any other aspect of the Bakery-Cafe, buying new Operating Assets, adding new Products and services, or otherwise modifying the nature of FRANCHISEE's operations, as if they were part of this Agreement as of the Effective Date. There are no limitations on the amounts that FRANCHISOR may require FRANCHISEE to spend in doing so, although FRANCHISOR will not require capital modifications if they cannot in FRANCHISOR's opinion be amortized during this Agreement's remaining term (unless such capital modifications are in connection with FRANCHISEE's acquisition of a successor franchise, as provided in Section 2.2 above).

Except as provided in this Agreement, FRANCHISOR shall not be liable to FRANCHISEE for expenses, losses or damages sustained by FRANCHISEE as a result of any of the modifications contemplated hereby. FRANCHISEE covenants hereby not to commence or join in any litigation or other proceeding against FRANCHISOR or any third party complaining of such modifications or seeking expenses, losses or damages caused thereby. Franchisee expressly waives any claims, demands or damages arising from or related to the forgoing 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.

## **9. PROPRIETARY MARKS**

FRANCHISOR represents with respect to the Proprietary Marks that:

9.1 An affiliate of FRANCHISOR ("**TM Affiliate**") is the registered owner of the Proprietary Marks for the United States. Through a license with TM Affiliate, FRANCHISOR holds a license to use, and to license others to use, the Proprietary Marks in the manner contemplated by this Agreement. FRANCHISOR will take all steps reasonably necessary to preserve and protect the ownership and validity in and to the Proprietary Marks.

9.2 FRANCHISEE's right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute an infringement of the rights of FRANCHISOR and TM Affiliate.

9.3 With respect to FRANCHISEE's use of the Proprietary Marks, FRANCHISEE agrees to:

9.3.1 Use only the Proprietary Marks designated by FRANCHISOR, and to use them only in the manner authorized and permitted by FRANCHISOR;

9.3.2 Use the Proprietary Marks only for the operation and marketing of the Bakery-Cafe, and in connection with Special Events permitted under this Agreement;

9.3.3 Operate and advertise the Bakery-Cafe only under the name "TOUS LES JOURS," and use the Proprietary Marks without prefix or suffix, unless otherwise authorized or required by FRANCHISOR. FRANCHISEE shall not use the Proprietary Marks (including the TOUS LES JOURS service marks) or any name that is now, or in the future, used in connection with the System or Tous Les Jours Bakery-Cafes as part of its corporate, partnership or other legal name or to identify FRANCHISEE or the Bakery-Cafe in other legal or financial capacity (including in connection with bank checks, bank accounts and other financial accounts), or as part of any e-mail address, domain name or other identification of FRANCHISEE or the Bakery-Cafe in any electronic medium, unless agreed to in advance, in writing, by FRANCHISOR. FRANCHISEE may, as necessary to conduct the business of the Bakery-Cafe and to

obtain governmental licenses and permits for the Bakery-Cafe, indicate that FRANCHISEE shall be operating the Bakery-Cafe under the trade name "TOUS LES JOURS," provided that FRANCHISEE shall also clearly identify itself as the owner and FRANCHISEE of the Bakery-Cafe;

9.3.4 Identify itself as the owner of the Bakery-Cafe (in the manner required by FRANCHISOR) in conjunction with any use of the Proprietary Marks, including on invoices, order forms, receipts and business stationery, as well as at such conspicuous locations on the Premises as FRANCHISOR may designate in writing;

9.3.5 Not to use the Proprietary Marks to incur any obligation or indebtedness on behalf of FRANCHISOR;

9.3.6 Execute any documents deemed necessary by FRANCHISOR to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability; and

9.3.7 Promptly notify FRANCHISOR of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to TM Affiliate's ownership of, the right of FRANCHISOR to use and to license others to use, or FRANCHISEE's right to use, the Proprietary Marks. FRANCHISEE acknowledges that FRANCHISOR and TM Affiliate have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement thereof. FRANCHISOR and TM Affiliate have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks. FRANCHISOR shall defend FRANCHISEE against any third-party claim, suit or demand arising out of FRANCHISEE's use of the Proprietary Marks. If FRANCHISOR, in its sole discretion, determines that FRANCHISEE has used the Proprietary Marks in accordance with this Agreement, the cost of such defense, including the cost of any judgment or settlement, shall be borne by FRANCHISOR, except FRANCHISEE shall bear the salary costs of its employees. If FRANCHISOR, in its sole discretion, determines that FRANCHISEE has not used the Proprietary Marks in accordance with this Agreement, the cost of such defense, including the cost of any judgment or settlement, shall be borne by FRANCHISEE. In the event of any litigation relating to FRANCHISEE's use of the Proprietary Marks, FRANCHISEE shall execute any and all documents and do such acts as may, in the opinion of FRANCHISOR, be necessary to carry out such defense or prosecution, including, but not limited to, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of FRANCHISEE's use of the Proprietary Marks in a manner inconsistent with the terms of this Agreement, FRANCHISOR agrees to reimburse FRANCHISEE for its out-of-pocket costs in doing such acts; and

9.3.8 Permit, without limiting any other rights of inspection and audit in this Agreement, FRANCHISOR or its designated representatives, at all reasonable times during operating hours but without prior notice, to have access to any relevant documents, materials and records pertaining to the Bakery-Café in order to determine that FRANCHISEE is complying with its obligations under this section.

9.4 FRANCHISEE expressly understands and acknowledges that:

9.4.1 TM Affiliate is the owner of all right, title and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them, and that FRANCHISOR and TM Affiliate have the right to use, and license others to use, the Proprietary Marks;

9.4.2 During the Term of this Agreement and after its expiration, transfer or termination, FRANCHISEE shall not directly or indirectly contest the validity of, or TM Affiliate's ownership of, or right to use and to license others to use, the Proprietary Marks;

9.4.3 FRANCHISEE's use of the Proprietary Marks does not give FRANCHISEE any ownership interest or other interest in or to the Proprietary Marks;

9.4.4 Any and all goodwill arising from FRANCHISEE's use of the Proprietary Marks shall inure solely and exclusively to the benefit of FRANCHISOR, and upon expiration, transfer or termination of this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with FRANCHISEE's use of the System or the Proprietary Marks;

9.4.5 Except as specified in Section 1.5 hereof, the license of the Proprietary Marks granted hereunder to FRANCHISEE is nonexclusive, and FRANCHISOR thus has and retains the rights, among others: (a) to use the Proprietary Marks itself in connection with selling products and services; (b) to grant other licenses for the Proprietary Marks; and (c) to develop and establish other systems using the Proprietary Marks, similar proprietary marks, or any other proprietary marks, and to grant licenses thereto without providing any rights therein to FRANCHISEE; and

9.4.6 If FRANCHISOR decides to change, add or discontinue use of any of the Proprietary Marks, or to introduce additional or substitute proprietary marks for use in identifying the System, the businesses operating under the System, and/or the TM Products, FRANCHISEE, upon a reasonable period of time after receipt of written notice from FRANCHISOR, shall take such action, at its sole expense, as is necessary to comply with such changes, alteration, discontinuation, addition or substitution. FRANCHISOR shall have no liability for any losses or damages relating thereto, including any loss of revenue or goodwill due to any new Proprietary Marks or discontinued Proprietary Marks.

9.5 FRANCHISEE shall be required to affix the <sup>TM</sup> or ® symbol upon all advertising, publicity, signs, decorations, furnishings, equipment or other printed or graphic material employing the words "Tous Les Jours" or "TLJ" or any other of FRANCHISOR's Proprietary Marks, whether presently existing or developed in the future.

9.6 If, during the Term of this Agreement, there is a claim of prior use of any of FRANCHISOR's Proprietary Marks in the area in which FRANCHISEE is doing business, FRANCHISEE, at FRANCHISOR's discretion, shall use FRANCHISOR's Proprietary Marks in such a way to avoid a continuing conflict.

9.7 FRANCHISOR shall indemnify Franchisee against, and reimburse FRANCHISEE for, all damages for which FRANCHISEE is held liable in any proceeding in which Franchisee's use of any Mark pursuant to and in compliance with this Agreement is held to constitute trademark infringement, unfair competition or dilution, and for all costs reasonably incurred by FRANCHISEE in the defense of any such claim brought against FRANCHISEE or in any such proceedings in which he is named as a party, provided that FRANCHISEE has timely notified FRANCHISOR of such claim or proceedings, has otherwise complied with this Agreement, and has tendered complete control of the defense of such to FRANCHISOR. If FRANCHISOR defends such claim, FRANCHISOR shall have no obligation to indemnify or reimburse FRANCHISEE with respect to any fees or disbursements of any attorney retained by FRANCHISEE.

## **10. OPERATING MANUALS**

10.1 In order to protect the reputation and goodwill of FRANCHISOR and to maintain high standards of operation under the System, FRANCHISEE shall operate the Bakery-Cafe in accordance with the standards, methods, policies and procedures specified in the Manuals. FRANCHISOR shall provide FRANCHISEE with access to the Manuals, via electronic access (e.g., Extranet) or otherwise, for the Term of this Agreement upon completion of TLJ Training by the trainees required under this Agreement. The Manuals may be set forth in several volumes, including such amendments thereto, as FRANCHISOR may publish (electronically or otherwise) from time to time. Additionally, FRANCHISEE acknowledges and agrees that FRANCHISOR may provide a portion or all (including updates and amendments) of the Manuals, and other instructional information and materials in, or via, electronic media, including without limitation, through the use of compact disks, audiotapes, videotapes, DVDs, computer software, e-mail, the Internet or the Extranet. The Manuals may include audiotapes, videotapes, DVDs, compact disks, computer software, other electronic media, and/or written materials as FRANCHISOR designates and chooses to provide access.

10.2 FRANCHISEE shall treat the Manuals, any other materials created for or approved for use in the operation of the Bakery-Cafe, and the information contained therein, as confidential and shall maintain such information (in electronic or other format designated by FRANCHISOR) as proprietary and confidential. FRANCHISEE shall not download, copy, duplicate, record or otherwise reproduce the foregoing materials, in whole or in part, or otherwise make the same available to any unauthorized person.

10.3 The Manuals shall remain the sole property of FRANCHISOR and shall be accessible only from a secure place on the Premises and in a format designated by FRANCHISOR.

10.4 FRANCHISOR may from time to time revise the contents of the Manuals, and FRANCHISEE expressly agrees to comply with each new or changed provision of the Manuals.

10.5 FRANCHISEE shall ensure that the Manuals are kept current at all times. In the event of any dispute as to the contents of the Manuals, the terms of the master copies maintained at the home office of FRANCHISOR shall be controlling.

## **11. CONFIDENTIAL INFORMATION**

11.1 FRANCHISEE and Owner shall not, during the Term of this Agreement or thereafter, communicate, divulge, use for any purpose not expressly permitted by this Agreement, or use for the benefit of any other person or entity any confidential information, knowledge, or know-how concerning FRANCHISOR and/or the marketing, management or operations of the Bakery-Cafe that may be communicated to FRANCHISEE or of which FRANCHISEE may be apprised by virtue of FRANCHISEE's operation under the terms of this Agreement. FRANCHISEE and/or Owner shall divulge such confidential information only to such of its employees as must have access to it in order to operate the Bakery-Cafe, provided that FRANCHISEE and/or Owner procures from such employees an obligation to protect the Confidential Information on the same terms as set forth in this Agreement and accepts responsibility for any breach of such obligation of such employees. For purposes of this Agreement, "confidential information" means: (i) any and all information, knowledge, or know-how relating to FRANCHISOR and the System which may be communicated to FRANCHISEE and/or Owner, whether communicated in writing, orally, electronically, by inspection, or by sample, exhibit,

training, demonstration or other means; and (ii) all Manuals, information and materials received by FRANCHISEE and/or Owner from FRANCHISOR; provided, however, it shall not include information which FRANCHISEE and/or Owner can demonstrate came to its attention prior to disclosure thereof by FRANCHISOR, or which, at or after the time of disclosure by FRANCHISOR to FRANCHISEE and/or Owner, had become or later becomes part of the public domain through publication or communication by others. Confidential information may include information relating to the development and operation of the System; proprietary information and trade secrets regarding the products and services sold under the System and the preparation of the products and services sold under the System; advertising and marketing plans and materials for the System; information concerning the marketing, management and operation of Tous Les Jours Bakery-Cafes under the System; information concerning FRANCHISOR; electronic communications posted on the Extranet; electronic mail distribution lists; and the Manuals. The foregoing list of confidential information is illustrative only and does not necessarily include all matters considered confidential by FRANCHISOR.

## **12. ACCOUNTING AND RECORDS**

12.1 FRANCHISEE shall use sound financial management, planning and recording practices in connection with the Bakery-Cafe and the business operated hereunder. FRANCHISEE shall record all sales on a computer-based, point-of-sale record keeping and control system designated by FRANCHISOR, or on any other equipment or communication system specified by FRANCHISOR in the Manuals or otherwise in writing. FRANCHISEE shall prepare, and shall preserve for at least 5 years from the dates of their preparation, complete and accurate books, records and accounts in accordance with generally accepted account principals recognized in the United States as consistently applied ("GAAP") and in the form and manner prescribed by FRANCHISOR from time to time in the Manuals or otherwise in writing. The books, records and accounts required under this Section include daily cash reports, cash receipts journal, general ledger, cash disbursement journal and weekly payroll register, monthly bank statements, and daily deposit slips and canceled checks, all business tax returns, employee deductions and remittances, sales tax remittances, supplier invoices, dated cash register tapes (detailed and summary), semi-annual balance sheets and monthly profit and loss statements, weekly inventories, coupon and promotion redemption records, and such other records and information that FRANCHISOR may from time to time request. The reporting requirements of this Section 12 shall be in addition to, and not in lieu of, the electronic reporting required under Section 7.10.

12.2 All Gross Sales, taxes and other fees or charges collected on behalf of third parties shall be recorded by FRANCHISEE in accordance with the procedures prescribed in the Manuals and on the Computer System pursuant to Section 7 hereof.

12.3 FRANCHISEE shall, at FRANCHISEE's expense, submit to FRANCHISOR in the form prescribed by FRANCHISOR, the following reports, financial statements and other data:

12.3.1 No later than 5:00 pm on the 10<sup>th</sup> day of each Period, or such other time as may correspond to the required payment periods as set forth in Section 4.5, FRANCHISEE shall submit to FRANCHISOR a royalty report, a marketing report and a Gross Sales report for the prior Period, and such other information as FRANCHISOR specifies, all in the form prescribed by FRANCHISOR;

12.3.2 No later than 5:00 p.m. on the 15th day following each fiscal quarter, or such other time as may correspond to the required payment periods as set forth in Section 4.5, FRANCHISEE shall submit to FRANCHISOR a marketing report for the prior fiscal quarter, and such other information



as FRANCHISOR specifies, all in the form prescribed by FRANCHISOR;

12.3.3 No later than the 21st day of each month a profit and loss statement reflecting all Gross Sales during the preceding calendar months and such other information as FRANCHISOR may specify for the preceding calendar month. FRANCHISEE shall prepare profit and loss statements on an accrual basis and in accordance with GAAP;

12.3.4 Within 60 days after the end of each fiscal year of FRANCHISEE, financial statements compiled or reviewed by an independent certified public accountant, showing the results of operations, including the balance sheet, statement of income and retained earnings and statement of cash flow (and, for each, the supporting notes) relating to the Bakery-Cafe during the fiscal year. If FRANCHISEE does not, in the ordinary course, obtain financial statements compiled or reviewed by an independent certified accountant, then FRANCHISEE may provide internally prepared financial statements which shall be certified as true and correct by FRANCHISEE or FRANCHISEE's principal executive officer or chief financial officer if FRANCHISEE is a corporation, partnership or limited liability company. FRANCHISOR shall have the right at any time to require audited annual statement to be provided to it, at FRANCHISEE's expense;

12.3.5 Within 60 days after their filing for each year during the Term of this Agreement, FRANCHISEE's signed federal and state income tax returns (including all forms and schedules) as filed with the Internal Revenue Service and state and local governments, and all other federal, state and local sales and use and income tax reports that FRANCHISEE is required to file; and

12.3.6 Other forms, statements, reports, records, information and data as FRANCHISOR may reasonably designate.

12.4 FRANCHISOR and its agents shall have the right at all reasonable times to examine and copy, at the expense of FRANCHISOR, the books, records, accounts and/or business tax returns of FRANCHISEE. FRANCHISOR shall also have the right, at any time, to have an independent audit made of the books of FRANCHISEE. If an inspection should reveal that any contributions or payments have been understated in any statement or report to FRANCHISOR, then FRANCHISEE shall immediately pay to FRANCHISOR the amount understated upon demand, in addition to interest from the date such amount was due until paid, at the rate of 1.5% per month, or the maximum rate permitted by law, whichever is less. If an inspection discloses an understatement in any statement or report of 2% or more, FRANCHISEE shall, in addition to repayment of monies owed with interest, immediately upon request by FRANCHISOR, reimburse FRANCHISOR for any and all costs and expenses connected with the inspection (including travel, lodging and wages expenses, and reasonable accounting and legal costs). The foregoing remedies shall be in addition to any other remedies FRANCHISOR may have.

12.5 All data provided by FRANCHISEE to FRANCHISOR will be owned exclusively by FRANCHISOR, and FRANCHISOR shall have the right to use such data in any reasonable business related manner FRANCHISOR deems appropriate without compensation to FRANCHISEE, provided that FRANCHISOR shall use reasonable efforts to avoid public dissemination of any confidential financial information in a manner that would identify FRANCHISEE as the source of such information. FRANCHISOR has the right to share or disclose such data and information with third parties, including consultants and existing and potential System franchisees.

### **13. MARKETING AND PROMOTION**

Recognizing the value of marketing and promotion, and the importance of the standardization of marketing and promotion programs to the furtherance of the goodwill and public image of the System, FRANCHISEE and FRANCHISOR agree as follows:

13.1 FRANCHISOR reserves the right to require that FRANCHISEE expend or contribute, during each month, on advertising and promotion an amount, which, in the aggregate, is equal to up to 4% of FRANCHISEE's Gross Sales during the preceding month to advertise and to promote the Bakery-Cafe (together, the "**Advertising Obligation**"). The Advertising Obligation shall be in the form of the following, and in such proportions as may be designated by FRANCHISOR in writing from time to time: (i) contributions paid to the Fund, pursuant to Section 13.2 below, (ii) expenditures by FRANCHISEE on "local advertising and promotion" pursuant to Section 13.3, and/or (iii) contributions paid to any Cooperative, as may be established pursuant to Section 13.4 below. FRANCHISEE understands and acknowledges the Advertising Obligation is the minimum requirement only, and that FRANCHISEE may, and is encouraged to, expend additional funds for marketing and promotion.

13.2 FRANCHISOR may establish a marketing fund for the System (the "**Fund**"). During the existence of the Fund, FRANCHISEE shall contribute each Period to the Fund in the manner specified in Sections 4.3 and 4.5, such amounts as FRANCHISOR may specify in accordance with Section 13.1 above. The Fund shall be maintained and administered by FRANCHISOR as follows:

13.2.1 FRANCHISOR shall direct all marketing programs, with sole discretion over the concepts, materials, and media used in such programs and the placement and allocation thereof. FRANCHISOR is not obligated, in administering the Fund, to make expenditures for FRANCHISEE which are equivalent or proportionate to FRANCHISEE's contribution, or to ensure that any particular System Franchisee benefits directly or pro rata from expenditures by the Fund;

13.2.2 Contributions to the Fund are not held by FRANCHISOR in trust and FRANCHISOR does not have any fiduciary obligation to FRANCHISEE with respect to contribution to the Fund. FRANCHISEE's Contributions to the Fund are non-refundable and, once received by FRANCHISOR, will be used in accordance with this Agreement;

13.2.3 The Fund, all contributions thereto, and any earnings thereon, shall be used exclusively to meet any and all costs of (i) maintaining, administering, directing, conducting and preparing marketing, advertising, public relations, and/or promotional programs and materials, and (ii) any other activities, which FRANCHISOR believes will enhance the image of the System, Tous Les Jours Bakery-Cafes, the Proprietary Marks and Products, including, among other things, the costs of preparing and conducting media marketing campaigns (including Social Media); reasonable salaries and benefits for personnel who manage and administer the Fund; direct mail advertising; marketing surveys and other public relations activities; employing advertising and/or public relations agencies to assist therein; sponsorship of organizations and events, including without limitation athletic teams, fund raising activities, tournaments and other similar activities; purchasing promotional items; conducting and administering in-Bakery-Cafe promotions; and providing promotional and other marketing materials and services to Tous Les Jours Bakery-Cafes operating under the System;

13.2.4 FRANCHISEE shall contribute to the Fund by separate payment made payable (or as otherwise directed for payment) to FRANCHISOR. All sums paid by FRANCHISEE to the Fund shall be accounted for separately and shall not be used to defray any of the expenses of FRANCHISOR,

except for such reasonable costs and overhead, if any, as FRANCHISOR may incur in activities reasonably related to the direction and implementation of the Fund and marketing programs for System Franchisees and the System, including costs of personnel for creating and implementing marketing, advertising and promotional programs. FRANCHISOR shall maintain separate bookkeeping accounts for the Fund. FRANCHISOR, upon request, shall provide FRANCHISEE with an annual accounting of Fund receipts and disbursements;

13.2.5 FRANCHISOR has the right, but no obligation, to use collection agents and institute legal proceedings at the Fund's expense to collect Fund contributions. FRANCHISOR also may forgive, waive, settle, and compromise all claims by or against the Fund. Except as expressly provided in this Subsection, FRANCHISOR assumes no direct or indirect liability or obligation to FRANCHISEE for collecting amounts due to, maintaining, directing, or administering the Fund. FRANCHISOR may at any time defer or reduce contributions of a TOUS LES JOURS Bakery-Cafe FRANCHISEE and, upon 30 days' prior written notice to FRANCHISEE, reduce or suspend Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Fund. If FRANCHISOR terminates the Fund, FRANCHISOR will distribute all unspent monies to System Franchisees, and to FRANCHISOR and FRANCHISOR's affiliates, in proportion to their, and FRANCHISOR's, respective Fund contributions during the preceding 12-month period.

13.2.6 If FRANCHISOR spends less than the total of all contributions to the Fund during any fiscal year, it has the right to retain those contributions for use in subsequent years. If FRANCHISOR spends more than the contributions accumulated in the Fund during any fiscal year, it will have the right to receive from the Fund reimbursement or credit during the same or subsequent years to the extent of the excess expenditure.

13.2.7 An unaudited summary report on the operation of the Fund will be prepared annually and will be made available to FRANCHISEE on request ninety (90) to one hundred twenty (120) days after fiscal year end.

13.2.8 FRANCHISEE authorizes FRANCHISOR to collect, for remission to the Fund, any advertising or promotional monies or credits offered by any supplier based upon FRANCHISEE's purchases. Any advertising or promotional monies or credits FRANCHISOR collects from any supplier based upon FRANCHISEE's purchases will not be credited toward FRANCHISEE's required contribution to the Fund.

13.2.9 FRANCHISOR may establish an advertising council of franchisees. If established, the council will advise FRANCHISOR on advertising policies, and Franchisees will elect the members of the council. The council will be advisory and have no operational or decision-making power. The council will operate under its own by-laws, but FRANCHISOR will have the right to change or dissolve the council.

13.3 With respect to "local advertising and promotion" for the Bakery-Cafe, FRANCHISEE shall comply with the following:

13.3.1 Each fiscal quarter, FRANCHISEE shall spend such amounts on local advertising and promotion as FRANCHISOR may specify in accordance with Section 13.1 above. For any fiscal quarter in which FRANCHISEE is required to make expenditures on local advertising and promotion, FRANCHISEE shall submit to FRANCHISOR detail reports 15 days following each fiscal

quarter, in accordance with the procedures set forth in Section 4.5 or as otherwise specified by FRANCHISOR, describing the amount of money expended on advertising, marketing and promotion during such quarter (or other time period specified by FRANCHISOR). Additionally, at the request of FRANCHISOR or as FRANCHISOR may specify in the Manuals, FRANCHISEE shall submit bills, statements, invoices or other documentation satisfactory to FRANCHISOR to evidence FRANCHISEE's advertising or marketing activities;

13.3.2 As used in this Agreement, the term "local advertising and promotion" shall refer to advertising and promotion related directly to the Bakery-Cafe, and shall, unless otherwise specified, consist only of the direct costs of purchasing advertising materials (including, but not limited to, camera-ready advertising and point of sale materials), media (space or time), promotion, direct out-of-pocket expenses related to costs of advertising and sales promotion (including, but not limited to, advertising agency fees and expenses, cash and "in-kind" promotional payments to landlords, postage, shipping, telephone and photocopying), and such other activities and expenses as FRANCHISOR, in its sole discretion, may specify. FRANCHISOR may provide to FRANCHISEE, in the Manuals or otherwise in writing information specifying the types of advertising and promotional activities and costs which shall not qualify as "local advertising and promotion," including, without limitation, the value of advertising coupons, discounts given to customers, and the costs of products provided for free or at a reduced charge for charities or other donations; and

13.3.3 Upon written notice to FRANCHISEE, FRANCHISOR may require FRANCHISEE to participate in mandatory promotions and marketing programs as FRANCHISOR may develop and implement from time to time.

13.4 FRANCHISOR shall have the right to designate any geographical area for purposes of establishing a market advertising fund ("**Cooperative**"). If a Cooperative is established for the geographic area in which the Bakery-Cafe is located, FRANCHISEE shall become a member of such Cooperative within 30 days after the date on which the Cooperative commences operation. In no event shall FRANCHISEE be required to be a member of more than one Cooperative in connection with the Bakery-Cafe. Each Cooperative shall be organized and governed in a form and manner prescribed or approved by FRANCHISOR in writing, and FRANCHISOR may set the amount (but not to exceed 2% of the Gross Sales) the members of each Cooperative must contribute. Each Cooperative's members and elected officers shall be responsible for the Cooperative's administration, provided that FRANCHISOR shall have the right to dissolve, change and reform the Cooperative. FRANCHISOR may require a Cooperative to merge with another Cooperative servicing an adjacent or proximate area, or to subdivide a Cooperative into smaller groupings. FRANCHISOR may dissolve a Cooperative when FRANCHISOR simultaneously dissolves all advertising Cooperatives. Any disputes arising among or between FRANCHISEE, other System Franchisees in the Cooperative, and/or the Cooperative, shall be resolved in accordance with the rules and procedures set forth in the Cooperative's governing documents. FRANCHISEE shall submit to the Cooperative the amount required of FRANCHISEE under this Agreement at such times as determined by FRANCHISOR, together with such other statements or reports as may be required by FRANCHISOR, or by the Cooperative with FRANCHISOR's prior written approval.

13.5 All marketing and promotion to be used by FRANCHISEE, the Fund or a Cooperative shall be in such media and geographic scope, and of such type and format as FRANCHISOR may approve, shall be conducted in a dignified manner, and shall conform to such standards and requirements as FRANCHISOR may specify in the Manuals or otherwise. A Cooperative must obtain FRANCHISOR's written approval of the copy and proposed media or method of distribution for

advertising and promotion it creates, following the same procedures FRANCHISEE must follow for materials FRANCHISEE creates, as described herein. A Cooperative must assign to FRANCHISOR any copyright, trademark or service mark rights in any materials it creates, without compensation, and permit FRANCHISOR and other TLJ franchisees which it authorizes to use these materials without compensation. In connection with all direct mail or distribution marketing campaigns, FRANCHISEE and all Cooperatives must obtain FRANCHISOR's approval of the geographic scope or zip codes covered by such campaigns. Marketing and promotion by e-mail or other electronic media is subject to the provisions of this Section 13.5. FRANCHISEE shall not use any marketing or promotional plans or materials that are not provided by FRANCHISOR unless and until FRANCHISEE has submitted the materials to FRANCHISOR, pursuant to the procedures and terms set forth in Section 13.7 herein.

13.6 FRANCHISOR may make available to FRANCHISEE from time to time, marketing plans and promotional materials, including newspaper mats, coupons, merchandising materials, sales aids, point-of-purchase materials, special promotions, direct mail materials and similar marketing and promotional materials produced from contributions to the Fund; provided that FRANCHISEE acknowledges and agrees that it shall be reasonable for FRANCHISOR to not provide any such materials to FRANCHISEE during any period in which FRANCHISEE is not in full compliance with its obligations to contribute to the Fund or in which FRANCHISOR does not require contributions from FRANCHISEE.

13.7 If FRANCHISEE desires to use marketing and promotional plans and materials that have not been provided or previously approved by FRANCHISOR, FRANCHISEE shall submit samples of all such marketing and promotional plans and materials to FRANCHISOR (as provided in Section 24 herein) for prior approval (except with respect to prices to be charged). In connection with all television and video marketing campaigns (such as YouTube), FRANCHISEE shall submit the final product of all such marketing and promotional plans and materials to FRANCHISOR (as provided in Section 24 herein) for written approval (except with respect to prices to be charged) prior to the airing, posting or disclosure to the public. If written notice of approval is not received by FRANCHISEE from FRANCHISOR within 10 business days of the date of receipt by FRANCHISOR of such samples or materials, FRANCHISOR shall be deemed to have disapproved them.

13.8 FRANCHISEE specifically acknowledges and agrees that any Website (as defined below) shall be deemed "advertising" under this Agreement, and will be subject to (among other things) FRANCHISOR's approval under the provisions of Section 13.7 above. As used in this Agreement, the term "Website" means an interactive electronic document, series of symbols or otherwise, that is contained in a network of computers linked by communications software. The term Website includes, but is not limited to, Internet and World Wide Web home pages, e-mail addresses, domain names, bulletin boards, Internet-related medium or activity, including all forms of social media. In connection with any Website, FRANCHISEE agrees to the following:

13.8.1 FRANCHISOR shall have the right, but not the obligation, to establish and maintain a Website, which may, without limitation, promote the Proprietary Marks, any or all of the Products, Tous Les Jours Bakery-Cafes, the franchising of Tous Les Jours Bakery-Cafes and/or the System ("**System Website**"). FRANCHISOR shall have the sole right to control all aspects of the System Website, including, without limitation, its design, content, functionality, links to the Websites of third parties, legal notices, and policies and terms of usage. FRANCHISOR shall also have the right to discontinue operation of the System Website;

13.8.2 Without FRANCHISOR's prior written approval, FRANCHISEE shall not establish a separate Website that displays or uses the Proprietary Marks, or any marks confusingly similar thereto, or that refers to this Agreement, the Products, FRANCHISOR or the System. FRANCHISEE shall not separately register any domain names or any portion of any domain name containing the Proprietary Marks or participate or market on any Website or other form of electronic media (including, without limitation, through the use of social technology, social media, social networking platforms, video Websites, email marketing sites or other forms of electronic media not yet developed) using the Proprietary Marks without FRANCHISOR's prior written consent. If FRANCHISEE registers any domain name in violation of this subsection, in addition to all other rights and remedies of FRANCHISOR under this Agreement, FRANCHISOR shall have the right to require FRANCHISEE to transfer any such registration(s) to FRANCHISOR or its designee, at FRANCHISEE's expense. If FRANCHISOR grants approval for a Website, FRANCHISEE may not use any of the Proprietary Marks on the Website except as FRANCHISOR expressly permits and may not post any of FRANCHISOR's proprietary, confidential or copyrights material or information on FRANCHISEE's Website. FRANCHISEE's approved Website shall, at all times, conform to all of FRANCHISOR's Website requirements, whether set forth in the Manuals or otherwise;

13.8.3 FRANCHISOR shall have the right, but not the obligation, to designate one or more web page(s) to describe FRANCHISEE and/or the Bakery-Cafe, with such webpage(s) to be located within the System Website. FRANCHISEE shall comply with FRANCHISOR policies with respect to the creation, maintenance and content of any such webpages; and FRANCHISOR shall have the right to refuse to post and/or discontinue posting any content and/or the operation of any webpage;

13.8.4 FRANCHISEE's general conduct on the Internet and in the use of any forms of electronic media (including, without limitation, through the use of social technology, social media, social networking platforms, video Websites, email marketing sites or other forms of electronic media not yet developed) is subject to terms and conditions of this Agreement and all other rules, requirements or policies that FRANCHISOR may identify from time to time. FRANCHISOR may, at any time after FRANCHISEE commences use of any approved electronic media, prohibit further use, effective upon receipt of written notice by FRANCHISEE; and

13.8.4 FRANCHISOR shall have the right to modify its policies and requirements regarding Websites and electronic media as FRANCHISOR may determine is necessary or appropriate.

13.9 FRANCHISEE acknowledges and agrees that any and all copyrights in and to advertising and promotional materials developed by or on behalf of FRANCHISEE which bear the Proprietary Marks shall be the sole property of FRANCHISOR, and FRANCHISEE agrees to execute such documents (and, if necessary, require its independent contractors to execute such documents) as may be deemed reasonably necessary by FRANCHISOR to give effect to this provision. Any advertising, marketing, promotional, public relations, or sales concepts, plans, programs, activities, or materials proposed or developed by FRANCHISEE for the Bakery-Cafe or the System and approved by FRANCHISOR may be used by FRANCHISOR and other System Franchisees without any compensation to FRANCHISEE.

13.10 From time to time during the Term, FRANCHISOR shall have the right to establish and conduct promotional campaigns on a national or regional basis, which may by way of illustration and not limitation promote particular products or marketing themes. FRANCHISEE shall participate in the promotional campaigns upon the terms and conditions that FRANCHISOR may establish. FRANCHISEE acknowledges and agrees that participation may require FRANCHISEE to purchase point of sale

advertising material, posters, flyers, product displays and other promotional materials.

#### **14. INSURANCE**

14.1 FRANCHISEE shall procure, prior to the commencement of construction or any operations under this Agreement, and shall maintain in full force and effect at all times during the Term of this Agreement, at FRANCHISEE's expense, an insurance policy or policies protecting FRANCHISEE and FRANCHISOR against any demand or claim with respect to personal injury, death, or property damage, or any loss, liability, or expense whatsoever arising or occurring upon or in connection with the Bakery-Cafe, including, but not limited to, comprehensive general liability insurance, property and casualty insurance, statutory workers' compensation insurance and product liability insurance on an "occurrence basis." Such policy or policies shall reflect industry standards, shall be written by a responsible carrier or carriers acceptable to FRANCHISOR, shall name FRANCHISOR and its affiliates, and other parties as may be determined by FRANCHISOR as additional insureds, and shall provide at least the following types and minimum amounts of coverage:

A. Broad Form Comprehensive General Liability with limits of no less than Two Million Dollars (\$2,000,000) in case of damage or injury to one or more persons, including indemnification coverage and property damage insurance of Five Hundred Thousand Dollars (\$500,000), both of which shall be considered primary policies;

B. All risk coverage on all personal property and improvements covering Franchisee's Bakery-Cafe and premises and contents thereof, including, without limitation, all supplies, inventory, fixtures, and equipment, with limits of not less than the full replacement value (or greater, if required by applicable law or the lease for the FRANCHISEE's Bakery-Cafe premises).

C. Business interruption in amounts not less than is sufficient to meet the co-insurance requirements of Franchisee's policies, and which business interruption insurance covers at least six (6) months of rent, royalties and advertising fees, and contain a replacement value endorsement in an amount not less than ninety percent (90%) of the replacement value thereof, and any loss shall be payable to FRANCHISOR and FRANCHISEE as their interests may appear;

D. Worker's Compensation and Disability Insurance as may be required by law;

E. Products Liability Insurance in an amount not less than Two Million Dollars (\$2,000,000), which policy shall be considered primary; and

F. Any other insurance coverage as required by the state, federal or local municipality in which the franchised premises are located.

14.2 FRANCHISEE's obligation to obtain and maintain the policy or policies set forth above or otherwise in the Manuals shall not be limited in any way by reason of any insurance which may be maintained by FRANCHISOR, nor shall FRANCHISEE's performance of that obligation relieve it of liability under the indemnity provisions set forth in Section 21.3 of this Agreement.

14.3 Prior to the commencement of any operations under this Agreement, and thereafter on an annual basis, FRANCHISEE shall deliver to FRANCHISOR Certificates of Insurance evidencing the proper types and minimum amounts of coverage. FRANCHISEE shall also maintain Certificates of

Insurance evidencing the proper types and minimum amounts of coverage at the Bakery-Cafe and furnish to FRANCHISOR a copy. All Certificates of Insurance shall expressly provide that no less than 30 days' prior written notice shall be given to FRANCHISOR in the event of material alteration to or cancellation of the coverages evidenced by such Certificates.

14.4 Should FRANCHISEE, for any reason, fail to procure or maintain the insurance required by this Agreement, as such requirements may be revised by FRANCHISOR in the Manuals or otherwise in writing, FRANCHISOR shall have the right and authority (but not the obligation) to procure such insurance and to charge same to FRANCHISEE, which charges, together with a reasonable fee for the expenses of FRANCHISOR in so acting, shall be payable by FRANCHISEE immediately upon notice. The foregoing remedies shall be in addition to any other remedies FRANCHISOR may have.

14.5 The insurance shall cover the acts or omissions of each and every one of the persons who perform services of any nature at FRANCHISEE's Bakery-Cafe, and shall protect against all acts of any persons who patronize the Bakery-Cafe and shall contain a waiver of subrogation against FRANCHISOR.

14.6 FRANCHISOR reserves the right to demand that FRANCHISEE 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 FRANCHISEE's Bakery-Cafe, provided such insurance is reasonably common in the area for similar operations.

14.7 FRANCHISEE shall immediately notify FRANCHISOR, in writing, of any accidents, injury, occurrence or claim that might give rise to a liability or claim against FRANCHISOR or which could materially affect FRANCHISEE's business, and such notice shall be provided no later than the date upon which FRANCHISEE notifies FRANCHISEE's insurance carrier.

## **15. TRANSFER OF INTEREST**

15.1 FRANCHISOR has the right to transfer or assign its rights or obligation under this Agreement to any person or entity and FRANCHISOR interest will bind and inure to the benefit of any transferee, successor or assignee. After FRANCHISOR's transfer or assignment of this Agreement to a person or entity who expressly assumes the obligations under this Agreement, FRANCHISOR will have no further obligation under this Agreement. FRANCHISEE further agrees and affirms that FRANCHISOR may sell itself, its assets, the Proprietary Marks and/or the System to a third-party; may go public, may engage in private placement of some or all of its securities; may merge, acquire other corporations or be acquired by another corporation; and/or may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. FRANCHISEE further agrees and affirms that FRANCHISOR has the right, now or in the future, to purchase, merge, acquire or affiliate with an existing competitive or noncompetitive 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 Tous Les Jours Bakery-Cafes operating under the Proprietary Marks or any other marks following FRANCHISOR's purchase, merger, acquisition or affiliation, regardless of the location of these facilities, which FRANCHISEE acknowledges may be proximate to any TOUS LES JOURS Bakery-Cafe. With regard to any of the above sales, assignments and dispositions, FRANCHISEE expressly and specifically waives any claims, demands or damages arising from or related to the loss of FRANCHISOR's name, the Proprietary Marks (or any variation thereof) and the System and/or the loss of association with or identification of FRANCHISOR under this Agreement.



15.2 FRANCHISEE understands and acknowledges that the rights granted to FRANCHISEE under this Agreement are personal and are granted in reliance upon, among other considerations, the individual or collective character, skill, aptitude, attitude, experience, business ability and financial condition and capacity of FRANCHISEE and, if FRANCHISEE is not an individual, that of Owner. Accordingly, neither FRANCHISEE, nor any individual, partnership, corporation, limited liability company or other legal entity which directly or indirectly owns any interest in FRANCHISEE or in the Bakery-Cafe shall sell, assign, transfer, convey, pledge, encumber, merge or give (collectively, "**transfer**") away any direct or indirect interest in FRANCHISEE (including any direct or indirect interest in a corporate, partnership or limited liability company FRANCHISEE), in the Bakery-Cafe, or in all or substantially all of the assets of the Bakery-Cafe or the business franchised hereunder, without the prior written consent of FRANCHISOR. Any such transfer without the prior written consent of Franchisor shall be deemed null and void, not binding on FRANCHISOR or its affiliates.

15.3 FRANCHISEE shall notify FRANCHISOR in writing of any proposed transfer of any direct or indirect interest in this Agreement, in FRANCHISEE, in the Bakery-Cafe, or in all or substantially all of the assets of the Bakery-Cafe at least 45 days before such transfer is proposed to take place. FRANCHISOR shall review any proposed transfer to determine whether the proposed terms and transferee(s) meets FRANCHISOR's standards. If a transfer, alone or together with other previous, simultaneous or proposed transfers, would have the effect of changing control of FRANCHISEE (which shall mean a change in the majority of voting ownership in the FRANCHISEE), results in the assignment of the rights and obligations of FRANCHISEE under this Agreement or transfers the ownership interest in the Bakery-Cafe or all or substantially all of the assets of the Bakery-Cafe or the business franchised hereunder, FRANCHISOR may, in its sole discretion, require any or all of the following as conditions of its approval:

15.3.1 That FRANCHISEE shall not have any past due monetary obligations or other outstanding obligations to FRANCHISOR, its affiliates, the approved suppliers of the System, or the lessor (or sublessor) of the Premises;

15.3.2 That FRANCHISEE shall not be in default of any provision of this Agreement, or successor hereto, or any other agreement between FRANCHISEE and FRANCHISOR, or FRANCHISOR's affiliates, the approved suppliers of the System, or the lessor (or sublessor) of the Premises; and FRANCHISEE shall have substantially complied with all the terms and conditions of such agreements during the terms thereof;

15.3.3 That each transferor and transferee (and, if the transferor/transferee is other than an individual, the transferor/transferee and such owners of beneficial interest in the transferor/transferee as FRANCHISOR may request) shall execute a general release, in a form prescribed by FRANCHISOR, of any and all claims against FRANCHISOR and its affiliates, and their respective officers, directors, agents, and employees;

15.3.4 Additionally, at the option of FRANCHISOR, FRANCHISEE shall execute, for a term ending on the expiration date of this Agreement, the form of franchise agreement then being offered to new System Franchisees, and such other ancillary agreements required by FRANCHISOR, except that the continuing royalty fee and Advertising Obligation under the then-current franchise agreement shall not be greater than that provided in Articles 4 and 13 herein for the remainder of what would have been the initial term of this Agreement. FRANCHISOR, however, shall have the right to reasonably increase the same, in conformity with the System, during any renewals of the Agreement;

15.3.5 FRANCHISEE, such assignee, transferee or purchaser and any and all stockholders or partners thereof, shall execute a general release in favor of FRANCHISOR, its officers, directors, and employees, of any and all claims and causes of action that they may have against FRANCHISOR or its subsidiary or affiliated corporations in any way relating to this Agreement or the performance or non-performance under this Agreement by FRANCHISOR

15.3.6 Assignee, transferee or purchaser shall not be engaged in a Competitive Business (defined in Section 18.2.3) as FRANCHISOR either as a franchisor, licensor, independent operator or franchisee of any chain or network which is similar in nature or in competition with FRANCHISOR except that the assignee, transferee or purchaser may be an existing franchisee of FRANCHISOR;

15.3.7 Prior to the effective date of the assignment, transfer or sale, the assignee, transferee, or purchaser must satisfactorily complete FRANCHISOR's training program required of all new franchisees;

15.3.8 Assignee, transferee, or purchaser shall, prior to any such assignment, pay to FRANCHISOR a non-refundable training and transfer fee equal to fifty percent (50%) of the then-current Initial Franchise Fee; and

15.3.9 That FRANCHISEE and the transferee satisfy all of the conditions for FRANCHISOR's consent to the transfer and consummate the transfer within 30 days of the date on which the transferee completes the training requirements described in Section 15.3.8 hereof; and

15.3.10 That transferee(s) shall agree in writing to comply with the covenants set forth in Section 18 below.

15.3.11 FRANCHISOR may require transferee to complete a renovation in the amount and scope as determined by FRANCHISOR and consistent with its standards.

15.4 For any transfer not included in Section 15.3, each transferee shall, in addition to the requirement of obtaining FRANCHISOR's consent as provided in Section 15.2, be subject to the requirements of Sections 15.3.3 and 15.3.4 (with respect to execution of personal guarantees) above.

15.5 Neither FRANCHISEE nor any Owner shall grant a security interest in, or otherwise encumber, any of the assets or securities of FRANCHISEE, including the Bakery-Cafe unless FRANCHISEE satisfies the requirements of FRANCHISOR. Such requirements may include, without limitation, execution of an agreement by the secured party in which it acknowledges the FRANCHISEE's obligations under this Section 15, and agrees that in the event of any default by FRANCHISEE under any documents related to the security interest, FRANCHISOR shall have the right and option (but not the obligation) to be substituted as obligor to the secured party and to cure any default of FRANCHISEE, and, in the event FRANCHISOR exercises such option, any acceleration of indebtedness due to FRANCHISEE's default shall be void.

15.6 If any party holding any direct or indirect interest in this Agreement, in FRANCHISEE, in the Bakery-Cafe or in all or substantially all of the assets of the Bakery-Cafe desires to accept any bona fide offer from a third party to purchase such interest, FRANCHISEE shall notify

FRANCHISOR as provided in Section 15.3 hereof, and shall provide such information and documentation relating to the offer as FRANCHISOR may require (e.g. term sheet, letter of intent, proposed asset purchase agreement). FRANCHISOR shall have the right and option, exercisable within 30 days after receipt of the written transfer request and the required information and documentation related to the offer (including any information that FRANCHISOR may reasonably request to supplement or clarify information provided to FRANCHISOR with the written transfer request), to send written notice to the seller that FRANCHISOR intends to purchase the seller's interest on the same terms and conditions offered by the third party; provided, however, a spouse, domestic partner, parent or child of the seller shall not be considered a third party for purposes of this Section 15.6. If FRANCHISOR elects to purchase the seller's interest, closing on such purchase shall occur within 45 days from the date of notice to the seller of the election to purchase by FRANCHISOR, or, if longer, on the same timetable as contained in the bona fide offer. If FRANCHISOR elects not to purchase the seller's interest, any material change thereafter in the terms of the offer from the third party or by FRANCHISEE, or a change in the identity of the third party shall constitute a new offer subject to the same rights of first refusal by FRANCHISOR as in the case of the third party's initial offer. If the sale to the purchaser is not completed within 120 days after delivery of the offer, FRANCHISOR shall again have the right of first refusal under this Section 15.6. Failure of FRANCHISOR to exercise the option afforded by this Section 15.6 shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 15, with respect to a proposed transfer.

15.7 The consent of FRANCHISOR to any transfer pursuant to this Section 15 shall not constitute a waiver of any claims it may have against the transferring party, nor shall it be a waiver of the right of FRANCHISOR to demand exact compliance with any of the terms of this Agreement by the transferor or transferee.

15.8 All materials required for any offering of securities or partnership interests in FRANCHISEE by federal or state law shall be submitted to FRANCHISOR by the offeror for review prior to filing with any government agency; and any materials to be used in any exempt offering shall be submitted to FRANCHISOR for review prior to their use. No offering shall imply, by use of the Proprietary Marks or otherwise, that FRANCHISOR is participating in an underwriting, issuance or offering of securities of either FRANCHISEE or FRANCHISEE's affiliates; and review by FRANCHISOR of any offering shall be limited solely to the subject of the relationship between FRANCHISEE and FRANCHISOR. At its option, FRANCHISOR may require the offering materials to contain written statements or disclaimers prescribed by FRANCHISOR including, but not limited to, any limitations stated above in this Section. FRANCHISEE and the other participants in the offering must fully indemnify FRANCHISOR in connection with the offering. For each proposed offering, FRANCHISEE shall reimburse FRANCHISOR for its actual costs and expenses associated with reviewing the proposed offering materials, including legal and accounting fees. FRANCHISEE shall give FRANCHISOR written notice at least 60 days prior to the date of commencement of any offering or other transaction covered by this Section 15.8. Any such offering shall be subject to prior written consent of FRANCHISOR and right of first refusal as provided in Sections 15.2, 15.3, 15.4 and 15.6, respectively, hereof.

15.9 If FRANCHISEE is a corporation, partnership or limited liability company: (1) an original shareholder, partner or member approved by FRANCHISOR must at all times during the term of this Agreement have a controlling interest in FRANCHISEE; and (2) FRANCHISEE shall require each shareholder, partner or member (as the case may be) holding an interest in FRANCHISEE to execute a covenant with FRANCHISOR agreeing not to transfer any interest in FRANCHISEE in violation of the

terms of this Agreement.

15.10 If FRANCHISEE, any Owner, or any person holding any interest (direct or indirect) in FRANCHISEE becomes a debtor in a proceeding under the U.S. Bankruptcy Code or any similar law in the U.S. or elsewhere, it is the parties' understanding and agreement that any transfer of the ownership of FRANCHISEE, FRANCHISEE's obligations and/or rights hereunder and/or any material assets of FRANCHISEE, shall be subject to all of the terms of this Section 15.

15.11 Notwithstanding anything to the contrary in this Agreement, no transfer shall be made if the transferee (including its shareholders), any of its affiliates, or the funding sources for either is a person or entity designated with whom FRANCHISOR, or any of its affiliates, are prohibited by law from transacting business.

15.12 In addition to the requirements of this Article, FRANCHISEE must, within fifteen (15) days of receipt of an offer to buy, give FRANCHISOR additional written notice whenever FRANCHISEE has received an offer from a third party to buy FRANCHISEE's business franchised under this Agreement. FRANCHISEE must also give FRANCHISOR written notice simultaneously with any offer to sell FRANCHISEE's Bakery-Cafe made by, for, or on behalf of FRANCHISEE. The purpose of this Subsection is to enable FRANCHISOR to comply with any applicable state or federal franchise disclosure law or rules. FRANCHISEE will indemnify and hold FRANCHISOR harmless for FRANCHISEE's failure to comply with this Subsection.

## **16. DEFAULT AND TERMINATION**

16.1 Upon the occurrence of any of the following events of default, or upon the breach of any of the covenants listed in Section 18 of this Agreement, FRANCHISOR may, at its option, terminate this Agreement and all rights granted hereunder, without affording FRANCHISEE any opportunity to cure the default, effective immediately upon the provision of notice to FRANCHISEE (in the manner provided under Section 24 hereof):

16.1.1 If FRANCHISEE fails to obtain FRANCHISOR's authorization for the site of the Accepted Location as required by Section 5.1, fails to obtain possession of the Accepted Location by lease or purchase as required by Section 5.1, or fails to open the Bakery-Cafe as required by Section 5.5.

16.1.2 If FRANCHISEE loses the right to occupy the Premises, or acts or fails, to act, in any manner which is inconsistent with or contrary to its lease or sublease for the Premises, or in any way jeopardizes its right to renewal of such lease or sublease.

16.1.3 If FRANCHISEE or any of its Owners is convicted of or pleads guilty or no contest to an indictable offense, a felony, a crime involving moral turpitude or any other crime or offense that FRANCHISOR believes is reasonably likely to have an adverse effect on FRANCHISOR, the System, the Proprietary Marks, the Products, the goodwill associated therewith or the interest of FRANCHISOR therein.

16.1.4 If FRANCHISEE and/or Owner makes any material misrepresentations in connection with the execution of this Agreement or the operations of the Bakery-Café.

16.1.5 If FRANCHISEE materially misuses or makes any unauthorized use of the

Proprietary Marks or otherwise materially impairs the goodwill associated therewith or FRANCHISOR's rights therein, or takes any action which reflects materially and unfavorably upon the operation and reputation of the Bakery-Café or the System generally.

16.1.6 If FRANCHISEE makes any unauthorized use, disclosure, or duplication of the Tous Les Jours trade secrets or confidential information.

16.1.7 If a threat or danger to public health or safety results from the construction, maintenance or operation of the Bakery-Café, or FRANCHISEE operates the Bakery-Café in a fashion that, in FRANCHISOR's business judgment, in any way jeopardizes the life, health or safety of the general public, FRANCHISOR and its staff, FRANCHISEE's customers and/or employees (in such case, then not only may FRANCHISOR terminate this Agreement upon notice, but FRANCHISEE agrees that FRANCHISOR may either beforehand or concurrently direct FRANCHISEE to immediately close the Bakery-Café).

16.1.8 If FRANCHISEE fails, for a period of ten (10) days after having received notification of noncompliance from FRANCHISOR or any governmental authority, to comply with any federal, state or local law or regulation applicable to the operation of the Bakery-Café.

16.1.9 If FRANCHISEE's action or inaction, at any time, results in the loss of the right to possession of the Premises, or forfeiture of the right to do or transact business in the jurisdiction where the Bakery-Cafe is located.

16.1.10 If FRANCHISEE is found to be under-reporting Gross Sales by two percent (2%) or more.

16.1.11 If FRANCHISEE knowingly maintains false books or records, or submit any false reports to FRANCHISOR.

16.1.12 If FRANCHISEE fails to purchase and maintain in inventory the types and quantities of the Products necessary to meet reasonably anticipated consumer demand.

16.1.13 If FRANCHISEE shall or purports to purchase the TM Products or the Specified Products from other than the approved suppliers and fails to cease use of the non-complying product within three (3) days after having received notification from FRANCHISOR to do so.

16.1.14 If, within ten (10) days after receipt of written notice from FRANCHISOR that any required payment is overdue, FRANCHISEE fails to make the payment to FRANCHISOR, FRANCHISOR's affiliates, or, to FRANCHISEE's landlord, suppliers, creditors or employees unless, with respect to FRANCHISEE's suppliers, creditors or employees, FRANCHISEE notifies FRANCHISOR of the existence of a bona fide dispute and takes immediate action to resolve it.

16.1.15 If FRANCHISEE defaults in the repayment or performance of any obligation or financing transaction with third parties under which this franchise, the Franchised Location or any asset of the Bakery-Café is pledged as security for FRANCHISEE's performance.

16.1.16 If FRANCHISEE fails to remain open for business as required under this Agreement or the Operations Manual, as may be limited by local or the prime landlord, or the

abandonment or vacating by FRANCHISEE of FRANCHISEE's Bakery-Cafe for three (3) or more consecutive days, provided such time period shall be zero days, and effective immediately upon notice, in the event that FRANCHISEE has stated an intention to abandon or vacate the Bakery-Café.

16.1.17 If FRANCHISEE, any Owner or other party covered by Section 15 purports to transfer any rights or obligations under this Agreement, or any interest in FRANCHISEE, Owner, the Bakery-Cafe or the assets of the franchised business to any third party in a manner that is contrary to the terms of Section 15 hereof.

16.1.18 If FRANCHISEE or any of its Owners use abusive language when communicating with Franchisor, Franchisor's staff, or customers, or denigrates the Tous Les Jours System or portrays it in an unflattering light on the Internet or otherwise.

16.1.19 If FRANCHISEE fails to respond to all communications with FRANCHISOR in a timely manner.

16.1.20 If FRANCHISEE shall default in any obligation under this Agreement that by its nature is not capable of being cured by FRANCHISEE.

16.1.21. If FRANCHISEE shall become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by FRANCHISEE or such a petition is filed against and not opposed by FRANCHISEE; if FRANCHISEE is adjudicated as bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver of FRANCHISEE or other custodian for FRANCHISEE's business or assets is filed and consented to by FRANCHISEE; if a receiver or other custodian (permanent or temporary) of FRANCHISEE's 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 FRANCHISEE; if a final judgment remains unsatisfied or of record for 30 days or longer (unless supersedeas is filed); if FRANCHISEE is dissolved or liquidated; if execution is levied against FRANCHISEE's business or property; if suit to foreclose any lien or mortgage against the Premises or Operating Assets is instituted against FRANCHISEE and not dismissed within 30 days; or if the real or personal property of the Bakery-Cafe shall be sold after levy thereupon by any sheriff, marshal, or constable.

16.1.22 Notwithstanding the provisions of subsection 16.2.1 and 16.2.2 below, if FRANCHISEE has previously received two (2) or more notices of default within any prior twelve (12) month period (whether the same or different defaults, and whether or not such defaults were cured).

16.2 Except as provided in Section 16.1 above, FRANCHISEE will have thirty (30) days (or such longer period as provided by the applicable state law) from the date FRANCHISOR furnishes FRANCHISEE with a written notice of default, transmitted in accordance with the terms of Section 24 of this Agreement, to cure any default under this Agreement. This Agreement may, in the sole discretion of FRANCHISOR, terminate on the date specified in the notice, unless:

16.2.1. FRANCHISEE cures the default or reason for termination during the notice period;

16.2.2. FRANCHISEE has in good faith initiated a cure of the default or reason for termination within the notice period, and such default or reason cannot be completely cured during the

notice period because of factors reasonably beyond the exclusive control of FRANCHISEE, in which event FRANCHISOR, by notice, shall permit FRANCHISEE a reasonable opportunity, in light of such factors, to effect a complete cure; or

16.2.3. The provisions of Subsection 16.2.1 and 16.2.2 notwithstanding, this Agreement may nonetheless be terminated by FRANCHISOR, in its sole discretion, if: (i) the default or reason for termination has been set forth in two (2) prior notices of termination within any prior twelve (12) month period (whether the same or different defaults, and whether or not such defaults were cured); or (ii) two (2) or more health code violations have been committed within any prior twelve (12) month period.

16.2.4. Notwithstanding the provisions of Section 16.2, if FRANCHISEE fails, refuses or neglects to pay promptly when due any money owed to FRANCHISOR, its affiliates or any lender which has provided financing to FRANCHISEE's Bakery-Café, the cure period for this default shall be five (5) days after FRANCHISOR transmits to FRANCHISEE a written notice of default.

16.3 The description of any default in any notice that FRANCHISOR transmits to FRANCHISEE will in no way preclude FRANCHISOR from specifying additional or supplemental defaults under this Agreement or any related agreements in any action, proceeding, hearing or lawsuit relating to this Agreement or the termination of this Agreement.

16.4 Any continuance of business relations between FRANCHISEE and FRANCHISOR after termination or expiration of this Agreement will not constitute, and may not be construed as, a reinstatement, renewal, extension or continuation of this Agreement unless FRANCHISEE and FRANCHISOR agree in writing to any such renewal, extension or continuation.

16.5 If FRANCHISEE is in breach of any obligation under this Agreement, and FRANCHISOR delivers to FRANCHISEE a notice of termination pursuant to this Section 16, FRANCHISOR and its affiliates have the right to suspend their performance of any of their obligations under this Agreement including, without limitation, the sale or supply of any services or products for which FRANCHISOR and its affiliates are an approved supplier to FRANCHISEE until such time as FRANCHISEE corrects the breach.

## **17. OBLIGATIONS UPON TERMINATION OR EXPIRATION**

Upon termination, transfer or expiration of this Agreement ("Effective Date of Termination"), all rights granted hereunder to FRANCHISEE shall terminate, and FRANCHISEE shall comply with the following obligations:

17.1 FRANCHISEE acknowledges that its obligation to pay FRANCHISOR liquidated damages is in addition to, not in lieu of, FRANCHISEE's obligations to pay other amounts due to FRANCHISOR under this Agreement up to the Effective Date of Termination and to strictly comply with any other post-termination obligations required hereunder. Should any valid, applicable law, arbitrator or regulation of a competent governmental authority having jurisdiction over this Agreement limit FRANCHISEE's ability to pay, and FRANCHISOR's ability to receive, such liquidated damages, FRANCHISEE shall *be* liable to FRANCHISOR for any and all damages which it incurs, now or in the future, as a result of FRANCHISEE's default under this Agreement.

17.2 FRANCHISEE shall immediately cease to operate the Bakery-Cafe, and shall not

thereafter, directly or indirectly, represent to the public or hold itself out as a present or former FRANCHISEE of FRANCHISOR in connection with the promotion or operation of any other business.

17.3 FRANCHISEE shall immediately and permanently cease to use, in any manner whatsoever, any confidential methods, procedures, and techniques associated with the System; the Proprietary Mark "TOUS LES JOURS" and all other Proprietary Marks and distinctive forms, slogans, signs, symbols and devices associated with the System. In particular, FRANCHISEE shall cease to use all signs, marketing materials, displays, stationery, forms, products and any other articles which display the Proprietary Marks.

17.4 FRANCHISEE shall take such action as may be necessary to cancel any assumed or trade name registration or equivalent registration obtained by FRANCHISEE which contains the mark "TOUS LES JOURS" or any other Proprietary Marks, and FRANCHISEE shall furnish FRANCHISOR with evidence satisfactory to FRANCHISOR of compliance with this obligation within 5 days after the Effective Date of Termination.

17.5 Other than in respect of an approved transfer, FRANCHISEE shall, at the option of FRANCHISOR, assign to FRANCHISOR any interest which FRANCHISEE has in any lease or sublease for the Premises. In the event FRANCHISOR does not elect to exercise its option to acquire the lease or sublease for the Premises, FRANCHISEE shall make such modifications or alterations to the Premises (including the changing of, and the assigning to FRANCHISOR of, the telephone number, telephone listings and advertisements and e-mail address) immediately upon the Effective Date of Termination as may be necessary to distinguish the appearance of the Premises from that of Tous Les Jours Bakery-Cafes under the System, and shall make such specific additional changes thereto as FRANCHISOR may reasonably request for that purpose. In the event FRANCHISEE fails or refuses to comply with the requirements of this Section 17.5, FRANCHISOR shall have the right to enter upon the Premises, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at the expense of FRANCHISEE, which expense FRANCHISEE agrees to pay upon demand. FRANCHISEE and each Owner shall comply with Section 18.2.3 below regarding a Competitive Business, as defined in Section 18.2.3 of this Agreement.

17.6 FRANCHISEE and Owner agree, in the event either party continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy or colorable or substantially similar imitation of the Proprietary Marks, either in connection with such other business or the promotion thereof, which, in the sole discretion of FRANCHISOR, is likely to cause confusion, mistake or deception, or which, in the sole discretion of FRANCHISOR, is likely to dilute the rights of FRANCHISOR in and to the Proprietary Marks. FRANCHISEE and Owner further agree not to utilize any designation of origin, description or representation (including but not limited to reference to FRANCHISOR, the System or the Proprietary Marks) which, in the sole discretion of FRANCHISOR, suggests or represents a present or former association or connection with FRANCHISOR, the System or the Proprietary Marks.

17.7 FRANCHISEE shall promptly pay all sums owing to FRANCHISOR and its affiliates, including reasonable attorneys' fees and costs, and other expenses required under Section 17.5 above.

17.8 FRANCHISEE shall, at its own expense, immediately (i) surrender and deliver to FRANCHISOR hard and electronic copies (capable of being returned) of the Manuals and all other records, correspondence and instructions containing confidential information relating to the operation of the



Bakery-Cafe (and any copies thereof, even if such copies were made in violation of this Agreement), all of which are acknowledged to be the property of FRANCHISOR and (ii) erase such information from FRANCHISEE's computer system and/or e-mail accounts.

17.9 Other than in respect of an approved transfer, FRANCHISEE shall deliver to FRANCHISOR, without charge, all Operating Assets which bear the Proprietary Marks and which FRANCHISOR deems to be proprietary to the System. In addition, FRANCHISOR shall have the option, to be exercised within 30 days after the Effective Date of Termination, to purchase from FRANCHISEE any or all of the non-proprietary Operating Assets, supplies or inventory of FRANCHISEE related to the operation of the Bakery-Cafe, at the lesser of FRANCHISEE's cost or fair market value. The cost for such items shall be determined based upon a 5-year straight-line depreciation of original costs. For any Operating Asset that is 5 or more years old, the parties agree that fair market value shall be deemed to be 10% of such Operating Asset's original cost. If FRANCHISOR elects to exercise any option to purchase herein provided, it shall have the right to set off all amounts due from FRANCHISEE.

17.10 FRANCHISEE (and Owners) shall comply with the covenants contained in Section 18.2 of this Agreement.

17.11 FRANCHISEE shall maintain all financial records and reports required pursuant to this Agreement or the Confidential Operations Manuals for a period of not less than three (3) years after the Effective Date of Termination. FRANCHISEE shall permit FRANCHISOR to make final inspection of FRANCHISEE's financial records, books, tax returns, and other accounting records at any time in the three (3) year period following the Effective Date of Termination.

17.12 Liquidated Damages. In addition to and without in any way limiting other remedies herein, FRANCHISEE shall pay to FRANCHISOR, as liquidated damages and not as a penalty, in addition to all sums otherwise due hereunder, the sum produced by multiplying thirty-six (36) by the average actual monthly Royalty Fees for which FRANCHISEE was obligated during the term hereof. If less than thirty-six (36) months remain in the term hereof at the time of such termination, then the number of remaining months shall be substituted for the number of thirty-six (36). Such sum shall be fully due and payable within ten (10) days of receipt of notice thereof from FRANCHISOR. FRANCHISEE acknowledges the reasonableness of this liquidated damages provision as a measurement on FRANCHISOR's lost future profits.

## **18. COVENANTS**

18.1 FRANCHISEE covenants that, during the term of this Agreement, except as otherwise approved in writing by FRANCHISOR, FRANCHISEE (or, if FRANCHISEE is other than an individual, the Designated Owner) or FRANCHISEE's fully-trained manager approved by FRANCHISOR shall devote full time and best efforts to the management and operation of the Bakery-Cafe. FRANCHISEE shall devote full time and best efforts to the management and operation of the business of the Bakery-Cafe for such minimum hours of each day that FRANCHISOR shall specify in the Manuals and also be responsible for (i) marketing the Bakery-Cafe; (ii) customer service and customer relations; (iii) complying with the operation standards and the Manuals; and (iv) management of the staff. FRANCHISEE acknowledges and agrees that the success of the Bakery-Cafe and the System is dependent upon the marketing, solicitation and sale of Products under the System. To that end, FRANCHISEE shall use best efforts to: (1) maximize the sale of the Products in the Territory; (2) promote the Bakery-Cafe; and (3) implement recommendations from FRANCHISOR.

18.2 FRANCHISEE specifically acknowledges that, pursuant to this Agreement, FRANCHISEE will receive valuable, specialized training and confidential information, including information regarding the operational, sales, promotional and marketing methods and techniques of FRANCHISOR and the System. FRANCHISEE covenants that during the Term of this Agreement and for two (2) years after the Effective Date of Termination, except as otherwise approved in writing by FRANCHISOR, FRANCHISEE shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person or legal entity:

18.2.1 Divert or attempt to divert any present or prospective business or customer of any TOUS LES JOURS Bakery-Café to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with FRANCHISOR (or any of its affiliates), the Products, the Proprietary Marks or the System;

18.2.2 Employ or seek to employ any person who is at that time employed by FRANCHISOR or by any other System Franchisee, or otherwise encourage such person to leave his or her employment; or

18.2.3 Within the Minimum Area of Competition, directly or indirectly, either individually or in conjunction with any person or persons, firm, association, or corporation, as principal, agent, shareholder, employee, licensee, licensor, franchisee or franchisor, or in any manner whatsoever, own, maintain, engage in, be employed in, provide assistance to, participate in, lend money to, guarantee the debt or obligations of, or permit its name to be used, or have any interest in the operation of any Competitive Business (defined below), provided, however, that this prohibition shall not apply to the ownership by FRANCHISEE, its affiliates or Owner of additional Bakery-Café outlets pursuant to a written and valid franchise agreement with FRANCHISOR. For purposes of this Agreement, the term "**Competitive Business**" means any business which sells or offers to sell on-premises prepared or freshly baked pastries and baked goods (which, for clarity, includes preparation and/or banking of frozen and/or par-baked products), which may include any or all of bread, sandwiches, cakes, pastries, croissants and desserts. "Minimum Area of Competition" shall be deemed to be the premises of the Approved Location and the area which is within a radius of fifteen (15) miles from such premises.

18.3 The covenants contained in this Sections 18.1 and 18.2 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, agency or arbitrator having valid jurisdiction in any unappealed final decision to which FRANCHISOR is a party, FRANCHISEE 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 Section.

18.4 FRANCHISEE acknowledges and agrees that the covenants and restrictions in this Section 18: (i) are reasonable, appropriate and necessary to protect the System and the interest of the FRANCHISOR, and (ii) do not cause undue hardship on FRANCHISEE or any of the other individuals required by this Section 18 to comply with the covenants and restrictions. FRANCHISEE acknowledges that in the event of a breach of covenants contained in this Section 18, the damage to FRANCHISOR would be difficult to ascertain. In addition to the liquidated damages payable to FRANCHISOR, FRANCHISOR shall be entitled to seek injunctive and/or other equitable relief against the violation of any of those covenants, together with reasonable attorneys' fees and costs.

18.5 FRANCHISEE, and its officers, members, shareholders, and/or Owners, shall execute the Confidentiality and Non-Competition Agreement as set forth in Exhibit G attached hereto.

**19. CORPORATE, LIMITED LIABILITY COMPANY OR PARTNERSHIP FRANCHISEE**

19.1 If FRANCHISEE is a corporation, limited liability company or partnership, each shareholder, member or partner of FRANCHISEE, and the interest of such person in FRANCHISEE, shall be identified as Owner in Exhibit D hereto. FRANCHISEE shall immediately furnish FRANCHISOR with an update to the information contained in Exhibit D upon any change, provided that nothing in this Section 19.1 shall waive or otherwise limit the terms of Section 15 regarding transfers. Additionally, FRANCHISEE shall identify in Exhibit D, an Owner, who is reasonably acceptable to FRANCHISOR, to serve as FRANCHISEE's "**Designated Owner.**" The Designated Owner is an Owner of FRANCHISEE, who FRANCHISEE empowers with the responsibility and decision-making authority regarding the Bakery-Cafe's operation and FRANCHISEE's business, and FRANCHISEE acknowledges and agrees that FRANCHISOR shall have the right to rely upon the Designated Owner for such purposes. Additionally, FRANCHISEE shall not remove or replace the Designated Owner identified in Exhibit D without the prior written approval of FRANCHISOR.

19.2 If FRANCHISEE is a corporation or limited liability company, FRANCHISEE shall comply with the following requirements:

19.2.1 FRANCHISEE shall be newly organized and its charter shall at all times provide that its activities are confined exclusively to operating the Bakery-Café, unless such provision is waived by FRANCHISOR;

19.2.2 Copies of FRANCHISEE's articles of incorporation, bylaws, articles of organization, operating agreement and/or other governing documents, and any amendments thereto, including the resolution of the Board of Directors or members authorizing entry into this Agreement, shall be promptly furnished to FRANCHISOR, upon request of FRANCHISOR;

19.2.3 FRANCHISEE shall maintain stop-transfer instructions against the transfer on its records of any equity securities; and each stock certificate or issued securities of FRANCHISEE shall have conspicuously endorsed upon its face a statement in a form satisfactory to FRANCHISOR that it is held subject to, and that further assignment or transfer thereof is subject to, all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section 19.2.3 shall not apply to a publicly-held corporation; and

19.2.4 FRANCHISEE shall submit to FRANCHISOR, for prior written approval, any corporate or other legal name that FRANCHISEE proposes to use, provided, however, such name shall not include any of FRANCHISOR's marks or any of the following (or a combination of the following) phrases or words: TLJ, Tous Les Jours, Les Jours, Jours.

19.3 If FRANCHISEE or any successor to or assignee of FRANCHISEE is a partnership, it shall comply with the following requirements:

19.3.1 FRANCHISEE shall furnish FRANCHISOR with a copy of its partnership agreement as well as such other documents as FRANCHISOR may reasonably request, and any amendments thereto; and

19.3.2 FRANCHISEE shall submit to FRANCHISOR, for prior written approval, any name of the partnership or other legal name that FRANCHISEE proposes to use, provided, however, such name shall not include any of FRANCHISOR's marks or any of the following (or a combination of the following) phrases or words: TLJ, Tous Les Jours, Les Jours, Jours.

## **20. TAXES, PERMITS, AND INDEBTEDNESS**

20.1 FRANCHISEE shall promptly pay when due all taxes levied or assessed, including unemployment and sales taxes, and all accounts and other indebtedness of every kind incurred by FRANCHISEE in the operation of the Bakery-Cafe. FRANCHISEE must pay FRANCHISOR or FRANCHISOR's affiliates within 7 days after demand: (i) all sales taxes, corporate taxes, trademark license taxes, and any like taxes imposed on, required to be collected by, or paid by FRANCHISOR or FRANCHISOR's affiliates on account of products or services FRANCHISOR or FRANCHISOR's affiliates furnish to FRANCHISEE, through sale, lease, or otherwise, or on account of FRANCHISOR's or FRANCHISOR's affiliates' collection of any fee related to this Agreement; (ii) any applicable franchise or like taxes, whether based on gross receipts, gross revenues, royalty fees, contributions to the Fund, contributions to the Cooperative, or otherwise, imposed on, required to be collected by, or paid by FRANCHISOR or FRANCHISOR's affiliates; and (iii) all other amounts FRANCHISOR or FRANCHISOR's affiliates pay or must pay for FRANCHISEE for any reason.

20.2 FRANCHISEE shall pay to FRANCHISOR an amount equal to any sales tax, gross receipts tax or similar tax (other than income tax) imposed on FRANCHISOR with respect to any payments to FRANCHISOR required under this Agreement, unless the tax is credited against income tax otherwise payable by FRANCHISOR. All amounts in this Agreement are exclusive of any sales tax, gross receipts tax or similar tax with respect to any payment made to FRANCHISOR.

20.3 In the event of any bona fide dispute as to FRANCHISEE's liability for taxes assessed or other indebtedness, FRANCHISEE may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law, but in no event shall FRANCHISEE permit a tax sale or seizure by levy or execution or similar writ or warrant, or attachment by a creditor, to occur against the Premises of the Bakery-Cafe, or any improvements thereon.

20.4 FRANCHISEE shall comply with all 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 the Bakery-Cafe, including licenses to do business, fictitious name registrations, sales tax permits and fire clearances.

20.5 In the event that any amounts payable by FRANCHISEE to FRANCHISOR hereunder are subject to withholding or other taxes that FRANCHISEE is required to deduct from such payments, FRANCHISEE shall promptly deliver to FRANCHISOR copies of receipts of applicable governmental authorities for such taxes withheld or paid. FRANCHISEE shall be responsible for and shall indemnify and hold FRANCHISOR harmless against any penalties, interest and expenses incurred by or assessed against FRANCHISOR as a result of FRANCHISEE's failure to withhold such taxes or to timely remit them to the appropriate taxing authority. FRANCHISEE shall fully and promptly cooperate with FRANCHISOR to provide such information and records as FRANCHISOR may request in connection with any application by FRANCHISOR to any taxing authority with respect to tax credits, exemptions or refund available for any withholding or other taxes paid or payable by FRANCHISEE.

## **21. INDEPENDENT CONTRACTOR AND INDEMNIFICATION**

21.1 FRANCHISEE is an independent contractor. FRANCHISOR and FRANCHISEE are completely separate entities and are not fiduciaries, partners, joint venturers or agents of the other in any sense and neither shall have the power to bind the other. No act or assistance given by either party to the other pursuant to this Agreement shall be construed to alter the relationship. FRANCHISEE shall be solely responsible for compliance with all federal, state and local laws, rules and regulations, and for FRANCHISEE's policies, practices and decisions relating to the operation of the Bakery-Cafe and its business.

21.2 During the term of this Agreement, FRANCHISEE shall hold itself out to the public as an independent contractor operating the Bakery-Cafe pursuant to a franchise agreement from FRANCHISOR. FRANCHISEE agrees to take such action as may be necessary to do so, including exhibiting a notice of that fact in a conspicuous place at the Premises, the content of which FRANCHISOR reserves the right to specify.

21.3 Nothing in this Agreement authorizes FRANCHISEE to make any contract, agreement, warranty, condition or representation on the behalf of FRANCHISOR, or to incur any debt or other obligation in the name of FRANCHISOR; and FRANCHISOR shall in no event assume liability for, or be deemed liable hereunder as a result of, any such action; nor shall FRANCHISOR be liable by reason of any act or omission of FRANCHISEE in its operation of the Bakery-Cafe or for any claim or judgment arising therefrom against FRANCHISEE or FRANCHISOR. FRANCHISEE shall indemnify and hold FRANCHISOR and its affiliates, and the officers, directors and employees of FRANCHISOR and its affiliates (the "**Indemnitees**") harmless against any and all causes of action, applications, demands, claims, losses, costs, expenses, liabilities, litigation, damages or other expenses (including, but not limited to, settlement costs and attorneys' fees) arising directly or indirectly from, as a result of, or in connection with the operation of the Bakery-Cafe, FRANCHISEE's conduct under this Agreement, including, without limitation, those alleged to be caused by the Indemnitees' negligence, unless (and then only to the extent that) the claims, obligations or damages are determined to be caused solely by the Indemnitees' gross negligence or willful misconduct according to a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction. FRANCHISEE agrees that with respect to any threatened or actual litigation, proceeding or dispute which could directly or indirectly affect any of the Indemnitees, the Indemnitees shall have the right, but not the obligation, to: (i) choose counsel; (ii) direct, manage and/or control the handling of the matter; and (iii) settle on behalf of the Indemnitees, and/or FRANCHISEE, any claim against the Indemnitees in their sole discretion. All vouchers, canceled checks, receipts, receipted bills or other evidence of payments for any such losses, liabilities, costs, damages, charges or expenses of whatsoever nature incurred by any Indemnitee shall be taken as prima facie evidence of FRANCHISEE's obligation hereunder.

21.4 FRANCHISEE recognizes that FRANCHISOR has entered into this Agreement in reliance upon and in recognition of the fact that FRANCHISEE 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 the performance of FRANCHISEE.

21.5 Except as expressly granted in this Agreement, FRANCHISEE recognizes that nothing contained in this Agreement shall be construed as giving to FRANCHISEE or to any other person or entity, any right or interest in FRANCHISOR's names, Proprietary Marks, trade secrets, methods, procedures or techniques developed by FRANCHISOR and used in the System. Further, except as specifically set forth in Article 1 above, nothing contained in this Agreement shall be construed as

limiting FRANCHISOR's right, title or interest in the "TLJ" or "Tous Les Jours" name, Proprietary Marks, trade secrets, methods, procedures and techniques which are a part of the System or FRANCHISOR's sole and exclusive right to register trade secrets, methods, procedures and techniques.

21.6 FRANCHISOR shall have no liability for any sales, use, excise, gross receipts, property or other taxes, whether levied upon FRANCHISEE, the Bakery-Cafe or its assets, or upon FRANCHISOR in connection with sales made, services performed or business conducted by FRANCHISEE.

## **22. ACCEPTANCES, APPROVALS AND WAIVERS**

22.1 Whenever this Agreement requires the prior authorization, approval or consent of FRANCHISOR, FRANCHISEE shall make a timely written request to FRANCHISOR therefor, and such acceptance, approval or consent must be obtained in writing. Failure by FRANCHISOR to provide acceptance, approval or consent in writing shall constitute a denial of the same.

22.2 FRANCHISOR makes no warranties, conditions or guarantees upon which FRANCHISEE may rely, and assumes no liability or obligation to FRANCHISEE, by providing any waiver, acceptance, approval, consent or suggestion to FRANCHISEE in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefore.

22.3 No failure of FRANCHISOR to exercise any power reserved to it by this Agreement, or to insist upon strict compliance by FRANCHISEE with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms hereof, including any practice or action of FRANCHISOR in its dealing with any other party, shall constitute a waiver of the right of FRANCHISOR to demand exact compliance with any of the terms hereof. Waiver by FRANCHISOR of any particular default of FRANCHISEE shall not affect or impair the rights of FRANCHISOR with respect to any subsequent default of the same, similar or different nature; nor shall any delay, forbearance, or omission of FRANCHISOR to exercise any power or right arising out of any breach or default by FRANCHISEE of any of the terms, provisions or covenants hereof, affect or impair the right of FRANCHISOR to exercise the same, nor shall such constitute a waiver by FRANCHISOR of any right hereunder, or the right to declare any subsequent breach or default and to terminate this Agreement prior to the expiration of its term. Subsequent acceptance by FRANCHISOR of any contributions or payments due to it hereunder shall not be deemed to be a waiver by FRANCHISOR of any preceding breach by FRANCHISEE of any terms, covenants or conditions of this Agreement.

22.4 FRANCHISOR shall have the right to operate, develop and change the System in any manner that is not specifically precluded by this Agreement. Whenever FRANCHISOR has reserved in this Agreement a right to take or withhold an action, or are deemed to have a right and/or discretion to take or withhold an action, or to grant or decline to grant FRANCHISEE a right to take or omit an action, except as otherwise expressly and specifically provided in this Agreement, FRANCHISOR may make its decision or exercise its rights, on the basis of the information readily available to FRANCHISOR, and its judgment of what is in the best interests of FRANCHISOR, System Franchisees generally, or the System, at the time its decision is made, without regard to whether: (i) other reasonable or even arguably preferable alternative decisions could have been made by FRANCHISOR; (ii) the decision or action of FRANCHISOR will promote its financial or other individual interest; (iii) FRANCHISOR decision or the action it takes applies differently to FRANCHISEE and one or more other System Franchisees or FRANCHISOR's company-owned operations; or (iv) FRANCHISOR decision or the exercise of its right

or discretion is adverse to FRANCHISEE's interests. In the absence of an applicable statute, FRANCHISOR will have no liability to FRANCHISEE for any such decision or action. FRANCHISOR and FRANCHISEE intend that the exercise of FRANCHISOR's right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, FRANCHISOR and FRANCHISEE agree that such covenant shall not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement grants FRANCHISOR the right to make decisions, take actions and/or refrain from taking actions not inconsistent with FRANCHISEE's rights and obligations hereunder.

### **23. WARRANTIES OF FRANCHISEE**

23.1 FRANCHISOR entered into this Agreement in reliance upon the statements and information submitted to FRANCHISOR by FRANCHISEE and Owner in connection with this Agreement. FRANCHISEE represents and warrants that all such statements and information submitted by FRANCHISEE in connection with this Agreement are true, correct and complete in all material respects. FRANCHISEE agrees to promptly advise FRANCHISOR of any material changes in the information or statements submitted.

23.2 FRANCHISEE represents and warrants to FRANCHISOR that neither FRANCHISEE (including, without limitation, any and all of its employees, officers, directors, shareholders, members, partners, Owners, other representatives and other holders of a direct or indirect ownership interest in FRANCHISEE or the franchised business), nor any of its affiliates or the funding sources for either (a) are a person or entity designated with whom FRANCHISOR, or any of its affiliates, are prohibited by law from transacting business, (b) are, have been or will be listed on any Government Lists (as defined below), (c) are, have been or will be determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No. 133224 (Sept. 23, 2001), or any other similar prohibitions contained in the rules and regulations of OFAC (as defined below) or in any enabling legislation or other Presidential Executive Orders in respect thereof, (d) have been or will be indicted for or convicted of any indictable offense, or any felony involving a crime or crimes of moral turpitude or for any offenses under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA Patriot Act"), (e) are, have been or will be under investigation by any Governmental Authority (as defined below) for alleged criminal activity, or (f) have or have had a reputation in the community for criminal or unethical behavior. For purposes of this provision, the following definitions apply:

23.2.1 Government Lists means any of the following lists: (a) the "Specially Designated Nationals and Blocked Persons List" maintained by OFAC, (b) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC, or (c) any similar list maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America;

23.2.2 OFAC mean the Office of Foreign Assets Control, United States Department of the Treasury, or any other office, agency or department that succeeds to the duties of OFAC; and

23.2.3 Governmental Authority means all federal, state, county, local, foreign or other governmental or regulatory agencies, authorities (including self-regulatory authorities), instrumentalities, commissions, boards or bodies.

The foregoing representation, warranty and certification shall continue in full force and effect during the term of this Agreement.

**24. NOTICES**

All notices or demands to be given under this Agreement shall be in writing and shall be served in person, by air courier delivery with a guaranteed tracking facility, by certified mail, by facsimile transmission or by electronic transmission (email). Service shall be deemed conclusively made (i) at the time of service, if personally served; (ii) three (3) business days after delivery by the party giving the notice, statement or demand if by air courier with a guaranteed tracking facility; (iii) three (3) business days after placement in the United States mail by certified mail, return receipt requested, with postage prepaid; (iv) on the day of facsimile transmission to the facsimile number given below if telephonic confirmation of receipt is obtained by the sender promptly after completion of facsimile transmission; and (v) on the day of electronic transmission to the email address given below if confirmation of receipt is obtained by the sender promptly after completion of electronic transmission. Notices are:

Notices to FRANCHISOR:

Tous Les Jours International Corp  
6832 E. Slauson Ave.  
Commerce, CA 90040  
Fax:  
Email:

With a copy to:

TLJ Legal  
3530 Wilshire Bl., Suite 1220  
Los Angeles, CA 90010  
Attn: Legal Department

Notices to FRANCHISEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax:  
Email:

Either party may change its address for the purpose of receiving notices, demands and other communications provided by a written notice given in the manner aforesaid to the other party.

**25. ENTIRE AGREEMENT**

This Agreement, the attachments hereto, and the documents referred to herein constitute the entire Agreement between FRANCHISOR and FRANCHISEE concerning the subject matter hereof, and supersede any prior agreements, no other representations having induced FRANCHISEE to execute this Agreement. Except for those permitted to be made unilaterally by FRANCHISOR hereunder, no amendment, change, or variance from this Agreement shall be binding on either party unless mutually



agreed to by the parties and executed by their authorized officers or agents in writing. There are no understandings, inducements, commitments, conditions, representations or warranties of any kind, whether direct, indirect, collateral, express or implied, oral or written, other than as contained in this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require FRANCHISEE to waive reliance on any representation that FRANCHISOR made in the most recent disclosure document (including its exhibits and amendments) that FRANCHISOR delivered to FRANCHISEE or its representative, subject to any agreed-upon changes to the contract terms and conditions described in that disclosure document and reflected in this Agreement (including any riders or addenda signed at the same time as this Agreement).

## **26. SEVERABILITY AND CONSTRUCTION**

26.1 If, for any reason, any section, part, term, provision and/or covenant herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court, arbitrator or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, provisions and/or covenants of this Agreement as may remain otherwise intelligible; and the latter shall continue to be given full force and effect and bind the parties hereto; and the invalid portions, sections, parts, terms, provisions and/or covenants shall be deemed not to be a part of this Agreement.

26.2 Any provision or covenant in this Agreement which expressly or by its nature imposes obligations beyond the Effective Date of Termination (regardless of cause for termination) shall survive such expiration, termination, or transfer, including Sections 11, 17, 18, 21.3 and 27.

26.3 Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than FRANCHISEE, FRANCHISOR, officers, directors, shareholders, agents and employees of FRANCHISOR, and such successors and assigns of FRANCHISOR as may be contemplated by Section 15 hereof, any rights or remedies under or by reason of this Agreement.

26.4 FRANCHISEE expressly agrees 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, arbitrator or agency having valid jurisdiction may hold to be unreasonable and unenforceable in an unappealed final decision to which FRANCHISOR is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court, arbitrator or agency order.

26.5 All captions in this Agreement are intended solely for the convenience of the parties, and no caption shall be deemed to affect the meaning or construction of any provision hereof. The word "including" shall be construed to include the words "but not limited to." The term "FRANCHISEE" is applicable to one or more persons, a corporation, limited liability company or a partnership and its Owners, as the case may be. If two or more persons are at any time FRANCHISEE hereunder, whether as partners, joint venturers or otherwise, their obligations and liabilities to FRANCHISEE should be joint and several. The term "Owner" is applicable to one or more persons, a corporation, unlimited liability company or a partnership and its owners, as the case may be. If two or more persons are at any time Owner hereunder, whether as partners, joint venturers or otherwise, their obligations and liabilities to Owner should be joint and several. Reference to a "controlling" interest in an entity shall mean more than fifty

(50%) of the equity or voting control of such entity.

## **27. ARBITRATION AND APPLICABLE LAW**

27.1 Arbitration. FRANCHISOR and FRANCHISEE agree that all controversies, disputes, or claims between FRANCHISOR and FRANCHISOR's affiliates, and FRANCHISOR's and FRANCHISOR's affiliates' respective shareholders, officers, directors, agents, and/or employees, and FRANCHISEE (and/or FRANCHISEE's Owners, shareholders, officers, guarantors, affiliates, and/or employees) arising out of or related to:

27.1.1 this Agreement or any other agreement between FRANCHISEE AND FRANCHISOR;

27.1.2 FRANCHISOR's relationship with FRANCHISEE;

27.1.3 the scope and validity of this Agreement or any other agreement between FRANCHISEE and FRANCHISOR or any provision of such agreements (including the validity and scope of the arbitration obligations under this Section 27.1, which the parties acknowledge is to be determined by an arbitrator and not a court); or

27.1.4 any System Standard;

must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association. The arbitration proceedings will be conducted by one arbitrator and, except as this Section otherwise provides, according to the then current commercial arbitration rules of the American Arbitration Association. All proceedings will be conducted at a suitable location chosen by the arbitrator in the Los Angeles, California metropolitan area. All matters relating to arbitration will be governed by the federal arbitration act (9 U.S.C. §§ 1 et seq.). Judgment upon the arbitrator's award may be entered in any court of competent jurisdiction.

The arbitrator has the right to award or include in his or her award any relief which he or she deems proper, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator may not declare any Proprietary Mark generic or otherwise invalid or, except as expressly provided in Section 27.6 below, award any punitive or exemplary damages against either party (FRANCHISOR and FRANCHISEE hereby waiving to the fullest extent permitted by law, except as expressly provided in Section 27.6 below, any right to or claim for any punitive or exemplary damages against the other).

FRANCHISOR and FRANCHISEE agree to be bound by the provisions of any limitation on the period of time in which claims must be brought under applicable law or this Agreement, whichever expires earlier. FRANCHISOR and FRANCHISEE further agree that, in any arbitration proceeding, each must submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any claim which is not submitted or filed as required is forever barred. The arbitrator may not consider any settlement discussions or offers that might have been made by either FRANCHISEE or FRANCHISOR. FRANCHISOR reserves the right, but has no obligation, to advance FRANCHISEE's share of the costs of any arbitration proceeding in order for such arbitration proceeding to take place and by doing so will

not be deemed to have waived or relinquished FRANCHISOR's right to seek the recovery of those costs in accordance with Section 27.6.

FRANCHISOR and FRANCHISEE agree that arbitration will be conducted on an individual, not a class wide, basis and that an arbitration proceeding between FRANCHISOR and FRANCHISOR's affiliates, and FRANCHISOR's and FRANCHISOR'S affiliates' respective shareholders, officers, directors, agents, and/or employees, and FRANCHISEE (and/or FRANCHISEE's Owners, shareholders, officers, guarantors, affiliates, and/or employees) may not be consolidated with any other arbitration proceeding between FRANCHISOR and any other person. Notwithstanding the foregoing or anything to the contrary in this Section 27.1 or Section 26, if any court or arbitrator determines that all or any part of the preceding sentence is unenforceable with respect to a dispute that otherwise would be subject to arbitration under this Section 27.1, then the parties agree that this arbitration clause shall not apply to that dispute and that such dispute will be resolved in a judicial proceeding in accordance with this Section 27 (excluding this Section 27.1).

Despite FRANCHISOR's and FRANCHISEE's agreement to arbitrate, FRANCHISOR and FRANCHISEE each have the right in a proper case to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction; provided, however, that FRANCHISOR and FRANCHISEE must contemporaneously submit FRANCHISOR's dispute for arbitration on the merits as provided in this Section.

The provisions of this Section 27 are intended to benefit and bind certain third party non-signatories and will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination.

**27.2 GOVERNING LAW. ALL MATTERS RELATING TO ARBITRATION WILL BE GOVERNED BY THE FEDERAL ARBITRATION ACT (9 U.S.C. §§ 1 ET SEQ.). EXCEPT TO THE EXTENT GOVERNED BY THE FEDERAL ARBITRATION ACT, THE UNITED STATES TRADEMARK ACT OF 1946 (LANHAM ACT, 15 U.S.C. SECTIONS 1051 ET SEQ.), OR OTHER FEDERAL LAW, THIS AGREEMENT, THE FRANCHISE, AND ALL CLAIMS ARISING FROM THE RELATIONSHIP BETWEEN FRANCHISOR AND FRANCHISEE WILL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES; PROVIDED, HOWEVER, (1) ANY CALIFORNIA LAW REGULATING THE SALE OF FRANCHISES OR GOVERNING THE RELATIONSHIP OF A FRANCHISOR AND ITS FRANCHISEE WILL NOT APPLY UNLESS ITS JURISDICTIONAL REQUIREMENTS ARE MET INDEPENDENTLY WITHOUT REFERENCE TO THIS SECTION AND (2) THE LAWS OF THE STATE IN WHICH THE BAKERY-CAFE IS LOCATED SHALL APPLY TO THE CONSTRUCTION AND ENFORCEMENT OF THE OBLIGATIONS SET FORTH IN SECTIONS 18.2.3 AND 18.3 HEREOF, WITHOUT REGARD TO ITS CONFLICTS OF LAWS.**

**27.3 CONSENT TO JURISDICTION. SUBJECT TO SECTION 27.1 ABOVE AND THE PROVISIONS BELOW, FRANCHISEE AND FRANCHISEE'S OWNERS AGREE THAT ALL ACTIONS ARISING UNDER THIS AGREEMENT OR OTHERWISE AS A RESULT OF THE RELATIONSHIP BETWEEN FRANCHISEE AND FRANCHISOR MUST BE COMMENCED IN THE STATE OR FEDERAL COURT OF GENERAL JURISDICTION IN LOS ANGELES, CALIFORNIA, AND FRANCHISEE (AND EACH OWNER) IRREVOCABLY SUBMIT TO THE JURISDICTION OF THOSE COURTS AND WAIVE ANY OBJECTION FRANCHISEE (OR THE OWNER) MIGHT HAVE TO EITHER THE JURISDICTION OF OR VENUE IN THOSE COURTS. NONETHELESS,**

FRANCHISEE AND FRANCHISEE'S OWNERS AGREE THAT FRANCHISOR MAY ENFORCE THIS AGREEMENT AND ANY ARBITRATION ORDERS AND AWARDS IN THE COURTS OF THE STATE OR STATES IN WHICH FRANCHISEE IS DOMICILED OR THE BAKERY-CAFE IS LOCATED.

27.4 WAIVER OF PUNITIVE AND EXEMPLARY DAMAGES AND JURY TRIAL. EXCEPT FOR FRANCHISEE'S OBLIGATION TO INDEMNIFY FRANCHISOR FOR THIRD PARTY CLAIMS UNDER SECTION 21.3, AND EXCEPT FOR PUNITIVE DAMAGES AVAILABLE TO EITHER PARTY UNDER APPLICABLE LAW, FRANCHISOR AND FRANCHISEE (AND FRANCHISEE'S OWNERS) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN FRANCHISOR AND FRANCHISEE, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.

FRANCHISOR AND FRANCHISEE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER FRANCHISOR OR FRANCHISEE.

27.5 Limitations of Claims. Franchisee agrees to not assert any claim, application or cause of action against Franchisor, its officers, directors, legal representatives, shareholders, employees, affiliates or parent companies after one (1) year following the event giving rise to such claim or cause of action based on this Agreement. Franchisee acknowledges that it has the right to assert claim, application or cause of action beyond this one (1) year period under the applicable law; however, Franchisee expressly agrees to waive such right and agrees to comply with the claim limitation period pursuant to this provision.

27.6 Costs and Attorneys' Fees. If FRANCHISOR incurs costs and expenses due to FRANCHISEE's failure to pay when due amounts owed to FRANCHISOR, to submit when due any reports, information, or supporting records, or otherwise to comply with this Agreement, FRANCHISEE agrees, whether or not FRANCHISOR initiates a formal legal proceeding, to reimburse FRANCHISOR for all of the costs and expenses that FRANCHISOR incurs, including, without limitation, reasonable accounting, attorneys', arbitrators', and related fees.

## **28. ACKNOWLEDGMENTS**

28.1 FRANCHISEE acknowledges that it has conducted an independent investigation of the business of operating a TOUS LES JOURS Bakery-Cafe, and recognizes that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon the ability of FRANCHISEE (or, if FRANCHISEE is a corporation, partnership or limited liability company, the ability of its principals) as an independent businessperson(s), his/her active participation in the daily affairs of the business, market conditions, area competition, availability of product, and quality of services provided, as well as other factors. FRANCHISOR expressly disclaims the making of, and FRANCHISEE acknowledges that it has 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. FRANCHISEE also acknowledges that FRANCHISEE will have sole and complete responsibility of the choice of the Accepted Location and FRANCHISOR has not (and shall not be deemed to have, even by

virtue of FRANCHISOR's acceptance of a site that is the Accepted Location) given any representation, promise or guarantee of FRANCHISEE's success at the Accepted Location. FRANCHISEE shall be solely responsible for its own success at the Accepted Location.

28.2 FRANCHISEE acknowledges that it received a copy of this Agreement, the exhibits(s) hereto, and agreements relating hereto (if any), as well as a copy of FRANCHISOR's current franchise disclosure document, at such time(s) as required by applicable federal and state franchise laws and regulations.

28.3 FRANCHISEE acknowledges that it has read and understood the FDD, this Agreement, the exhibits hereto, and agreements relating thereto (if any), and that FRANCHISOR has given FRANCHISEE ample time and opportunity to consult with advisors of FRANCHISEE's own choosing about the potential benefits and risks of entering into this Agreement. FRANCHISEE acknowledges that FRANCHISEE has no knowledge of any representation by FRANCHISOR or anyone purporting to represent or act on FRANCHISOR's behalf that are contrary to the disclosures and information in the FDD or contrary to the term of this Agreement.

28.4 In consideration of FRANCHISOR's agreement to enter into this Agreement, FRANCHISEE, for itself and if FRANCHISEE is a corporation, partnership, limited liability company, or other entity for FRANCHISEE's directors, officers, shareholders, partners, members, employees, agents, and attorneys, and for FRANCHISEE's affiliates and their directors, officers, shareholders, partners, members, employees, agents, and attorneys, and for the successors and assigns of any of them, hereby:

28.4.1 Releases and forever discharges FRANCHISOR and FRANCHISOR's parents, subsidiaries, and affiliates and the respective current and former officers, directors, owners, stockholders, employees, agents, representatives, attorneys, contractors, legal successors, and assigns of each of the forgoing entities (in their corporate and individual capacities), of and from all manner of actions, causes of actions, and any other claims of any type whatsoever, occurring before the execution of this agreement.

28.5 FRANCHISEE acknowledges and is aware of the fact that some franchisees of FRANCHISOR may operate under different forms of agreements and, consequently, that FRANCHISOR'S obligations and rights in respect to its various franchisees may differ materially in certain circumstances. FRANCHISEE agrees to waive and forego any and all causes of action which may relate to the acknowledgement herein, except as may be unwaivable under applicable law.

## **29. MISCELLANEOUS**

29.1 Death or Incapacity of FRANCHISEE. In the event of the death or permanent incapacity or disability of FRANCHISEE, i.e., FRANCHISEE is unable to operate the Bakery-Cafe as an individual franchisee, or any partner of a FRANCHISEE which is a partnership, or any shareholder owning fifty percent (50%) or more of the capital stock of a FRANCHISEE which is a corporation, FRANCHISOR shall consent to a transfer of that FRANCHISEE'S interest to FRANCHISEE'S heirs, beneficiaries or family designees (referred to in this Article as "Transferee") without payment of a transfer fee, subject to the following conditions:

29.1.1. Transferee must complete, and be approved through, FRANCHISOR'S standard franchise selection process, including satisfactorily demonstrating to FRANCHISOR that Transferee

meets the financial character and managerial criteria as FRANCHISOR shall then be applying in considering applications for new franchisees;

29.1.2. 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 the original FRANCHISEE; and

29.1.3. If Transferee is not approved, FRANCHISEE or FRANCHISEE's legal representative shall use that person's best efforts to sell the Bakery-Cafe to a party acceptable to FRANCHISOR within twelve (12) months from the date of FRANCHISEE's death or permanent incapacity or disability and FRANCHISOR shall have the option, but not the obligation, to operate and/or manage the Bakery-Cafe for the account of FRANCHISEE's estate until the deceased or incapacitated FRANCHISEE's interest is transferred to another party acceptable to FRANCHISOR. Should FRANCHISOR elect to operate and/or manage the Bakery-Cafe, FRANCHISOR shall make a complete accounting and shall forward fifty percent (50%) of the net income for the operation of the Bakery-Cafe to FRANCHISEE's estate. If the conveyance of the Bakery-Cafe to a party acceptable to FRANCHISOR has not taken place within the twelve (12) month period, FRANCHISOR shall have the option, but not the duty, to purchase the Bakery-Cafe and its equipment at the fair market value thereof as determined by independent qualified appraisers selected by FRANCHISOR and the estate. In the event that these appraisers cannot agree on a fair market value, a third appraiser shall be selected by the other two appraisers and that appraiser's determination shall be binding on both parties. However, if FRANCHISOR chooses not to repurchase the Bakery-Cafe, then it may elect to terminate this Agreement, in which event the business franchised under this Agreement will automatically revert back to FRANCHISOR, with FRANCHISOR being obligated to purchase the equipment and trade fixtures at their book value, as set forth in the last certified financial statement of FRANCHISEE.

29.2 Operation in the event of Absence or Disability. In order to prevent any interruption of the Bakery-Cafe operations which would cause harm to the Bakery-Cafe, thereby depreciating its value, if FRANCHISEE is absent for any reason or is incapacitated by reason of illness and is unable, in the sole and reasonable judgment of FRANCHISOR, to operate the Bakery-Cafe, FRANCHISEE authorizes FRANCHISOR, who may, at its option, operate the Bakery-Cafe for so long as FRANCHISOR deems necessary and practical, and without waiver of any other rights or remedies FRANCHISOR may have under this Agreement. All monies from the operation of the Bakery-Cafe during such period of operation by FRANCHISOR shall be kept in a separate account, the expenses of the Bakery-Cafe, including reasonable compensation and expenses for FRANCHISOR's representative, shall be charged to that account. If, as provided in this Article, FRANCHISOR temporarily operates the Bakery-Cafe for FRANCHISEE, FRANCHISEE will indemnify and hold harmless FRANCHISOR and any representative of FRANCHISOR who may act under this Agreement, from any and all acts which FRANCHISOR may perform, as regards the interests of FRANCHISEE or third parties.

### 29.3 Injunctive Relief

29.3.1 If FRANCHISEE is in default, except for default with respect to monies required to be paid by FRANCHISEE to FRANCHISOR, under any provisions of this Agreement, FRANCHISOR shall be entitled to seek a permanent injunction and any preliminary or temporary equitable relief in order to restrain the violation of this Agreement by FRANCHISEE or any person acting for FRANCHISEE or in FRANCHISEE's behalf. FRANCHISOR shall be entitled to its reasonable attorneys' fees and courts costs in connection with taking such action or in connection with any other remedy sought by

FRANCHISOR, provided FRANCHISOR is the prevailing party. This remedy shall be cumulative to any other remedy available to FRANCHISOR.

29.3.2 FRANCHISEE agrees that it is impossible to measure in money the damages which FRANCHISOR will sustain in the event of FRANCHISEE's breach of this Agreement and, therefore, in the event FRANCHISOR institutes injunctive proceedings under this Article, FRANCHISEE waives the defense that FRANCHISOR has an adequate remedy at law.

29.4 Force Majeure. Neither party shall be responsible to the other for non-performance or delay in performance occasioned by causes beyond its control, including without limitation, the generality of the foregoing acts or omission of other party, acts of civil or military authority, strikes, lockouts, embargoes, insurrections, inclement weather, failure of power, restrictive governmental law or regulations, or acts of God, inability of FRANCHISOR to purchase, deliver and/or manufacture of any of the TM Products, 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. The provisions of this Section shall not: (i) operate to excuse FRANCHISEE from prompt payment of its monetary obligations under this Agreement; nor (ii) be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds.

29.5 Security Interest. FRANCHISEE grants to FRANCHISOR a security interest in all of FRANCHISEE's interest in all leasehold improvements, furniture, furnishings, fixtures, equipment, inventory and supplies located at or used in connection with the Bakery-Cafe, 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 FRANCHISEE to FRANCHISOR. FRANCHISEE agrees to execute and deliver to FRANCHISOR 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 FRANCHISEE and FRANCHISOR are set forth in Article XXIV of this Agreement. If FRANCHISEE is in good standing, FRANCHISOR will, upon request, execute subordinations of its security interest to suppliers, lenders and/or lessors furnishing equipment or financing for the Bakery-Cafe.

29.6 Counterparts; Paragraph Headings; Pronouns. This Agreement may be executed 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 only, and shall not be deemed to alter or affect any of its provisions. Each pronoun used in this Agreement shall be deemed to include the other number of genders.

29.7 Joint and Several Obligation. If FRANCHISEE consists of more than one (1) person, their liability under this Agreement shall be deemed to be joint and several. Further, the majority interest Owner of FRANCHISEE, or, if FRANCHISEE does not have a majority interest Owner, then the largest two interest Owners, must individually sign the Guaranty Agreement as set forth in Exhibit J.

The parties have executed this Agreement on the date first written above.

FRANCHISOR

FRANCHISEE

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

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

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

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

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

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



**Exhibit A**  
**to**  
**Tous Les Jours International Corp Franchise Agreement**

1. Accepted Location.

The Accepted Location for the Bakery-Cafe shall be (see Section 1.2):

2. Territory.

The Territory shall encompass the geographic area extending for one (1)-mile circular radius measured outward from the Accepted Location.

3. Site Selection Area (if Accepted Location not identified at the time of signing):

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

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

Initial: \_\_\_\_\_  
FRANCHISOR

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

**Exhibit B**  
**to**  
**Tous Les Jours International Corp Franchise Agreement**

**Accepted Location Addendum to**  
**Tous Les Jours International Corp Franchise Agreement**

**THIS ADDENDUM (this "Addendum")** made and entered into on \_\_\_\_\_, 20\_\_ (the "Effective Date") by and between Tous Les Jours International Corp, a California limited liability company, with its principal place of business at 6832 E. Slauson Ave., Commerce, CA 90040 and \_\_\_\_\_ ("FRANCHISEE").

**BACKGROUND:**

**A.** FRANCHISEE and FRANCHISOR have signed a Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "**Franchise Agreement**") for the development of a TOUS LES JOURS Bakery-Cafe and FRANCHISEE and FRANCHISOR wish to supplement the Franchise Agreement to document the Accepted Location and Territory for FRANCHISEE's Bakery-Cafe.

**B.** All capitalized terms used but not otherwise defined in this Addendum shall have the meaning set forth in the Franchise Agreement.

NOW, THEREFORE, the parties agree as follows:

FRANCHISEE has selected, and FRANCHISOR has authorized, the following location as the Accepted Location (defined in the Franchise Agreement) for FRANCHISEE's Bakery-Cafe in accordance with Section 1.2 of the Franchise Agreement:

Address of Accepted Location:

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

The following shall be the Territory (defined in the Franchise Agreement) for FRANCHISEE's Bakery-Cafe located at the Accepted Location:

Territory:

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FRANCHISEE

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

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

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

FRANCHISOR

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

**Name;** \_\_\_\_\_

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

**Exhibit C**  
**to**  
**Tous Les Jours International Corp Franchise Agreement**

**ADA CERTIFICATION BY FRANCHISEE**

Tous Les Jours International Corp ("FRANCHISOR") and \_\_\_\_\_ ("FRANCHISEE") are parties to a franchise agreement dated \_\_\_\_\_ for the operation of a TOUS LES JOURS Bakery-Cafe at (the "Bakery-Cafe"). In accordance with Section 5.7 of the Franchise Agreement, FRANCHISEE certifies to FRANCHISOR that, to the best of FRANCHISEE's knowledge, the Bakery-Cafe premises and its adjacent areas comply with all applicable federal, state and local accessibility laws, statutes, codes, rules, regulations and standards, including but not limited to the Americans with Disabilities Act. FRANCHISEE acknowledges that it is an independent contractor and the FRANCHISOR's requirement of this certification by FRANCHISEE does not constitute ownership, control, leasing or operation of the Bakery-Cafe by FRANCHISOR. FRANCHISEE acknowledges that FRANCHISOR has relied on the information contained in this certification. Furthermore, FRANCHISEE agrees to indemnify FRANCHISOR and the officers, directors and employees of FRANCHISOR in connection with any and all claims, losses, costs, expenses, liabilities, compliance costs and damages incurred by the indemnified party(ies) as a result of any matters associated with FRANCHISEE's compliance with the Americans with Disabilities Act, as well as the costs, including attorneys' fees, related to the same.

**FRANCHISEE**

\_\_\_\_\_

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

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

**Exhibit D**  
**to**  
**Tous Les Jours International Corp Franchise Agreement**

FRANCHISEE's Owners: All of FRANCHISEE's (i) owners of record and all beneficial owners of any class of voting securities or securities convertible into voting securities: and/or (ii) general and limited partners.

Name of Shareholder/Partner/Member	Address	Interest (%) (with description)

Designated Owner: The following identifies FRANCHISEE's Designated Owner (as defined in Section 19.1 of the Franchise Agreement):

Name and Title	Address	Interest (%) (with description)

**Exhibit E**  
**to**  
**Tous Les Jours International Corp Franchise Agreement**

**AUTHORIZATION AGREEMENT FOR PREARRANGED PAYMENTS**

AUTHORIZATION AGREEMENT FOR PREARRANGED PAYMENTS (DIRECT DEBITS)  
(Name of Person or Legal Entity) \_\_\_\_\_ (ID Number).

The undersigned depositor ("**Depositor**") hereby authorizes Tous Les Jours International Corp ("**FRANCHISOR**") to initiate debit entries and/or credit correction entries to the undersigned's checking and/or savings account(s) indicated below and the depository designated below ("**Depository**") to debit or credit such account(s) pursuant to FRANCHISOR'S instructions.

Depository Name and City: \_\_\_\_\_

Branch: \_\_\_\_\_

Bank Transit/ABA Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

This authority is to remain in full and force and effect until Depository has received joint written notification from FRANCHISOR and Depositor of the Depositor's termination of such authority in such time and in such manner as to afford Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, Depository shall provide FRANCHISOR and Depositor with 30 days' prior written notice of the termination of this authority. If an erroneous debit entry is initiated to Depositor's account, Depositor shall have the right to have the amount of such entry credited to such account by Depository, if (a) within 15 calendar days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to such entry; or (b) 45 days after posting, whichever occurs first, Depositor shall have sent to Depository a written notice identifying such entry, stating that such entry was in error and requesting Depository to credit the amount thereof to such account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

**Depositor:**

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

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

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

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

**Exhibit E-1**

**AUTHORIZATION TO HONOR CHECKS DRAWN BY AND PAYABLE TO  
TOUS LES JOURS INTERNATIONAL CORP. ("Payee"), INCLUDING ELECTRONIC  
TRANSFERS**

1. Bank account in the name of:	2. Store #:	3. Bank account number:
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To The Depository Bank Designated:

You are hereby requested and authorized to honor and to charge to the account described checks drawn on such account which are payable to the above-named Payee (including establishment of electronic transfers to said Payee). It is agreed that your rights with respect to each such check shall be the same as if it bore a signature authorized for such account. It is further agreed that if any such check is not honored, whether with or without cause you shall be under no liability whatsoever. This authorization shall continue in force until revocation in writing is received by you.

4. Date: \_\_\_\_\_ 5. Name of Franchisee (please print)

\_\_\_\_\_  
Type of Business: \_\_\_\_\_  
Executed by: \_\_\_\_\_  
Title:

6. Full name of bank:
7. Street address:
8. City, state & zip code:

**Indemnification Agreement**

To The Depository Bank Designated:

In consideration of your compliance with the request and authorization printed on the Authorization Form hereof, the Depositor (Franchisee) agrees with respect to any such action:

- (1) To indemnify you and hold you harmless from any loss you may suffer as a consequence of your actions resulting from or in connection with the execution and issuance of any check, draft or order, whether or not genuine, purporting to be executed by the Payee and received by you in the regular course of business for the purpose of payment, including any costs or expenses reasonably incurred in connection therewith.
- (2) To indemnify you for any loss arising in the event that any such check, draft or order shall be dishonored, whether with or without cause and whether intentionally or inadvertently.
- (3) To defend at our own cost and expense any action which might be brought by any depositor or any other persons because of your actions taken pursuant to the foregoing request, or in any manner arising by reason of your participation.

**NOTICE TO**

- FRANCHISEE:**
- 1. ATTACH ONE VOIDED CHECK HERE.**
  - 2. BE SURE ALL NUMBERED SPACES SHOWN ABOVE ARE COMPLETED.**
  - 3. RETURN ALL THREE COPIES IMMEDIATELY.**

**Exhibit "F"**  
**to**  
**Tous Les Jours International Corp Franchise Agreement**

**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 Tous Les Jours International Corp. upon the following terms:

1. This assignment is made under the terms of TLJ Bakery-Cafe Franchise Agreement dated \_\_\_\_\_, 20\_\_ authorizing Franchisee to do business as "Tous Les Jours" or "TLJ" bakery-cafe (the "Franchise Agreement") between Franchisor and Franchisee, which in part pertains to the telephone listing and numbers Franchisee uses in the operation of the Bakery-Cafe 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, transfer or expiration of the Franchise Agreement, 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: (to be determined) and all numbers on the rotary series and all numbers Franchisee uses in the Bakery-Cafe in the future.

4. Franchisee shall pay all amounts owed for the use of the telephone numbers and affiliated listing it incurs. On termination, transfer 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, transfer 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 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\_\_

TOUS LES JOURS INTERNATIONAL CORP.

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

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

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

**TOUS LES JOURS INTERNATIONAL CORP.**

**FRANCHISE AGREEMENT**

**EXHIBIT "G"**

**CONFIDENTIALITY AND NON-COMPETITION AGREEMENT**

**THIS AGREEMENT** is made by and between Tous Les Jours International Corp., a \_\_\_\_\_ corporation with its corporate headquarters office at 6832 E. Slauson Ave., Commerce, CA 90040 (the "Franchisor"), and \_\_\_\_\_ (the "Franchisee").

**WHEREAS**, Franchisor has developed a distinctive system (the "System") relating to the establishment and operation of Tous Les Jours Bakery-Cafes and use the name "Tous Les Jours" and associated Proprietary Marks in connection with the operation of Tous Les Jours Bakery-Cafes;

**WHEREAS**, Franchisor and Franchisee are parties to a franchise agreement dated \_\_\_\_\_ (the "Franchise Agreement") for the operation of a Tous Les Jours Bakery Cafe outlet (the "Bakery-Cafe");

**WHEREAS**, Franchisor desires to preserve the Proprietary Marks and the System, and has plans, where profitable, to increase the number of Tous Les Jours Bakery-Cafe outlets within the United States and elsewhere; and

**WHEREAS**, Franchisee's general manager ("Manager") has been hired by Franchisee to run the day-to-day activities of Franchisee's outlet pursuant to Article 6.1 of the Franchise Agreement and such Manager agrees to be bound by the same confidentiality and non-competition agreement that Franchisee is bound by.

**IN CONSIDERATION** of these premises, and the conditions stated herein, the parties agree as follows:

1. **Purpose of Agreement.** Franchisor is placing Franchisee in a position of trust and confidence in the development, marketing, sale and expansion of the System. As a precondition of the grant of the right to own and operate a Bakery Cafe, Franchisor desires to receive from Franchisee (i) an agreement not to disclose certain information relating to Franchisor's business, (ii) an agreement not to compete against Franchisor for a certain period of time, and (iii) an agreement concerning the ownership of certain information. This Agreement sets forth the terms of their agreements and understandings.

2. **Franchisor Ownership of Materials.** All information, ideas, know-how, research, methods, techniques, specifications, guidelines, secret recipes, manuals, procedures, systems, improvements, notes, data, tapes, reference items, financial information, literature, files, supplier lists, notebooks, calendars, sketches, drawings, memoranda, records and copyrighted and other materials, including Franchisor's Manuals, and the goodwill associated with them, which in any way relate to Franchisor's past, present or potential business or which were prepared or received by Franchisee as a franchisee of Franchisor and a participant in the System (collectively referred to as "Confidential Information") are the exclusive property of Franchisor. Franchisee agrees to deliver to Franchisor all

copies of such materials including Franchisee's own personal work papers, which are in Franchisee's possession or under Franchisee's potential control at the request of Franchisor or, in the absence of such a request, upon the expiration, transfer or termination of that certain Franchise Agreement between Franchisor and Franchisee.

3. Confidential Information. Franchisee acknowledges that Franchisor's Confidential Information is a valuable and unique asset which Franchisee holds in trust for Franchisor's sole benefit. Franchisee agrees that Franchisee shall not, at any time during and for a period of fifty (50) years after Franchisee ceases to be a franchisee of Franchisor or a participant in the System, use for itself or for others, or disclose to any person, corporation or other entity for any reason, any of Franchisor's Confidential Information, without the prior written consent of Franchisor.

4. Trade Secrets. Franchisee acknowledges that Franchisor's Confidential Information and its methods and techniques of operation, and food preparation, merchandising, recipes, specifications, its financial condition, customer service, marketing and pricing strategies, as well as the information compiled and developed regarding improvements or enhancements to the System, including the Confidential Operating Manual, are uniquely valuable to Franchisor and have been developed through considerable expense and effort, and thus are not usually ascertainable by a competitor without considerable investment of effort and expense ("Trade Secrets").

In light of the need to protect and preserve the confidentiality of these Trade Secrets and in consideration of Franchisee's continued right to own and operate the Bakery-Cafe, Franchisee agrees, at all times while a franchisee of Franchisor and for as long as Franchisor remains in business anywhere in the world, to respect the confidentiality of Franchisor's Trade Secrets, to use them solely for the benefit of Franchisor's business, and to refrain from disclosing or making available the Trade Secrets to any third party without the prior written consent of Franchisor. Franchisee further agrees to take all reasonable security measures to ensure that Franchisee's employees, officers, members, shareholders and Owners comply with this Agreement and such other security measures as are reasonably requested by Franchisor to prevent accidental disclosure.

5. Assignment of Inventions. All ideas, improvements, processes, names, menu items, and enhancements to the System or which relate to or are useful to Franchisor's business which Franchisee, alone or with others, may invent, discover, make or conceive ("Inventions") are the exclusive property of Franchisor, and Franchisee shall promptly and fully disclose them to Franchisor. At any time, at Franchisor's request and expense, Franchisee shall, without further compensation: (i) promptly record such Inventions with Franchisor; (ii) execute any assignments and other documents Franchisor deems desirable to protect its rights in the Inventions; and (iii) assist Franchisor in enforcing its rights with respect to these Inventions.

6. Restrictions on Unfair Competition. It is recognized by Franchisee that as the natural result of Franchisee's participation in the System as a franchisee of Franchisor, Franchisee will gain access to Franchisor's Trade Secrets and Confidential Information, and will gain the trust, confidence and respect of Franchisor's landlords, customers and suppliers. Franchisee acknowledges that Franchisor has a legitimate need to protect itself against unfair competition by its franchisees and their employees. Therefore, in consideration for Franchisee's participation in the System as a franchisee of Franchisor, Franchisee agrees that while it is a franchisee of Franchisor and for two (2) years after termination of the Franchise Agreement, regardless of the circumstances giving rise to the termination, or after Franchisee ceases to be a participant in the System, and within the Minimum Area of Competition as defined in Article XVIII of the Franchise Agreement, Franchisee shall not:

(a) Own, maintain, operate, or engage in, be employed by, provide assistance to, or have any more than a 1% interest (as owner or otherwise) any Competitive Business;

(b) Engage, directly or indirectly, on Franchisee's own behalf, or on behalf of any other person, firm, partnership or corporation, in providing, assisting, instructing or supervising the marketing, distribution or sale of the Products of any similar business to those offered and provided or manufactured by Franchisor as of the termination of this Agreement;

(c) Compete, directly or indirectly, with Franchisor in the offering, distribution or sale of products similar to the Products offered or provided or manufactured by Franchisor as of the termination of this Agreement. Prohibited competition under this subsection (c) may include, but is not limited to, the solicitation of, attempted solicitation, or other contacts with franchisees, landlords, suppliers and customers of Franchisor for the purpose of offering, providing or delivering Products or services similar to those offered and provided by Franchisor to the public; or the request, suggestion or advice to Franchisees, landlords, suppliers or customers, either directly or indirectly, to withdraw, curtail, limit or cancel their business with Franchisor; or to disclose, directly or indirectly, to any other person the names and addresses of franchisees, landlords, suppliers and customers of Franchisor; or the terms and conditions of Franchisor's contracts with suppliers of these Products;

(d) Hire or engage, or attempt to hire or engage, directly or indirectly, any individual who is an employee of Franchisor at the time of such solicitation, or was an employee during the calendar year immediately preceding Franchisee's termination as a participant in the System as a franchisee of Franchisor, whether such actions are undertaken on behalf of Franchisee or on behalf of another entity; or

(e) Otherwise take direct actions to disrupt the operations of Franchisor or interfere with Franchisor's performance of its contracts with third parties.

## 7. Enforcement.

(a) Injunction. Franchisee understands and agrees that Franchisor will suffer irreparable harm if Franchisee breaches any of Franchisee's obligations under this Agreement, and that monetary damages shall be inadequate to compensate Franchisor for any such violation. Accordingly, Franchisee agrees that in the event Franchisee violates or threatens to violate any of the provisions of this Agreement, Franchisor, in addition to all other remedies or damages which it may have, shall be entitled to seek an injunction to prevent or to restrain any such violation by Franchisee or by any or all of Franchisee's directors, stockholders, officers, partners, employees, agents or any other person directly or indirectly acting for, on behalf of or with Franchisee. Franchisee consents to the seeking of the injunction as being a reasonable measure to protect Franchisor's rights.

(b) Arbitration and Jurisdiction. Except for an injunction which may be required under Section 7(a), above, Franchisee agrees that any dispute regarding this Agreement shall proceed under the provisions of Section 27 of the Franchise Agreement, except for the Governing Law provisions of Section 27.2, and the parties hereby agree that the governing law shall be the law of the state in which the bakery-café is located.

(c) Costs. Franchisee further agrees that if Franchisee acts in any manner which causes Franchisor to seek any form of judicial relief or remedy against Franchisee, and the court determines Franchisee has or is violating any of the provisions of this Agreement, Franchisor, in addition to its other remedies, shall be entitled to recover from Franchisee all costs incurred, including its attorneys' fees.

8. Reasonableness of Restrictions; Severability. Franchisee has read and considered carefully the provisions of Sections 1 through 7 of this Agreement, and agrees that the restrictions are fair and reasonably required for the protection of the interests of Franchisor, its business and its officers, directors and employees, even though no geographic limitation is included because of the national nature of the franchise business. Franchisee further agree that the restrictions set forth in this Agreement shall not impair Franchisee's ability to secure employment or acquire an interest in a business in another field of choice, other than the restricted field described in Section 6.

9. Non-Disparagement. Franchisee, at any time during the term of the Agreement or thereafter, shall not make statements or representations, or otherwise communicate, directly or indirectly, in writing, orally or otherwise, or take any action which, directly or indirectly, are intended or reasonably likely to disparage or be damaging to Franchisor (including any of the Franchisor's subsidiaries, affiliates, officers, directors, employees, or partners), or otherwise degrade the Franchisor's reputation in the business community or among other franchisees of Franchisor. Franchisee agrees that Franchisor shall have the right, without the need to prove irreparable injury or to post bond, to obtain an immediate injunction against any breach or threatened breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity of such breach, including but not limited to incidental, special, and consequential damages (including loss of business opportunity).

10. Miscellaneous.

(a) All agreements and covenants contained herein are severable. If any of them, or any part or parts of them, shall be held invalid by any court of competent jurisdiction for any reason, then Franchisee agrees that the court shall have the authority to reform and modify that provision in order that the restriction shall be the maximum necessary to protect Franchisor's legitimate business needs as permitted by applicable law and public policy. In so doing, Franchisee agrees that the court shall impose the provision with retroactive effect as close as possible to the provision held to be invalid. Further, Franchisee agrees that a breach or alleged breach by Franchisor of any obligation owed by Franchisor shall not affect the validity or enforceability of the provisions of this Agreement.

(b) This Agreement was entered into and shall be governed by the laws of the State of California.

(c) No delay or failure by Franchisor to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right provided herein, and no waiver of any violation of any terms and provisions of this Agreement shall be construed as a waiver of any succeeding violation of the same or any other provision of this Agreement.

(d) This Agreement constitutes the entire understanding and agreement among the parties and supersedes any and all prior or contemporaneous, oral or written, representations, communications, understandings and agreements between the parties with respect to the subject matter hereof to the extent inconsistent with or contradictory to this Agreement.

(e) The rights and obligations of Franchisor under this Agreement shall inure to the benefit of and shall be binding upon the parties hereto, as well as the affiliates of Franchisor and any future successors and assigns of Franchisor.

(f) No modification of this Agreement shall be valid unless it is in writing and signed by both Franchisee and an authorized representative of Franchisor. This Agreement contains the entire agreement between the parties and is expressly intended by Franchisee and Franchisor to supersede and replace any prior agreements on these issues between the parties.

(g) The Manager, if any, attests that he/she has read and understands the terms of this Agreement and hereby executes this Agreement to evidence his/her or their consent to be bound by each and every provision.

(h) All capitalized terms used but not otherwise defined in this Exhibit G shall have the meaning set forth in the Franchise Agreement.

**IN WITNESS WHEREOF**, Franchisor and Franchisee attest that each has read and understands the terms of this Agreement, and voluntarily signed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FRANCHISOR**

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

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

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

**FRANCHISEE:**

\_\_\_\_\_

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

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

\_\_\_\_\_

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

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

**TOUS LES JOURS INTERNATIONAL CORP.**

**FRANCHISE AGREEMENT**

**EXHIBIT "H"**

**GUARANTEE AGREEMENT**

THIS GUARANTEE AGREEMENT ("Guarantee") entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Tous Les Jours International Corp., a California corporation ("Secured Party" or "Franchisor") and each of the undersigned persons and their spouses (each a "Guarantor"), being all of the shareholders or members, partners, principals or other owners or controlling persons, as applicable, of the "Franchisee" or "Debtor" (as hereafter defined).

**WITNESETH:**

WHEREAS, Franchisee, ("Franchisee"/"Debtor") has entered into a Franchise Agreement (and/or Area Development Agreement) dated \_\_\_\_\_, 20\_\_ (collectively, the "Franchise Agreements") with the Secured Party;

WHEREAS, Guarantor holds \_\_\_\_% of ownership interest in the Franchisee or other beneficial owner or controlling person, as applicable, in Debtor, or is a spouse of such person, and will benefit from the Franchise Agreements;

WHEREAS, the Secured Party is willing to enter into the Franchise Agreements with Debtor only if Guarantor agrees to guarantee the full, prompt, complete and faithful performance of all the terms, covenants, conditions and obligation(s) on Debtor's part to be performed under the Franchise Agreements, and all other agreements and instruments ancillary to such agreements such as any supply agreements for equipment, raw materials, and including any amendments or renewals thereof (the "Documents");

NOW, THEREFORE, in order to induce the Secured Party to enter the Franchise Agreements and the Documents with Debtor and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each Guarantor hereby jointly and severally agrees to be bound by the Documents and jointly and severally covenants and agrees with the Secured Party as follows:

**ARTICLE I**  
**GUARANTEE**

**1.1** Guarantor unconditionally guarantees the full, prompt, complete and faithful performance, payment, observance and fulfillment by Debtor of all of the terms, covenants and conditions and any obligation(s) under the Documents when due and any and all fees, royalties and other sums that may become due to the Secured Party from Debtor under the Documents ("Obligation(s)"). Guarantor further agrees to pay all expenses (including reasonable attorneys' fees and legal expenses) incurred by the Secured Party in endeavoring to collect the Obligation(s), or any part thereof, or in securing the performance thereof, or in enforcing this Guarantee.

**1.2** Guarantor hereby covenants and agrees unconditionally that in the event Debtor fails to make any payment due under the Obligations on the due date as set forth in the Documents, or an event of default occurs, as defined in the Documents (“Event of Default”), within ten (10) days of the receipt of written notice from or on behalf of the Secured Party to the effect that there exists such an Event of Default and of the amount or nature of the Obligation(s) which Debtor has failed to pay or perform, Guarantor will pay the entire unpaid amount thereof to the Secured Party at its office set forth on the signature page attached hereto. In the event that the Guarantor should fail or decline to pay any sums properly due to the Secured Party hereunder within ten (10) days following the Secured Party's request for the payment of any such sums, then said sums shall bear interest at annual interest rate equal to twelve percent (12%), or the maximum rate permitted by law. Further, if Guarantor shall fail to pay any amount or perform any Obligation(s) properly due to the Secured Party hereunder, the Secured Party may institute and pursue any action or proceeding to judgment or final decree and may enforce any such judgment or final decree against Guarantor and collect, in the manner provided by law, out of Guarantor's property, wherever situated, the monies adjudged or decreed to be payable.

**1.3** This Guarantee shall not be limited to any particular period of time, but rather shall continue absolutely, unconditionally and irrevocably until all the terms, covenants and conditions of the Documents have been fully and completely performed by Debtor or otherwise discharged and/or released by the Secured Party, and Guarantor shall not be released from any duty, obligation or liability hereunder so long as there is any claim of the Secured Party against Debtor arising out of the Documents which have not been performed, settled or discharged in full.

## **ARTICLE II** **REMEDIES AND RIGHTS OF SECURED PARTY**

**2.1** The Secured Party shall give Guarantor notice in writing of an Event of Default or any event which might mature into an Event of Default known to Secured Party (but neither failure to give, nor defect in, any notice shall extinguish or in any way affect the Obligation(s) of Guarantor hereunder). Neither demand on, nor the pursuit of any remedies against, Debtor or any other guarantor of the Obligation(s) (“Obligor”) shall be required as a condition precedent to, or neither the dependency nor the prior termination of any action, suit or proceeding against the Debtor or any Obligor (whether for the same or a different remedy) shall bar or prejudice the making of a demand on Guarantor by the Secured Party and the commencement against Guarantor after such demand of, any action, suit or proceeding, at law or in equity, for the specific performance of any covenant or agreement contained in the Documents or for the enforcement of any other appropriate legal or equitable remedy.

**2.2** Guarantor's liability hereunder is primary, direct and immediate. Guarantor agrees that neither:

- (i) The exercise or the failure to exercise by the Secured Party of any rights or remedies conferred on it under the Documents, hereunder or existing at law or otherwise, or against any collateral;
- (ii) The recovery of a judgment against Debtor or Obligor;
- (iii) The commencement of an action at law or the recovery of a judgment at law against Debtor or any Obligor and the enforcement thereof through levy or execution or otherwise;



(iv) The taking or institution or any other action or proceeding against Debtor or any Obligor; nor

(v) The delay in taking, pursuing or exercising any of the foregoing actions, rights, powers or remedies (even though requested by Guarantor) by the Secured Party shall extinguish or affect the Obligation(s) of Guarantor hereunder, but Guarantor shall be and remain liable for and until all Obligation(s) shall have been fully paid notwithstanding the previous discharge (total or partial) from further liability of Debtor or any Obligor or the existence of any bar (total, partial or temporary) to the pursuit by Guarantor of any right or claim to be subrogated to the right or claims of the Secured Party resulting from any action or failure or omission to act or delay in acting by the Secured Party, or anyone entitled to act in its place.

**2.3** In case any of the Guarantor shall become insolvent or admit in writing his, her or its inability to pay his, her or its debts as they mature, or apply for, consent to or acquiesce in the appointment of a trustee, receiver, liquidator, assignee, sequestrator or other similar official for either Guarantor, or any of his, her or its property; or, in the absence of such application, consent or acquiescence, a trustee, receiver, liquidator, assignee, sequestrator or other similar official is appointed for Guarantor, or for a substantial part of his, her or its property and is not discharged within 60 days; or any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy, admiralty or insolvency law or at common law or in equity is instituted by or against Guarantor, or remains for 60 days undismissed, then if any such event shall occur at a time when any of the Obligation(s) may not be then due and payable, Guarantor will pay to the Secured Party forthwith the whole unpaid amount under the Documents and Documents plus any other sums due under the Documents and other Documents, irrespective of whether any demand shall have been made on Guarantor, Debtor or any Obligor by intervention in or initiation of judicial proceedings relative to Guarantor, his, her or its creditors or his, her or its property. The Secured Party may file and prove a claim or claims for the whole unpaid amount or any portion thereof and for any other sums due under the Documents and other Documents and file such other papers or documents as may be necessary or advisable in order to have such claim allowed in such judicial proceedings and to collect and receive any monies or other property payable or deliverable on any such claim, and to distribute the same; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Secured Party.

**2.4** The benefits, remedies and rights provided or intended to be provided hereby for the Secured Party are in addition to and without prejudice to any rights, benefits, remedies or security to which the Secured Party might otherwise be entitled.

**2.5** Notwithstanding anything mentioned herein to the contrary, the Secured Party, from time to time, without notice to Guarantor, may take all or any of the following actions without in any manner affecting or impairing the liability of Guarantor hereunder:

(i) Obtain a security interest in any property to secure any of the Obligation(s) hereunder;

(ii) Retain or obtain the primary or secondary liability of any party or parties, in addition to Guarantor, with respect to any of the Obligation(s);

(iii) Extend the time for payment of the Documents or any installment thereof for any period;

(iv) Release or compromise any liability of Guarantor hereunder or any liability of any nature of any other party or parties with respect to the Obligation(s);

(v) Resort to Guarantor for payment of any Obligation(s), whether or not the Secured Party shall proceed against any other party primarily or secondarily liable on any of the Obligation(s); or

(vi) Agree to any amendments, modification or alteration of the Documents and exercise its rights to consent to any action or non-action of Debtor which may violate the covenants and agreements contained in the Documents with or without consideration, on such terms and conditions as may be acceptable to it.

**2.6** Guarantor agrees that if at any time all or any part of any payment theretofore applied by the Secured Party to any of the Obligation(s) is or must be rescinded or returned by the Secured Party for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of Debtor) such Obligation(s), for purposes of this Guarantee, to the extent that such payment is or must be rescinded or returned, shall be deemed to have continued in existence, notwithstanding such application by the Secured Party, and this Guarantee shall continue to be effective or be reinstated, as the case may be, as to such Obligation(s), all as though such application by the Secured Party had not been made.

### **ARTICLE III** **GUARANTOR'S WARRANTIES**

**3.1** Guarantor represents and warrants to the Secured Party that:

(i) This Guarantee has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of Guarantor enforceable against him, her or it in accordance with its terms;

(ii) There is no action, litigation or other proceeding pending or threatened against Guarantor, before any court, arbitrator or administrative agency which may have a materially adverse effect on the assets, businesses, or financial condition of Guarantor, or which would prevent, hinder or jeopardize his, her or its performance under this Guarantee;

(iii) Guarantor is fully familiar with all of the covenants, terms and conditions of the Documents and the Documents;

(iv) The Guarantor is not party to any contract, agreement, indenture or instrument or subject to any restriction which might materially adversely affect his, her or its financial condition which would in any way jeopardize the ability of Guarantor to perform hereunder; and

(v) The Financial Statement of Debtor attached hereto as Exhibit "A" is correct in all material respects and accurately represents the financial condition of Debtor as of \_\_\_\_\_, 20\_\_.

**ARTICLE IV**  
**MISCELLANEOUS PROVISIONS**

**4.1** All the covenants, stipulations, promises and agreements contained in this Guarantee by or on behalf of Guarantor are for the benefit of the Secured Party, its successors or assigns and shall bind Guarantor and his, her or its heirs, executors, personal representative, successors and assigns.

**4.2** Any notice or demand which by any provision of this Guarantee is required or permitted to be given by Secured Party to Guarantor shall be deemed to have been sufficiently given for all purposes if given by first-class mail, postage prepaid, to Guarantor at the address set forth after his, her or its signature below (until another address is filed by Guarantor with Secured Party for such purposes).

**4.3** The Secured Party, without notice of any kind, may sell, assign or transfer the Documents, and in such event each and every immediate and successive assignee or transferee thereof may be given the right by the Secured Party to enforce this Guarantee in full, by suit or otherwise, for its own benefit. Guarantor hereby agrees for the benefit of any such assignee or transferee that his, her or its Obligation(s) hereunder shall not be subject to any reduction, abatement, defense, set-off, counterclaim or recoupment for any reason whatsoever.

**4.4** Guarantor hereby expressly waives:

- (i)** Notice of the acceptance by the Secured Party of this Guarantee;
- (ii)** Notice of the existence, creation or non-payment of all or any of the Obligation(s);
- (iii)** Presentment, demand, notice or dishonor, protest and all other notices whatsoever; and
- (iv)** All diligence in collection or protection of or realization on the Obligation(s) or any thereof hereunder, or any security for or guarantee of any of the foregoing.

**4.5** No delay on the part of the Secured Party in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Secured Party of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Guarantee be binding on the Secured Party except as expressly set forth in writing, duly signed and delivered on behalf of the Secured Party.

**4.6** This Guarantee shall in all respects be governed by and construed and enforced in accordance with the laws of the State of California and the parties hereto submit to the non-exclusive jurisdiction of the courts of Los Angeles County, California and all courts competent to hear appeals therefrom.

**4.7** Any provision of this Guarantee that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and no such prohibition or unenforceability shall invalidate or render unenforceable such provision in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Guarantee as of the date first written above.

**“SECURED PARTY”**

FRANCHISOR

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

**“GUARANTORS”**

**“SPOUSE”**

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

**TOUS LES JOURS INTERNATIONAL CORP.**

**FRANCHISE AGREEMENT**

**EXHIBIT "I"**

**GENERAL RELEASE**

**THIS GENERAL RELEASE AGREEMENT** (this "**Release Agreement**") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Effective Date**") by and among TOUS LES JOURS INTERNATIONAL CORP., a California corporation ("**Franchisor**"), on the one hand, and \_\_\_\_\_, a[n] \_\_\_\_\_ and its/his/her Constituents (collectively, "**Releasing Parties**") on the other hand, with reference to the following facts:

A. On \_\_\_\_\_, Franchisor and \_\_\_\_\_ as "**Franchisee**" executed a Franchise Agreement (the "**Franchise Agreement**") pursuant to which Franchisor granted Franchisee a license to use the service mark and trade name "Tous Les Jours" and "TLJ" (the "**Marks**") and the Tous Les Jours System (the "**System**") in connection with the operation of a Tous Les Jours Bakery-Café (the "**Bakery-Café**") located at \_\_\_\_\_ (the "**Franchised Location**").

B. Franchisee desires to exercise its right to renew/transfer the Franchise Agreement under the Franchise Agreement.

C. The execution of this Release is one of several conditions precedent to Franchisee's right of renewal/transfer of the Franchise Agreement.

**NOW, THEREFORE**, in consideration of the foregoing Recitals (which are incorporated herein by this reference) and the covenants and conditions set forth below and to induce Franchisor to consent to the renewal, Franchisee hereby agrees as follows:

**1. Definitions.** As used herein, the following capitalized terms have the meanings ascribed to them.

1.1. "**Claims**" means all actual and alleged claims, demands, Losses, charges, agreements (whether written or oral), covenants, responsibilities, warranties, obligations, contracts (whether oral or written), debts, violations, suits, counterclaims, cross claims, third party claims, accounts, liabilities, costs, expenses (including attorneys' fees and court costs), rights to terminate and rescind, rights of action and causes of action of any kind or nature.

1.2. "**Constituents**" means past, present and future affiliates, subsidiaries, divisions, partners, members, trustees, receivers, executors, representatives, administrators, owners, shareholders, distributors, parents, predecessors, officers, directors, agents, managers, principals, employees, insurers, successors, assigns, representatives and attorneys and the past, present and future officers, directors, agents, managers, principals, members, employees, insurers, successors, assigns, representatives and attorneys of each of the foregoing.

1.3. "**Excluded Matters**" means Franchisor's continuing contractual obligations which arise or continue under and pursuant to the Franchise Agreement on and after the Effective Date. This Release Agreement is not intended to terminate or amend the Franchise Agreement; this Release Agreement is

intended to relieve Franchisor and its Constituents of responsibility for its or their failure, if any, to have timely performed or completed obligations which by the terms of the Franchise Agreement were to have been performed or completed prior to the Effective Date.

1.4. "**Franchisor Released Parties**" means Franchisor and each of its Constituents.

1.5. "**Losses**" means all damages, debts, liabilities, accounts, suits, awards, judgments, payments, diminutions in value and other losses, costs and expenses, however suffered or characterized, all interest thereon, all costs and expenses of investigating any Claim, reference proceeding, lawsuit or arbitration and any appeal therefrom, all actual attorneys' fees incurred in connection therewith, whether or not such Claim, reference proceeding, lawsuit or arbitration is ultimately defeated and, all amounts paid incident to any compromise or settlement of any such Claim, reference proceeding, lawsuit or arbitration .

**2. General Release Agreement.** Releasing Parties for themselves and their Constituents, hereby irrevocably and unconditionally release and forever discharge Franchisor Released Parties from any and all Claims, whether known or unknown, based upon anything that has occurred or existed, or failed to occur or exist, from the beginning of time to the Effective Date of this Release Agreement, except for the Excluded Matters and obligations under this Release Agreement. Each of the Releasing Parties agrees that each Franchisor Released Parties is a direct beneficiary with respect to each provision of this Release Agreement applicable to Franchisor Released Parties and may enforce each of these provisions.

### **3. Waiver of Section 1542 of the California Civil Code.**

3.1. Releasing Parties for themselves and on behalf of their Constituents, expressly, knowingly, and voluntarily waive all rights under Section 1542 of the California Civil Code, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

3.2. With respect to those claims being released pursuant to Section 2 hereunder, Releasing Parties, for themselves and on behalf of their Constituents, acknowledge that they are releasing unknown claims and waives all rights they have or may have under Section 1542 of the California Civil Code or any other statute or common law principle of similar effect. For purposes of this Section 3, Releasing Parties shall be considered to be creditors of Franchisor Released Parties, and each of them.

3.3. Releasing Parties acknowledges that this general release extends to claims which Releasing Parties do not know or suspect to exist in favor of Releasing Parties at the time of executing this Release Agreement, which if known by Releasing Parties may have materially affected their decision to enter into this Release Agreement. It is understood by Releasing Parties that the facts in respect of which this Release Agreement as given may hereafter turn out to be other than or different from the facts in that connection known or believed to be true. Releasing Parties, therefore, expressly assume the risk of the facts turning out to be so different and agree that this Release Agreement shall be in all respects effective and not subject to termination or rescission by any such difference in facts.

**4. Representations and Warranties.** Releasing Parties hereby represent and warrant to Franchisor that, in entering into such release, they (i) are doing so freely and voluntarily upon the advice of counsel and business advisor of their own choosing (or declined to do so, free from coercion, duress or fraud); (ii) have read and fully understand the terms and scope of the Release Agreement that the parties are entering into; (iii) realize that it is final and conclusive, and intends to be final and conclusive, as to the matters set forth

in the Release Agreement entered into by the parties; and (iv) have not assigned, transferred, or conveyed to any third party all or any part of or partial or contingent interest in any of the Claims which are called for to be released by this Release Agreement now or in the future, that they are aware of no third party who contends or claims otherwise, and that they shall not purport to assign, transfer, or convey any such claim hereafter.

**5. Covenants Not to Sue; Assertion of Release as Bar to Proceedings.** Releasing Parties hereby irrevocably covenant to refrain from, directly or indirectly, asserting any claim or demand, or commencing, initiating or causing to be commenced, any proceeding of any kind against any Franchisor Released Party, based upon any matter purported to be released hereby. This Release Agreement may be asserted by any of Franchisor Released Parties as a defense and complete bar to any action, claim, cross claim, cause of action, arbitration or other proceeding that may be brought, or could have been brought, instituted or taken by, against, or involving any of Releasing Parties, or anyone acting or purporting to act on behalf of any of Franchisor Released Parties with respect to any of the claims released herein.

**6. Indemnity.** Without in any way limiting any of the rights and remedies otherwise available to any Franchisor Released Party, Releasing Parties shall defend, indemnify and hold harmless each Franchisor Released Party from and against all Claims whether or not involving third party Claims, arising directly or indirectly from or in connection with (i) the assertion by or on behalf of Releasing Parties or their Constituents of any Claim or other matter purported to be released pursuant to this Release Agreement, (ii) the assertion by any third party of any Claim or demand against any Franchisor Released Party which Claim or demand arises directly or indirectly from, or in connection with, any Claims or other matters purported to be released pursuant to this Release Agreement; and (iii) any breach of representation s, warranties or covenants hereunder by Releasing Parties or their Constituents.

## **7. Miscellaneous.**

7.1. This Release Agreement cannot be modified, altered or otherwise amended except by an agreement in writing signed by all of the parties hereto.

7.2. This Release Agreement, together with the agreements referenced herein, constitute the entire understanding between and among the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, discussions and representations, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

7.3. This Release Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Signatures transmitted electronically or by facsimile will be deemed original signatures. Electronic copies of this Release Agreement shall constitute and be deemed an original copy of this Release Agreement for all purposes, provided that such electronic copies are fully executed, dated and identical in form to the original hard copy version of this Release Agreement.

7.4. This Release Agreement shall be binding upon and inure to the benefit of the parties to this Release Agreement and their respective successors and permitted assigns.

7.5. The rule that an agreement is to be construed against the party drafting the agreement is hereby waived by the parties hereto, and shall have no applicability in construing this Release Agreement or the terms of this Release Agreement.

7.6. Whenever possible each provision of this Release Agreement shall be interpreted in such

manner as to be effective and valid under applicable law, but if any provision of this Release shall be or become invalid, illegal or unenforceable under applicable law in any respect, the validity and enforceability of the remaining terms and provisions of this Release shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid, legal and enforceable provision that is a reasonable substitute therefore, and upon so agreeing, shall incorporate such substitute provision in this Release Agreement.

7.7. Each of the parties acknowledges that it had the right and opportunity to seek independent legal counsel of its own choosing in connection with the execution of this Release Agreement, and each of the parties represents that it has either done so or that it has voluntarily declined to do so, free from coercion, duress or fraud.

7.8. This Release Agreement supersedes any prior negotiations and agreements, oral or written, with respect to its subject matter. The Release Agreement may not be amended except in a writing signed by all of the parties. No representations, warranties, agreements or covenants have been made with respect to this Release Agreement, and in executing this Release Agreement, none of the parties is relying upon any representation, warranty, agreement or covenant not set forth herein.

7.9. This Release Agreement shall be governed by and construed in accordance with the internal laws of the State of California, without reference to conflict of law principles. The parties agree that, subject to the express arbitration requirement set forth in the Franchise Agreement, any action brought by either party against the other in any court, whether federal or state, shall be brought in Los Angeles County, California, and the parties hereby waive all questions of personal jurisdiction or venue for the purpose of carrying out this provision.

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

**RELEASING PARTIES:**

\_\_\_\_\_  
(Entity Name)  
  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
(Entity Name)  
  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FRANCHISOR:**

TOUS LES JOURS INTERNATIONAL CORP.

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



**EXHIBIT D**

**AREA DEVELOPMENT AGREEMENT AND EXHIBITS**

**TOUS LES JOURS INTERNATIONAL CORP.**

**AREA DEVELOPMENT AGREEMENT**

**TOUS LES JOURS INTERNATIONAL CORP.**

**AREA DEVELOPMENT AGREEMENT**

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**EXHIBITS:**

- “A” Minimum Performance Schedule
- “B” Development Area
- “C” Existing Outlets In Development Area
- “D” Certification of Area Developer

**TOUS LES JOURS INTERNATIONAL CORP.**

**AREA DEVELOPMENT AGREEMENT**

**THIS AREA DEVELOPMENT AGREEMENT** (“Agreement”) is made and entered into the day of \_\_\_\_\_, 20\_\_, between Tous Les Jours International Corp., a California corporation whose principal address is 6832 E. Slauson Ave., Commerce, CA 90040 (“Franchisor”), and \_\_\_\_\_ whose principal address is \_\_\_\_\_ (“Area Developer”).

**WITNESSETH:**

**WHEREAS**, Franchisor is engaged in the business of operating and franchising a specialty restaurant known as “Tous Les Jours” bakery-café outlet (“TLJ Outlet” or “Outlet”); and

**WHEREAS**, Franchisor has developed a business plan and method in connection with the operation of Tous Les Jours Outlets featuring a specialized menu including, selling and serving bakery and pastry goods, sandwich items and coffee and beverage products (“Menu Items”) and provide carry-out and on-premises dining services utilizing certain distinguishing characteristics include distinctive exterior and interior design, décor, color scheme and furnishings; uniform standards, specifications and procedures for operations; quality and uniformity of products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs (“System”); all of which may be changed, improved and further developed from time to time by Franchisor; and

**WHEREAS**, the distinguishing characteristics of the System include, but are not limited to, the name and mark “Tous Les Jours” or “TLJ” (the “Mark”), uniform formats, designs, systems, methods, specifications, standards and procedures, all of which may be improved, further developed or otherwise modified from time to time by Franchisor; and

**WHEREAS**, the reputation and goodwill with the public with respect to the quality of products and services available at TLJ Outlets have been and continue to be of major benefit to Franchisor and its franchisees; and

**WHEREAS**, Area Developer recognizes the benefits to be derived from being identified with and being an area developer of Franchisor and being able to utilize the System and the Marks which Franchisor makes available to its Area Developers; and

**WHEREAS**, Area Developer wishes to obtain certain development rights to open and operate Outlets operating under the Marks under the System within the territory described in this Area Development Agreement.

**NOW, THEREFORE**, the parties, in consideration of the undertakings and commitments of each party to the other party set forth herein, hereby agree as follows:

**SECTION I**  
**GRANT**

1.1 Franchisor hereby grants to Area Developer, pursuant to the terms and conditions of this Area Development Agreement, certain development rights (“Development Rights”) to establish and operate \_\_\_\_\_ ( ) franchised Outlets, and to use the System solely in connection therewith, at specific locations to be designated in separate Franchise Agreements executed as provided in Section 3.1 hereof, and pursuant to the schedule set forth in Exhibit “A” of this Agreement (“Minimum Performance Schedule”). Each Outlet developed hereunder shall be located in the area described in Exhibit “B” of this Agreement (“Development Area”).

1.2 Each Outlet for which an Area Development Right is granted hereunder shall be established and operated pursuant to a Franchise Agreement to be entered into between Area Developer and Franchisor in accordance with Section 3.1 hereof.

1.3 Except as otherwise provided in this Agreement, Franchisor shall not establish, nor franchise anyone other than Area Developer to establish, an Outlet in the Development Area during the term of this Agreement, provided Area Developer is not in default hereunder.

1.4 This Agreement is not a Franchise Agreement and does not grant to Area Developer any right to use the Marks or System.

1.5 Area Developer shall have no right under this Agreement to franchise or license others under the Marks or System.

**SECTION II**  
**DEVELOPMENT FEE**

In consideration of the development rights granted herein, Area Developer shall pay to Franchisor a Development Fee of Forty Thousand Dollars (\$40,000.00) for the first Outlet, Twenty Thousand Dollars (\$20,000.00) for the second through fifth Outlets, and Ten Thousand Dollars (\$10,000.00) for the sixth Outlet and thereafter for each additional Outlet to be developed.

The Development Fee shall be fully earned by Franchisor upon execution of this Agreement, and shall be for administrative and other expenses incurred by Franchisor and for the development opportunities lost or deferred as a result of the Development Rights granted Area Developer herein.

**SECTION III**  
**SCHEDULE AND MANNER FOR EXERCISING DEVELOPMENT RIGHTS**

3.1 In the event Area Developer finds a location for an Outlet, then in such event, Area Developer shall submit to Franchisor for its evaluation and approval, in the form specified by Franchisor, a description of the site, the terms of the lease or purchase and such other information and materials as Franchisor may reasonably require. Franchisor shall have fifteen (15) business days after receipt of such information and materials from Area Developer to approve or disapprove the site in its sole discretion. In the event Franchisor does not disapprove the site by submitting written notice to Area Developer within fifteen (15) days, such site will be deemed approved by Franchisor. The Area Developer will then be presented with the then-current Franchise Agreement for execution.

3.2 Recognizing that time is of the essence, Area Developer agrees to exercise each of the Development Rights granted hereunder in the manner specified herein, and to satisfy the Minimum Performance Schedule in a timely manner. Failure by Area Developer to adhere to the Minimum Performance Schedule shall constitute a default under this Agreement as provided in Section 9.1 hereof.

3.3 Area Developer shall exercise each Area Development Right granted herein only by executing a Franchise Agreement for each Outlet at a site approved by Franchisor in the Development Area as hereinafter provided within ten (10) days after receipt of said Franchise Agreement from Franchisor for the approved site and return same to Franchisor for its execution. The Franchise Agreement for the first Area Development Right exercised hereunder shall be the then-current form of Franchise Agreement. The Franchise Agreement for each additional Area Development Right exercised hereunder shall be the then-current Franchise Agreement, except that the Royalty and Advertising Fees shall not increase and shall be the same as set forth in the first Franchise Agreement executed, subject to any non-material changes therein which are required to be made by changes in any applicable law, regulation or ordinance in effect from time to time. In the event Franchisor does not receive the properly executed Franchise Agreement with the appropriate number of copies within said ten (10) days from delivery thereof to Area Developer, Franchisor approval of the site shall be void and Area Developer shall have no rights with respect to said site. The Initial Franchise Fees to be paid by Area Developer shall be Forty Thousand Dollars (\$40,000.00) for the first Outlet, Twenty Thousand Dollars (\$20,000.00) for the second through fifth Outlets and Ten Thousand Dollars (\$10,000.00) for the sixth Outlet and thereafter. The Initial Franchise Fee for the first Outlet has been paid in full in the Development Fee; the balance of the Initial Franchise Fee for each additional Outlet to be developed shall be paid by Area Developer on the earlier of (i) the date a lease or purchase agreement for the Outlet is executed or (ii) ninety (90) days prior to the scheduled opening date for said Outlet, whichever date is earlier.

3.4 Area Developer acknowledges that the approval of a particular site for an Outlet by Franchisor shall not be deemed to be an assurance or guaranty that the Outlet will operate successfully or at a profit from such site.

3.5 Area Developer shall be required to execute each Franchise Agreement for each Outlet to be opened pursuant to said Franchise Agreement. In no event shall Area Developer relinquish control over each entity operating each Outlet.

#### **SECTION IV**

#### **DEVELOPMENT RIGHTS AND OBLIGATIONS**

4.1 Subject to the provisions of this Agreement, Franchisor grants to Area Developer the right to develop Outlets within the Development Area (“Development Rights”).

4.2 Provided Area Developer is in full compliance with all the terms and conditions of this Agreement, including without limitation Area Developer’s development obligations described in Section 3.2, and Area Developer is in full compliance with all of its obligations under all franchise agreements executed pursuant to this Agreement, then during the term of this Agreement neither Franchisor nor any of its affiliates will develop or operate or grant franchises for the development or operation of Outlets within the Development Area, except the franchises that are granted to Area Developer pursuant to this Agreement and except as otherwise expressly provided in this Agreement.

4.3 Upon the termination or expiration of this Agreement, Franchisor and its affiliates shall have the right to develop and operate, and to grant to others development rights and franchises to develop and operate, Outlets within the Development Area subject only to the territorial rights granted to Area

Developer with respect to Outlets operated by Area Developer pursuant to the Franchise Agreements, if applicable.

4.4 Except as expressly limited by Section 3.2 above, Franchisor and its affiliates retain all rights with respect to Outlets, the Marks and the sale of any goods and services, anywhere in the world, including, without limitation, the right:

4.4.1 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 Development Area under trade and service marks other than the Marks and under any terms and conditions Franchisor deems appropriate;

4.4.2 to produce, offer and sell and grant others the right to produce, offer and sell the products and any other goods and services through dissimilar channels of distribution (other than through a retail bakery-café outlet) both within and outside the Development Area under the Marks and under any terms and conditions Franchisor deems appropriate; and

4.4.3 to operate and to grant others the right to operate Outlets located outside the Development Area under any terms and conditions Franchisor deems appropriate and regardless of proximity to an Outlet or Development Area.

## **SECTION V** **RENEWAL**

This Agreement shall not be subject to renewal.

## **SECTION VI** **TERM**

Unless sooner terminated in accordance with the terms of this Agreement, the term of this Agreement and all Development Rights granted hereunder shall expire on the date the last Outlet is opened pursuant to the Minimum Performance Schedule set forth in Exhibit "A".

## **SECTION VII** **OBLIGATIONS OF AREA DEVELOPER**

7.1 Area Developer acknowledges and agrees that:

7.1.1 Except as otherwise provided herein, this Agreement includes only the right to select sites for the establishment of Outlets and to submit the same to Franchisor for its approval in accordance with the terms of this Agreement. This Agreement does not include the grant of a license by Franchisor to Area Developer of any rights to use the Marks, the System, or to open or operate any Outlets within the Development Area. Area Developer shall obtain the license to use such additional rights at each Outlet upon the execution of each Franchise Agreement by both Area Developer and Franchisor and only in accordance with the terms of each Franchise Agreement.

7.1.2 The Development Rights granted hereunder are personal to Area Developer and cannot be sold, assigned, transferred or encumbered, in whole or in part, except as set forth in Section XI hereof.

7.1.3 Except as provided in Sections 7.1.1 and 7.1.2 hereof, the Development Rights granted hereunder are non-exclusive, and Franchisor retains the right, in its sole discretion:

(a) To continue to construct and operate other Outlets and to use the System and the Marks at any location outside the Development Area, and to license others to do so.

(b) To develop, use and franchise the rights to any trade names, trademarks, service marks, trade symbols, emblems, signs, slogans, insignia, or copyrights not designated by Franchisor as Marks for use with different franchise systems for the sale of the different products or services not in connection with the System at any location, on such terms and conditions as Franchisor may deem advisable and without granting Area Developer any rights therein.

(c) To develop, merchandise, sell and license others to sell any of Franchisor's products, proprietary or otherwise, presently existing or to be developed in the future, to the public through supermarkets, groceries and other non-outlet outlets outside of the Development Area and to use the Marks in connection therewith.

(d) To promote or conduct special events within the Development Area, provided, however, that the opportunity to conduct each special event shall first be offered to Area Developer in accordance with the terms of any valid and effective Franchise Agreement.

7.1.4 Area Developer has sole responsibility for the performance of all obligations arising out of the operation of his business pursuant to this Agreement, including, but not limited to, the payment when due of any and all taxes levied or assessed by reason of such operation.

7.1.5 In all public records, in its relationship with other persons, and in any documents, Area Developer shall indicate clearly the independent ownership of Area Developer's business and that the operations of said business are separate and distinct from the operation of Franchisor's business.

7.1.6 Area Developer shall at all times preserve in confidence any and all materials and information furnished or disclosed to Area Developer by Franchisor, and Area Developer shall disclose such information or materials only to such of the Area Developer's employees or agents who must have access to it in connection with their employment. Area Developer shall not at any time, without Franchisor's prior written consent, copy, duplicate, record or otherwise reproduce such materials or information, in whole or in part, nor otherwise make the same available to any unauthorized person.

7.1.7 Area Developer shall comply with all requirements of federal, state and local laws, rules and regulations.

7.1.8 Area Developer shall at no time have the right to sub-franchise any of its Development Rights hereunder.



**SECTION VIII**  
**SERVICES OF FRANCHISOR**

Franchisor shall, at its expense, provide the following services:

8.1 Review Area Developer's site selection for conformity to Franchisor standards and criteria for selection and acquisition of sites upon Franchisor's receipt of Area Developer's written request for approval thereof.

8.2 Provide Area Developer with standard specifications and layouts for the layout, interior and exterior design, improvements, equipment, furnishings, decor and signs identified with the Outlets as Franchisor makes available to all area developers and franchisees from time to time.

8.3 Review Area Developer's site plan and final build-out plans and specifications for conformity to the construction standards and specifications of the System, upon Franchisor's receipt of Area Developer's written request for approval thereof.

8.4 Conduct such on-site evaluation as Franchisor may, in its sole discretion, deem advisable as part of its evaluation of Area Developer's request for site approval, provided however, that Franchisor shall not be required to provide such on-site evaluation for any proposed site prior to Franchisor receipt of a description of such proposed site and other information and evidence satisfactory to Franchisor. If deemed appropriate and if the site requires inspection, Franchisor may conduct an on-site inspection.

8.5 Provide such other resources and assistance as may hereafter be developed and offered by Franchisor to its other area developers.

**SECTION IX**  
**DEFAULT AND TERMINATION**

9.1 The occurrence of any of the following events of default shall constitute good cause for Franchisor, at its option and without prejudice to any other rights or remedies provided for hereunder or by law or equity, to terminate this Agreement:

9.1.1 If Area Developer shall, in any respect, fail to meet the Minimum Performance Schedule.

9.1.2 If Area Developer shall use the System or Marks, or any other names, marks, systems, insignia, symbols or rights which are the property of Franchisor except pursuant to, and in accordance with, a valid and effective Franchise Agreement.

9.1.3 If Area Developer, or persons controlling, controlled by or under common control with Area Developer, shall have any interest, direct or indirect, in the ownership or operation of any store engaged in the sale of products similar to those permitted to be sold by Area Developer within the Development Area or in any outlet which looks like, copies or imitates the Outlet or operates in a manner tending to have such effect other than pursuant to a valid and effective Franchise Agreement.

9.1.4 If Area Developer shall fail to remit to Franchisor any payments due under this Agreement.

9.1.5 If Area Developer shall begin work upon any Outlet at any site unless all the conditions set forth in Section III hereof have been met.

9.1.6 If Area Developer shall purport to effect any assignment other than in accordance with Section XI hereof.

9.1.7 Except as provided in Section XI hereof, if Area Developer attempts to sell, assign, transfer or encumber this Agreement without Franchisor's prior written approval.

9.1.8 If Area Developer makes, or has made, any material misrepresentation to Franchisor in connection with obtaining this Area Development Agreement, any site approval hereunder, or any Franchise Agreement.

9.1.9 If Area Developer fails to obtain Franchisor's prior written approval or consent, including but not limited to site approval or site plan approval, as expressly required by this Agreement.

9.1.10 If Area Developer defaults in the performance of any other obligation under this Agreement.

9.1.11 If Area Developer defaults in the performance of any obligation under any Franchise Agreement with Franchisor, provided such default results in the termination of the Franchise Agreement.

9.1.12 If Area Developer suffers a violation of any law, ordinance, rule or regulation of a governmental agency in connection with the operation of the Outlet, and permits the same to go uncorrected after notification thereof, unless there is a bona fide dispute as to the violation or legality of such law, ordinance, rule or regulation, and Area Developer promptly resorts to courts or forums of appropriate jurisdiction to contest such violation or legality.

9.1.13 If Area Developer or a shareholder of Area Developer owning twenty-five percent (25%) or more of Area Developer's voting stock is convicted in a court of competent jurisdiction of an indictable offense punishable by a term of imprisonment in excess of one (1) year.

9.1.14 If Area Developer, or any person controlling, controlled by or under common control with Area Developer, shall become insolvent by reason of inability to pay their debts as they mature; shall be adjudicated a bankrupt; shall file or have filed against any of them a petition in bankruptcy, reorganization or similar proceeding under the bankruptcy laws of the United States; or if a receiver, permanent or temporary, of the business, assets or property of Area Developer or any such person, or any part thereof, is appointed by a court of competent authority; or if Area Developer or any such person requests the appointment of a receiver or makes a general assignment for the benefit of creditors or if a final judgment against Area Developer or any such person in the amount of Ten Thousand Dollars (\$10,000) or more remains unsatisfied or recorded for sixty (60) days or longer; or if the bank accounts, property or receivables of Area Developer or any such person are attached and such attachment proceedings are not dismissed within a sixty (60) day period; or if execution is levied against the business or property of Area Developer or suit to foreclose any lien or mortgage against any of the Outlets, the premises thereof or equipment thereon is instituted and not dismissed within thirty (30) days.

9.2 Upon occurrence of any of the events set forth in Section 9.1, Franchisor may, without prejudice to any other rights or remedies contained in this Agreement or provided by law or equity, terminate this Agreement. Such termination shall be effective thirty (30) days after written notice (or such other notice as may be required by applicable state law) is given by Franchisor to Area Developer of

any of the events set forth in this Section IX, if such defaults are not cured within such period. However, termination shall be effective immediately, without notice and without the necessity of further action by Franchisor, upon occurrence of any of the events specified in this Section IX, except where prohibited by any applicable state or federal law, whereupon this Agreement shall be terminated in accordance with the provisions of any such law.

**SECTION X**  
**AREA DEVELOPER'S OBLIGATIONS FOLLOWING TERMINATION**

10.1 Upon termination of this Agreement becoming effective for any reason, or upon expiration of the term hereof, Area Developer agrees as follows:

10.1.1 To cease immediately any attempts to select sites on which to establish Outlets.

10.1.2 To cease immediately to hold itself out in any way as an Area Developer of Franchisor or to do anything which would indicate a relationship between it and Franchisor.

10.2 Termination of this Agreement shall not affect the rights of Area Developer to operate Outlets in accordance with the terms of any Franchise Agreement with Franchisor, executed prior to the termination of this Agreement, until and unless such Franchise Agreement, or any of them, are terminated in accordance with their terms, renewed or expired.

10.3 No right or remedy herein conferred upon or reserved to Franchisor is exclusive of any other right or remedy provided or permitted by law or in equity.

**SECTION XI**  
**TRANSFER OF INTEREST**

11.1 This Agreement is personal to Area Developer, and Area Developer shall neither sell, assign, transfer nor encumber this Agreement, the Development Rights, or any other interest hereunder, nor suffer or permit any such assignment, transfer or encumbrance to occur directly, indirectly or contingently by agreement or by operation of law without the prior written consent of Franchisor. Area Developer understands that this Agreement may not be pledged, mortgaged, hypothecated, given as security for an obligation or in any manner encumbered. The assignment or transfer of any interest, except in accordance with this Paragraph shall constitute a material breach of this Agreement.

11.2 In the event that Area Developer is a corporation or desires to conduct business in a corporate capacity, said corporation or assignment to a corporation must receive the prior written approval of Franchisor and Area Developer agrees to comply with the provisions hereinafter specified, including without limitation restrictions on the number of shareholders of the corporation or assignee corporation and, where appropriate in Franchisor's discretion, personal guarantees by any shareholder having at least 5% ownership interest in such corporation of all of the obligations of said corporation or assignee corporation to Franchisor and other parties designated by Franchisor. The corporation or assignee corporation shall not engage in any business activities other than those directly related to the operation of the Outlet(s) pursuant to the terms and conditions of the Franchise Agreements with Franchisor, and all assets related to the operation of the Outlet(s) shall be held by the corporation or assignee corporation. There shall be no transfer fee charged by Franchisor if such assignment to a corporation is made within ninety (90) days after the execution of this Agreement.

The references in Sections 11.2, 11.3 and 11.4 herein to “Corporation,” “assignee corporation,” “stock,” “by-laws,” “shareholders,” etc., shall be deemed to include and permit similar transfers to other business entities such as a limited liability company, limited partnership or business trust, as applicable, in which case the language of such entity shall be understood (e.g. in the case of a limited liability company (“LLC” or “Company,” “members,” “membership interests,” “operating agreement,” etc.), unless the context would not so permit such substitution.

11.3 If Area Developer is a corporation or if Area Developer’s rights hereunder are assigned to a corporation, the Area Developer, or those individuals disclosed on Exhibit “B” attached hereto shall be the legal and beneficial owner of and shall act as such corporation’s principal officer. The assignment to a corporation will not relieve Area Developer of personal liability to Franchisor for performance of any of the obligations under this Agreement. Any subsequent transfer of voting rights of the stock of the corporation or assignee corporation, and any transfer or issuance of shares of the corporation or assignee corporation shall be subject to Franchisor prior written approval. Franchisor agrees that it will not unreasonably restrict the issuance or transfer of shares of stock, provided that Area Developer complies with the provisions of this Section XI, and provided that in no event shall any share of stock of such corporation or assignee corporation be sold, transferred or assigned to a business competitor of Franchisor. The articles of incorporation and by-laws of the corporation or assignee corporation shall reflect that the issuance and transfer of shares of stock are restricted, and all stock certificates shall bear the following legend, which shall be printed legibly and conspicuously on each stock certificate:

**“The transfer of this stock is subject to the terms and conditions of an Area Development Agreement with Franchisor, dated \_\_\_\_\_. Reference is made to said Area Development Agreement and related Franchise Agreements and to restrictive provisions of the charter and by-laws of this corporation.”**

11.4 The corporation or assignee corporation’s corporate records shall indicate that a stop transfer order shall be in effect against the transfer of any stock, except for transfers permitted by this Section XI. In addition to the foregoing, the stock of such corporation or assignee corporation shall not be publicly sold or traded without the prior express written consent of Franchisor, which shall be given at the sole discretion of Franchisor. In the event that Franchisor approves a public offering of Area Developer, Area Developer shall present the offering circular or prospectus to Franchisor for its review within a reasonable time prior to such offering becoming effective. In no event shall Area Developer offer its securities by use of the name “Franchisor” or any name deceptively similar thereto, however, Area Developer may make appropriate reference to the fact the Area Developer has a Development Agreement with Franchisor; nor shall Area Developer relinquish control of the new public company. Area Developer agrees to indemnify and hold Franchisor harmless from and against any claims, suits, actions or otherwise which arise out of or from such public offering.

11.5 In the event of the death, disability or permanent incapacity of Area Developer, Franchisor shall consent to the transfer of all of the interest of Area Developer to Area Developer’s spouse, heirs or relatives, by blood or marriage, or if this Agreement was originally executed by more than one party, then to the remaining party who originally executed this Agreement, whether such transfer is made by Area Developer’s Last Will and Testament or by operation of law. In the event that Area Developer’s heirs do not obtain the consent of Franchisor as prescribed herein, the personal representative of Area Developer shall have a reasonable time to dispose of Area Developer’s interest hereunder, which disposition shall be subject to all the terms and conditions for transfers under this Agreement.

11.6 Area Developer has represented to Franchisor that he is entering into this Area Development Agreement with the intention of complying with its terms and conditions and not for the

purpose of resale of the Development Rights hereunder. Therefore, Area Developer agrees that any attempt to assign this Agreement, without Franchisor's prior written approval except pursuant to Sections 11.2 and 11.3 hereof, shall be deemed to be an event of default.

11.7 If Area Developer receives from a third person and desires to accept a bona fide written offer to purchase its business, Development Rights and interests, Franchisor shall have the option, exercisable within thirty (30) days after receipt of written notice setting forth the name and address of the prospective purchaser, the price and terms of such offer, and a copy of such offer and the other information set forth in this Section 11.7, to purchase such business, Development Rights and interests, including Area Developer's right to develop sites within the Development Area, on the same terms and conditions as offered by said third party. In order that Franchisor may have information sufficient to enable it to determine whether to exercise its option, Franchisor may require Area Developer to deliver to Franchisor certified financial statements as of the end of Area Developer's most recent fiscal year and such other information about the business and operations of Area Developer as Franchisor may request. If Franchisor declines, or does not accept the offer in writing within thirty (30) days, Area Developer may, within thirty (30) days from the expiration of the option period, sell, assign and transfer its business, Development Rights and interest to said third party, provided Franchisor has consented to such transfer as required by this Section XI. Any material change in the terms of the offer prior to closing of the sale to such third party shall constitute a new offer, subject to the same rights of first refusal by Franchisor or its nominee, as in the case of an initial offer. Failure by Franchisor to exercise the option afforded by this Section 11.7 shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section with respect to the proposed transfer.

11.8 Area Developer acknowledges and agrees that the restrictions on transfer imposed herein are reasonable and are necessary to protect the Development Rights, and the System and the Marks, as well as Franchisor reputation and image, and are for the protection of Franchisor, Area Developer and other Area Developers. Any assignment or transfer permitted by this Section XI shall not be effective until Franchisor receives a completely executed copy of all transfer documents, and Franchisor consents in writing thereto.

11.9 Franchisor agrees not to unreasonably withhold its consent to a sale, assignment or transfer by Area Developer hereunder. Consent to such transfer otherwise permitted or permissible as reasonable may be refused unless:

11.9.1 All obligations of the Area Developer created by this Agreement, all other franchise documents, including all Franchise Agreements, and the relationship created hereunder are assumed by the transferee.

11.9.2 All ascertained or liquidated debts of Area Developer to Franchisor or its affiliated or subsidiary corporations are paid.

11.9.3 Area Developer is not in default hereunder.

11.9.4 Franchisor is reasonably satisfied that the transferee meets all of the requirements of Franchisor for new area developers, including but not limited to, good reputation and character, business acumen, operational ability, management skills, financial strength and other business considerations.

11.9.5 Transferee executes or, in appropriate circumstances, causes all necessary parties to execute, Franchisor's standard form of Area Development Agreement, Franchise Agreements for all

Outlets open or under construction hereunder, and such other then-current ancillary agreements, including personal guarantees, being required by Franchisor of new area developers on the date of transfer.

11.9.6 Area Developer executes a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor, its officers, directors, employees and principal stockholders of any and all claims and causes of action that he may have against Franchisor or any subsidiary or affiliated corporations in any way relating to this Agreement or the performance or non-performance thereof by Franchisor.

11.9.7 Area Developer or transferee pays to Franchisor a transfer fee in an amount equal to ten percent (10%) of the Development Fee paid by Area Developer to cover Franchisor reasonable costs in effecting the transfer and in providing training and other initial assistance to transferee.

11.10 Upon the death or mental incapacity of any person with an interest of more than twenty-five percent (25%) in this Agreement or in Area Developer, the executor, administrator or personal representative of such person shall transfer his interest to a third party approved by Franchisor within twelve (12) months. Such transfers, including, without limitation, transfers by devise or inheritance, shall be subject to the same conditions as any inter vivos transfer. However, in the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions set forth in Section 11.1 hereof, the personal representative of the deceased shall have a reasonable time, not to exceed twelve (12) months from the date said personal representative is appointed, to dispose of the deceased's interest in Area Developer or in the Development Rights, which disposition shall be subject to all the terms and conditions for transfers contained in this Agreement. It is understood and agreed, however, that notwithstanding the foregoing, the Minimum Performance Schedule shall be complied with as though no such death or mental incapacity had occurred. In the event the interest described above is not disposed of within such time, Franchisor shall have the right to terminate this Agreement, provided such termination had not previously occurred for failure to perform pursuant to the Minimum Performance Schedule, upon ninety (90) days' notice to Area Developer's representative, or Franchisor shall have the right to re-purchase same at the same price being sought by the Area Developer's representative.

11.11 Franchisor's consent to a transfer of any interest in Area Developer or in the Development Rights pursuant to this Section shall not constitute a waiver of any claims it may have against the transferring party, nor shall it be deemed a waiver of Franchisor right to demand exact compliance with any of the terms of this Agreement by the transferee.

11.12 Franchisor shall have the right, without the need for Area Developer's consent, to assign, transfer or sell its 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 Franchisor herein and Area Developer receives a statement from both Franchisor and its transferee to that effect. Upon such assignment and assumption, Franchisor shall be under no further obligation hereunder, except for accrued liabilities, if any. Area Developer further agrees and affirms that Franchisor may go public; may engage in a private placement of some or all of its securities; may merge, acquire other corporations, or be acquired by another corporation; and/or may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. With regard to any of the above sales, assignments and dispositions, Area Developer expressly and specifically waives any claims, demands or damages arising from or related to the loss of Franchisor name, Marks (or any variation thereof) and System and/or the loss of association with or identification of Franchisor as Franchisor under this Agreement. Area Developer specifically waives 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.

If Franchisor assigns its rights in this Agreement, nothing herein shall be deemed to require Franchisor to remain in the “Franchisor” business or to offer or sell any products or services to Area Developer.

11.13 This Agreement shall inure to the benefit of Franchisor, its successors and assigns, and Franchisor shall have the right to transfer or assign all or any part of its interest herein to any person or legal entity, provided such transferee agrees to perform all of Franchisor obligations hereunder.

## **SECTION XII** **COVENANTS**

12.1 Area Developer specifically acknowledges that, pursuant to this Agreement, Area Developer will receive valuable training and confidential information, including, without limitation, secret recipes, information regarding the marketing methods and techniques of Franchisor and the System. Area Developer covenants that during the term of this Agreement, except as otherwise approved in writing by Franchisor, Area Developer and persons controlling, controlled by or under common control with Area Developer, shall not, either directly or indirectly, for himself, or through, on behalf of or in conjunction with any person, persons or legal entity:

12.1.1 Divert or attempt to divert any business or client of the Franchised Business to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

12.1.2 Employ or seek to employ any person who is at the time employed by Franchisor or by any other franchisee or Area Developer of Franchisor, or otherwise directly or indirectly induce or seek to induce such person to leave his or her employment thereat.

12.1.3 Own, maintain, advise, help, invest in, make loans to, be employed by, engage in or have any interest in any outlet or food service business other than the Franchised Business (including any business operated by Area Developer prior to entry into this Agreement) specializing, in whole or in part, in the sale of the proprietary products for on-premises and carry-out consumption and/or operating a similar outlet concept selling the proprietary products sold by Franchisor or any of its franchisees or which Area Developer may be authorized to offer in connection with the Franchised Business.

12.2 Area Developer covenants that, except as otherwise approved in writing by Franchisor, Area Developer shall not, for a continuous and uninterrupted period commencing upon the expiration or termination of this Agreement, and continuing for two (2) years thereafter (and, in case of any violation of this covenant, for two (2) years after the violation ceases), either directly or indirectly, for himself or herself, or through, on behalf of or in conjunction with any person, persons, partnership or corporation, own, maintain, advise, help, invest in, make loans to, be employed by, engage in or have any interest in any business other than the Franchised Business specializing, in whole or in part, in providing the sale of the proprietary food items for on-premises and carry-out consumption and/or operating a similar outlet concept selling those food items sold by Franchisor, its franchisees or any other type of service which Area Developer may be authorized to offer in connection with the Franchised Business, which is located:

12.2.1 Within the Development Area; or

12.2.2 Within a radius of ten (10) miles of the location of any Outlet; or

12.2.3 Within a radius of ten (10) miles of the location of any other business using the System, whether franchised or owned by Franchisor.

12.3 Subsections 12.1.3 and 12.2 of this Section shall not apply to ownership by Area Developer of less than a five percent (5%) beneficial interest in the outstanding equity securities of any corporation or other entity which is registered under the Securities Exchange Act of 1934.

12.4 The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section XII is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a party, Area Developer expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section XII.

12.5 Area Developer understands and acknowledges that Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in Subsections 12.1 and 12.2 or any portion thereof, without Area Developer's consent, effective immediately upon receipt by Area Developer of written notice thereof, and Area Developer agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section XVI hereof.

12.6 Area Developer expressly agrees that the existence of any claim it may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Section XII.

12.7 Area Developer acknowledges that any failure to comply with the requirements of this Section XII would cause Franchisor irreparable injury for which no adequate remedy at law may be available, and Area Developer hereby accordingly consents to Franchisor seeking injunctive relief prohibiting any conduct by Area Developer in violation of the terms of this Section XII. Franchisor may further avail itself of any other legal or equitable rights and remedies which it may have under this Agreement or otherwise.

12.8 At Franchisor request, Area Developer shall require and obtain the execution of covenants similar to those set forth in this Section XII (including covenants applicable upon the termination of a person's relationship with Area Developer) from any or all of the following persons:

12.8.1 All Outlet managers of Area Developer and any other personnel employed by Area Developer who have received training from Franchisor;

12.8.2 All officers, directors and holders of a beneficial interest of five percent (5%) or more of the securities of Area Developer and of any corporation directly or indirectly controlling Area Developer, if Area Developer is a corporation; and

12.8.3 The general partners and any limited partners (including any corporation, and the officers, directors and holders of a beneficial interest of five percent (5%) or more of the securities of any corporation which controls, directly or indirectly, any general or limited partner), if Area Developer is a partnership.





**SECTION XIV**  
**INDEPENDENT CONTRACTOR AND INDEMNIFICATION**

14.1 It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee or servant of the other for any purpose whatsoever. Each party to this Agreement is an independent contractor, and neither shall be responsible for the debts or liabilities incurred by the other.

14.2 Area Developer shall hold itself out to the public to be an independent contractor operating pursuant to this Agreement. Area Developer agrees to take such actions as shall be necessary to that end.

14.3 Area Developer understands and agrees that nothing in this Agreement authorizes Area Developer to make any contract, agreement, warranty or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name, and that Franchisor assumes no liability for, nor shall be deemed liable by reason of, any act or omission of Area Developer or any claim or judgment arising therefrom. Area Developer shall indemnify and hold Franchisor and Franchisor's officers, directors, and employees harmless against any and all such claims arising directly or indirectly from, as a result of, or in connection with Area Developer's activities hereunder, as well as the cost, including reasonable attorneys' fees, of defending against them, except that the foregoing shall not apply to infringement actions regarding the Marks which are caused solely by actions of Franchisor or actions caused by the negligent acts of Franchisor or its agents.

**SECTION XV**  
**APPROVALS**

15.1 Whenever this Agreement requires the prior approval or consent of Franchisor, Area Developer shall make a timely written request to Franchisor, and, except as otherwise provided herein, any approval or consent granted shall be in writing.

15.2 Franchisor makes no warranties or guarantees upon which Area Developer may rely, and assumes no liability or obligation to Area Developer or any third party to which it would not otherwise be subject, by providing any waiver, approval, advise, consent or services to Area Developer in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefore.

**SECTION XVI**  
**NON-WAIVER**

No failure of Franchisor to exercise any power reserved to it under this Agreement or to insist upon compliance by Area Developer with any obligation or condition in this Agreement, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of Franchisor rights to demand exact compliance with the terms of this Agreement. Waiver by Franchisor of any particular default shall not affect or impair Franchisor's right with respect to any subsequent default of the same or of a different nature; nor shall any delay, forbearance or omission of Franchisor to exercise any power or right arising out of any breach or default by Area Developer of any of the terms, provisions or covenants of this Agreement affect or impair Franchisor's rights, nor shall such constitute a waiver by Franchisor of any rights hereunder or rights to declare any subsequent breach or default.

**SECTION XVII**  
**SEVERABILITY AND CONSTRUCTION**

17.1 Each covenant and provision of this Agreement shall be construed as independent of any other covenant or provision of this Agreement. The provisions of this Agreement shall be deemed severable.

17.2 If all or any portion of a covenant or provision of this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in a decision to which Franchisor is a party, Area Developer expressly agrees to be bound by any lesser covenant or provision imposing the maximum duty permitted by law which is subsumed within the terms of such covenant or provision, as if that lesser covenant or provision were separately stated in and made a part of this Agreement.

17.3 Nothing in this Agreement shall confer upon any person or legal entity other than Franchisor or Area Developer, and such of their respective successors and assigns as may be contemplated by Section XI hereof, any rights or remedies under or by reason of this Agreement.

17.4 All captions 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.

17.5 All references herein to gender and number shall be construed to include such other gender and number as the context may require, and all acknowledgments, promises, covenants, agreements and obligations herein made or undertaken by Area Developer shall be deemed jointly and severally undertaken by all those executing this Agreement on behalf of Area Developer.

17.6 This Agreement may be executed in multiple counterparts, and each copy of executed Agreement shall be deemed an original.

**SECTION XVIII**  
**ENTIRE AGREEMENT - APPLICABLE LAW**

This Agreement, the documents referred to herein and the Exhibits attached hereto constitute the entire, full and complete agreement between Franchisor and Area Developer concerning the subject matter hereof and supersede any and all prior agreements. No amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing. This Agreement shall be interpreted and construed under the laws of the State of California, and the parties hereto consent to irrevocably submit to the jurisdiction of all courts located within the State of California, County of Los Angeles.

**ARTICLE XIX**  
**ARBITRATION**

19.1 IN THE EVENT ANY PARTY IS REQUIRED TO EMPLOY LEGAL COUNSEL OR TO INCUR OTHER REASONABLE EXPENSES TO ENFORCE ANY OBLIGATION OF ANOTHER PARTY HEREUNDER, OR TO DEFEND AGAINST ANY CLAIM, DEMAND, ACTION, OR PROCEEDING BY REASON OF ANOTHER PARTY'S FAILURE TO PERFORM ANY OBLIGATION IMPOSED UPON SUCH PARTY BY THIS AGREEMENT, AND PROVIDED THAT LEGAL ACTION IS FILED BY OR AGAINST THE FIRST PARTY AND SUCH ACTION OR THE

SETTLEMENT THEREOF ESTABLISHES THE OTHER PARTY'S DEFAULT HEREUNDER, THEN THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY THE AMOUNT OF ALL REASONABLE ATTORNEYS' FEES OF SUCH COUNSEL AND ALL OTHER EXPENSES REASONABLY 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 THEREAFTER. NOTHING CONTAINED IN THIS PARAGRAPH SHALL RELATE TO ARBITRATION PROCEEDINGS PURSUANT TO THIS AGREEMENT.

19.2 EXCEPT AS SPECIFICALLY OTHERWISE PROVIDED IN THIS AGREEMENT, THE PARTIES AGREE THAT ALL CONTRACT DISPUTES THAT CANNOT BE AMICABLY SETTLED SHALL BE DETERMINED SOLELY AND EXCLUSIVELY BY ARBITRATION UNDER THE FEDERAL ARBITRATION ACT AS AMENDED AND IN ACCORDANCE WITH THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION OR ANY SUCCESSOR THEREOF. ARBITRATION SHALL TAKE PLACE AT AN APPOINTED TIME AND PLACE IN THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES.

19.3 EACH PARTY SHALL SELECT ONE (1) ARBITRATOR (WHO SHALL NOT BE COUNSEL FOR THE PARTY), AND THE TWO (2) SO DESIGNATED SHALL SELECT A THIRD ARBITRATOR. IF EITHER PARTY SHALL FAIL TO DESIGNATE AN ARBITRATOR WITHIN SEVEN (7) DAYS AFTER ARBITRATION IS REQUESTED, OR IF THE TWO ARBITRATORS SHALL FAIL TO SELECT A THIRD ARBITRATOR WITHIN FOURTEEN (14) DAYS AFTER ARBITRATION IS REQUESTED, THEN AN ARBITRATOR SHALL BE SELECTED BY THE AMERICAN ARBITRATION ASSOCIATION OR ANY SUCCESSOR THERETO UPON APPLICATION OF EITHER PARTY. JUDGMENT UPON ANY AWARD OF THE MAJORITY OF THE ARBITRATORS SHALL BE BINDING AND SHALL BE ENTERED IN A COURT OF COMPETENT JURISDICTION. THE AWARD OF THE ARBITRATORS MAY GRANT ANY RELIEF WHICH MIGHT BE GRANTED BY A COURT OF GENERAL JURISDICTION, INCLUDING, WITHOUT LIMITATION, BY REASON OF ENUMERATION, AWARD OF DAMAGES (BUT EXCLUDING INJUNCTIVE RELIEF), AND MAY, IN THE DISCRETION OF THE ARBITRATORS, ASSESS, IN ADDITION, THE COSTS OF ARBITRATION, INCLUDING THE REASONABLE FEES OF THE ARBITRATORS AND REASONABLE ATTORNEYS' FEES, AGAINST EITHER OR BOTH PARTIES, IN PROPORTIONS AS THE ARBITRATORS SHALL DETERMINE.

19.4 NOTHING HEREIN CONTAINED SHALL BAR THE RIGHT OF EITHER PARTY TO SEEK AND OBTAIN TEMPORARY AND PERMANENT INJUNCTIVE RELIEF FROM A COURT OF COMPETENT JURISDICTION CONSISTENT WITH ARTICLE XIX HEREOF IN ACCORDANCE WITH APPLICABLE LAW AGAINST THREATENED CONDUCT THAT WILL IN ALL PROBABILITY CAUSE LOSS OR DAMAGE TO AREA DEVELOPER OR COMPANY.

19.5 IT IS THE INTENT OF THE PARTIES THAT ANY ARBITRATION BETWEEN THE AREA DEVELOPER AND COMPANY REGARDING A CLAIM OF AREA DEVELOPER SHALL BE OF AREA DEVELOPER'S INDIVIDUAL CLAIM AND THAT NO SUCH CLAIM SUBJECT TO ARBITRATION SHALL BE ARBITRATED ON A CLASS-WIDE BASIS.

**SECTION XX**  
**TIMELY PERFORMANCE**

Area Developer hereby acknowledges that its timely development of the Outlets in the Development Area in accordance with the Minimum Performance Schedule is of material importance to Franchisor and Area Developer. Area Developer agrees, as a condition of the continuance of the rights granted hereunder, to develop and open Outlets within the Development Area in accordance with the Minimum Performance Schedule, to operate such Outlets pursuant to the terms of the Franchise Agreements and to maintain all such Outlets in operation continuously. A failure or delay in performance by any party to this Development Agreement shall not be a default hereunder if such failure or delay arises out of or results from a Force Majeure, which for purposes of this Development Agreement shall be defined as fire, flood, earthquake or other natural disasters, or acts of a public enemy, war, rebellion or sabotage.

**SECTION XXI**  
**ACKNOWLEDGMENTS**

21.1 AREA DEVELOPER ACKNOWLEDGES THAT THE SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT INVOLVES SUBSTANTIAL BUSINESS RISKS AND WILL BE TOTALLY AND COMPLETELY DEPENDENT UPON THE ABILITY OF AREA DEVELOPER AS AN INDEPENDENT BUSINESS PERSON. Franchisor EXPRESSLY DISCLAIMS THE MAKING OF, AND AREA DEVELOPER ACKNOWLEDGES NOT HAVING RECEIVED, ANY WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO THE POTENTIAL VOLUME, PROFITS OR SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT.

21.2 AREA DEVELOPER ACKNOWLEDGES HAVING RECEIVED, READ AND UNDERSTOOD THIS AGREEMENT, THE EXHIBITS ATTACHED HERETO AND AGREEMENTS RELATING HERETO, IF ANY, AND THE OFFERING CIRCULAR; AND Franchisor HAS ACCORDED AREA DEVELOPER AMPLE TIME AND OPPORTUNITY TO CONSULT WITH ADVISORS OF AREA DEVELOPER'S OWN CHOOSING ABOUT THE POTENTIAL RISKS OF ENTERING INTO THIS AGREEMENT.

21.3 AREA DEVELOPER AND EACH OF ITS PRINCIPALS, IF A CORPORATION, EXPRESSLY ACKNOWLEDGE THAT NEITHER IT NOR THEY HAVE RELIED UPON ANY EARNINGS CLAIMS, SUCH AS ORAL OR WRITTEN STATEMENTS OR SUGGESTIONS, MADE BY ANY REPRESENTATIVE OF OR ANY OTHER PERSON PURPORTING TO BE ACTING ON BEHALF OF Franchisor REGARDING THE POTENTIAL FUTURE SALES, REVENUES OR PROFITS WHICH MAY BE DERIVED FROM OPERATION OF Franchisor RESTAURANTS OR DEVELOPMENT OF THE DEVELOPMENT AREA.

**SECTION XXII**  
**EFFECTIVE DATE**

This Agreement shall be effective as of the date it is executed by both parties.

**IN WITNESS WHEREOF**, the parties hereto have duly executed, sealed and delivered this Agreement in triplicate on the day and year first above written.

FRANCHISOR

AREA DEVELOPER:

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name & Title)

\_\_\_\_\_  
(Printed Name & Title)

**TOUS LES JOURS INTERNATIONAL CORP.**

**AREA DEVELOPMENT AGREEMENT**

**EXHIBIT "A"**

**Minimum Performance Schedule**

The Agreement authorizes and obliges Area Developer to establish and operate \_\_\_\_ ( ) "Franchisor" Outlets pursuant to a Franchise Agreement for each Outlet. The following is Area Developer's Minimum Performance Schedule:

Outlet Number	Open & Operating On or Before	Payment Made	Balance Due Per Store	Due Date
				Upon simultaneous Execution of Franchise Agreement and Area Development Agreement
1			\$ -0-	Paid in full
2				On the earlier of (i) the date a lease or purchase agreement for the Outlet is executed or (ii) ninety (90) days prior to the scheduled opening date for said Outlet
3				On the earlier of (i) the date a lease or purchase agreement for the Outlet is executed or (ii) ninety (90) days prior to the scheduled opening date for said Outlet
4				On the earlier of (i) the date a lease or purchase agreement for the Outlet is executed or (ii) ninety (90) days prior to the scheduled opening date for said Outlet
5				On the earlier of (i) the date a lease or purchase agreement for the Outlet is executed or (ii) ninety (90) days prior to the scheduled opening date for said Outlet

APPROVED:

AREA DEVELOPER

Franchisor

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

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

**TOUS LES JOURS INTERNATINOAL CORP.**

**AREA DEVELOPMENT AGREEMENT**

**EXHIBIT "B"**

**Development Area**

The following describes the Development Area within which Area Developer may locate "Franchisor" Outlets under this Agreement:

APPROVED:

AREA DEVELOPER

Franchisor

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

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



**TOUS LES JOURS INTERNATIONAL CORP.**  
**EXISTING RESTAURANTS IN DEVELOPMENT AREA**

**EXHIBIT "C"**

APPROVED:

AREA DEVELOPER

FRANCHISOR

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

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

**TOUS LES JOURS INTERNATIONAL CORP.**

**AREA DEVELOPMENT AGREEMENT**

**EXHIBIT "D"**

**CERTIFICATION OF AREA DEVELOPER**

The undersigned, personally and as an officer or partner of Area Developer, as applicable, does hereby certify that he has conducted an independent investigation of the business contemplated by this Area Development Agreement and the Franchisor Franchise Agreement, and that the decision to execute the Area Development Agreement was based entirely upon the independent investigation by the undersigned; and the undersigned further certifies that he has not relied upon, in any way, any claims regarding potential sales, income, or earnings to be derived from the business contemplated by the Franchise Agreement and Area Development Agreement, and has not relied upon any claims regarding past or current sales, income or earnings of Company-operated "Franchisor " Outlets. The undersigned further certified that he understands the risks involved in this investment and Franchisor, LLC makes no representation or guaranty, explicit or implied that the Area Developer will be successful or will recoup his investment.

**IN WITNESS WHEREOF**, the undersigned has signed, sealed and delivered this Certificate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

"AREA DEVELOPER"

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT E**

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## Tous Les Jours

### Store Operation Manual

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**EXHIBIT F****LIST OF CURRENT FRANCHISEES**

City, State	Franchisee	Address	Telephone Number
Mesa, AZ	Seok Joon Bae	1135 S. Dobson Rd., Mesa, AZ 85202	480-833-9500
Arcadia, CA	H-Mart Arcadia LLC	1101 W. Huntington Dr., Arcadia, CA 91007	626-241-1270
Burlingame, CA	Tony Ye	1849 El Camino Real, Burlingame, CA 94010	650-239-9629
Diamond Bar, CA	Jinyook Kang	2825 S. Diamond Bar Blvd. Diamond Bar, CA 91765	562-331-4223
Dublin, CA	Hyun Choi	7151 Amador Plaza Rd. Dublin, CA 94568	510-414-2629
Fremont, CA	Jeanie Chong	46819 Warm Spring Blvd. Fremont, CA 94539	469-585-2837
Fullerton, CA	Jinyook Kang	1993 W Malvern Ave. Ste A, Fullerton, CA 92833	714-519-3455
Garden Grove, CA	Eric Yang	9618 Garden Grove Blvd, #101, Garden Grove, CA 92844	714-636-8397
Irvine, CA	Duane Kim	3825 Alton Pkwy, Irvine, CA 92606	424-903-9594
Lakewood, CA	H-Mart Lakewood, LLC	20137 Pioneer Blvd., Lakewood, CA 90715	562-303-9810
Los Angeles, CA	Byung Duck Cho	2736 Olympic Blvd. Los Angeles, CA 90006	323-733-8345
Los Angeles, CA	Thomas Jung	450 S. Western Ave. #103 Los Angeles, CA 90020	323-480-9100
Los Angeles, CA	Junghyun Kim	404 E 2 <sup>nd</sup> St., Los Angeles, CA 90012	213-444-8255
Northridge, CA	Jay Choe	10201 Reseda Blvd. #107 Northridge, CA 91324	213-219-2402
San Diego, CA	Sang Do Lee	7715 Balboa Ave., San Diego, CA 92111	858-836-1016
San Jose, CA	H-Mart San Jose, LLC	1710 Oakland Rd., San Jose, CA 95131	408-770-8266
Santa Clara, CA	Jeanie Chong	3535 Homestead Rd, Santa Clara, CA 95051	469-585-2837
Torrance, CA	Miryung Choi	4340 Pacific Coast Hwy, Torrance, CA.90505	310-974-6330
Torrance, CA	Stephen Lee	2814 Sepulveda Blvd, Torrance, CA 90505	714-357-0092
Aurora, CO	Kie Lee	2892 S Havana St, Aurora, CO 80014	303-755-7014

Thornton, CO	Kie Lee	14352 Lincoln St #107, Thornton, CO 80023	303-955-1964
Westminster, CO	Kie Lee	5024 W 92 <sup>nd</sup> Ave, Ste B 1, Westminster, CO 80031	720-456-6627
New Haven, CT	Bohun Choi	831 Chapel St, New Haven, CT 06510	585-732-1994
Winter Park, FL	Jung Moon	1230 W Fairbanks Ave, Winter Park, FL 32789	321-316-4969
Orlando, FL	Jung Moon	3191 W Colonial Dr, Orlando, FL 32808	321-316-4969
Doraville, GA	Soon Mo Yeon	6035 Peachtree Industrial Blvd. Doraville, GA	678-691-7235
Johns Creek, GA	Soon Mo Yeon	10820 Abbotts Bridge Rd, Duluth, GA 30097	770-497-9180
Suwanee, GA	Soon Mo Yeon	2700 Lawrenceville Suwanee Rd, Suwanee, GA 30024	678 546-1526
Riverdale, GA	Soon Mo Yeon	6335 HWY 85, Riverdale, GA 30274	770-909-0906
Chicago, IL	Tingting Zheng	2144 S. Archer Ave., Chicago, IL 60616	312-885-0808
Chicago, IL	Richard Kim	1726 W Division St. Chicago, IL 60622	773-697-8227
Glenview, IL	Jongpil Park	1685 Milwaukee Ave. Glenview, IL 60025	215-791-1525
Naperville, IL	Jongpil Park	1512 N. Naper Blvd., #132, Naperville, IL 60563	215-791-1525
Schaumburg, IL	Heung Kyon Kim	20 E Golf Rd. Schaumburg, IL 60173	847-610-3992
Vernon Hills, IL	Jongpil Park	670 Hawthorn Center, Vernon Hills, IL 60061	215-791-1525
Indianapolis, IN	Bong Sung	8448 Center Run Dr, Indianapolis, IN 46250	317-690-6195
Lawrence, KS	Kyung Ho An	525 Wakarusa Dr. Lawrence, KS 66049	913-383-2828
Overland Park, KS	Kyung Ho An	10336 Metcalf Ave. Overland Park, KS 66212	913-383-2828
Allston, MA	Sheng Su	152 Harvard Ave., Allston, MA 02134	617-787-1069
Burlington, MA	Alex Duan	3 Old Concord Rd. Burlington, MA 01803	781-272-2800
Malden, MA	Alex Duan	230 Pleasant St, Malden, MA 02148	781-480-4321
Natick, MA	Eva Chang	1245 Worcester St. Ste 2094, Natick, MA 01760	508-907-6906

Newton, MA	Hao Yuanye	747 Beacon St, Newton, MA 02459	617-467-4263
Troy, MI	James Lee	1699 Crooks Rd, Troy, MI 48084	248-792-3347
Ellicott City, MD	Sungho Shin	9380 Baltimore National Pike, Suite 111 Ellicott City, MD 21042	410-461-6301
Cary, NC	H Mart Cary LLC	1961 High House Rd. Cary, NC 27519	919-535-5514
Charlotte, NC	Chulho Chang	4625 Piedmont Row Dr, Charlotte, NC 28207	704-296-3396
Omaha, NE	Ning Yang	7538 Dodge St, Omaha, NE 68114	308-850-0080
Closter, NJ	K. H. Jung	40 Homans Ave. Closter, NJ 07624	201-937-9123
Cherry Hill, NJ	Han Li	826 Haddonfield Rd. Cherry Hill, NJ 08002	856-488-1100
Edison, NJ	Jeongwon Lee	1761 State Route 27, Edison, NJ 08817	732-985-4588
Fort Lee, NJ	Ki Il Park	112 Linwood Plaza #130 Fort Lee, NJ 07024	201-461-2870
Little Ferry, NJ	Jung Hong	260 Bergen Turnpike, Little Ferry, NJ 07643	201-870-6292
Paramus, NJ	Café Lami LLC	60 NJ-17, Paramus, NJ 07652	917-680-8992
Las Vegas, NV	Grace Valentina	8140 S. Rainbow Blvd. Las Vegas, NV, 89139	702-272-1209
Brooklyn, NY	Vivienne Xie	6003 8 <sup>th</sup> Ave., Brooklyn, NY 11220	646-239-8199
Brooklyn, NY	Wen Zheng	2017 86 <sup>th</sup> St., Brooklyn, NY.11214	718-872-5450
Flushing, NY	Richard Tan	39-16 Prince Street Flushing, NY 11354	718-888-1992
Hartsdale, NY	Ki Il Park	371 N. Central Ave., Hartsdale, NY 10530	914-358-4130
New York, NY	Cheryl Chen	7 Division St, New York, NY 10002	212-966-6777
New York, NY	Yun Kim	31 W. 32 <sup>nd</sup> St., New York, NY 10001	212-967-9661
Syracuse, NY	Jong Hee Han	2743 Erie Blvd E, Syracuse, NY 13224	315-449-0170
Columbus, OH	Zhe Liu	2869 Olentangy River Rd, Columbus, OH 43202	614-284-1775
Beaverton, OR	Jae H Kim Daniel Lee	11733 SW Beaverton Hillsdale Hwy, Beaverton, OR 97005	503-746-6735

Happy Valley, OR	Jae H Kim Daniel Lee	12000 SE 82 <sup>nd</sup> Ave, Happy Valley, OR 97086	503-659-3773
Hillsboro, OR	Jae H Kim Daniel Lee	6221 N.E. Cornell Rd. Hillsboro, OR 97124	503-648-2191
Bryn Mawr, PA	Chan Lin	393 W. Lancaster Ave, Bryn Mawr, PA 19041	917-353-9312
Austin, TX	Young C. Marrero	11301 Lakeline Blvd., Austin, TX 78717	737-209-5978
Austin, TX	Young C. Marrero	6808 N. Lamar Blvd., B-115, Austin, TX 78752	512-373-8080
Carrollton, TX	Anna Jang	4070 TX-121 #400, Carrollton, TX 75010	469-289-6650
Dallas, TX	Sunkyung Sohn	2625 Old Denton Rd. Carrollton, TX 75007	469-231-7864
Houston, TX	Won Kim	9896 Bellaire Blvd Houston, TX 77036	713-360-3220
Houston, TX	Chang J. Bea	1302 Blalock Road, Houston, TX 77055	832-874-9996
Katy, TX	Ben Lee	23119 Colonial Pkwy, Bldg B., Houston, TX 77449	281-396-4687
Killeen, TX	Ho Yu	714 S Fort Hood St, Killeen, TX 76541	254-577-4777
Plano, TX	Karen Park	3320 K Ave. #218 Plano, TX 75074	469-814-0882
Midvale, UT	Kyung H Cho	25 Fort Union Blvd, Midvale, UT 84047	949-556-2122
Annandale, VA	Chi Wan Kim	4243 John Marr Dr. Annandale, VA 22003	202-394-3385
Chantilly, VA	Sung Shin	14452 Chantilly Crossing Lane, Chantilly, VA 20151	571-265-1311
Gainesville, VA	Sung Oh	7380 Atlas Walk Way, Gainesville, VA 20155	703-296-5514
Bellevue, WA	Hyuna Chung	100 108th Ave. NE, Bellevue, WA 98004	425-453-4300
Seattle, WA	Hyuna Chung	101 Terry Ave. N, Seattle, WA 98109	206-457-5096
Seattle, WA	Hyuna Chung	118 Broadway E, Seattle, WA 98122	206-432-9054
Seattle, WA	Hyuna Chung	625 5 <sup>th</sup> Ave. S., Seattle, WA 98104	206-624-7500

\*Area Developers are marked with an asterisk (\*). At this time, there is no Area Developers.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the System.



**LIST OF FRANCHISEES WHO SIGNED FRANCHISE AGREEMENTS, BUT HAVE  
NOT YET OPENED AS OF DECEMBER 31, 2022**

City, State	Franchisee	Address	Telephone Number
Huntsville, AL	TLJ Alabama LLC	1026 Midcity Dr, Huntsville, AL 35806	256-679-6656
Dublin, CA	Hyun Choi	7884 Dublin Blvd, Dublin, CA 94568	510-414-2629
Irvine, CA	Duane Kim	3995 Irvine Blvd #3901, Irvine, CA 92602	424-903-9594
Livermore, CA	Charmi Shah, Pearl Dsovza	4437 First St, Livermore, CA 94551	937-215-9475
Roseville, CA	Sadish Thyagarajan	9400 Fairway Dr, Roseville, CA 95678	925-225-0111
Wichita, KS	Hong Zhang	TBD	316-258-9870
Orlando, FL	Jung Moon	5535 S Kirkman Rd, Orlando, FL 32819	321-316-4969
Tampa, FL	Jung Moon	17605 Bruce B Downs Blvd, Tampa, FL 33647	321-316-4969
Quincy, MA	Sheng Su	48 Billings Rd, Quincy, MA 02171	617-787-1069
Bloomington, MN	Sheng Zheng	TBD	612-298-1949
Minneapolis, MN	Sheng Zheng	TBD	612-298-1949
Richfield, MN	Sheng Zheng	6601 Nicollet Ave, Minneapolis, MN 55423	612-298-1949
Pineville, NC	Cheol H. Jang	10500 Centrum Pkwy, Pineville, NC 28134	704-296-3396
South End, NC	Yidi Chen	2041 South Blvd, Charlotte, NC 28203	917-528-9002
Bergenfield, NJ	Jung Eun Kim	387 S Washington Ave, Bergenfield, NJ 07621	201-410-3553
East Rutherford, NJ	Café Lami LLC	1 American Dream Wy, East Rutherford, NJ 07073	917-680-8992
West Windsor, NJ	Chao Chen	64 Princeton Hightstown Rd, West Windsor Township, NJ 08550	908-821-6207
Bronxville, NY	Jung Hong	19 Park Pl, Bronxville, NY 10708	201-870-6292
Elmhurst, NY	Inwoo Kim	85-15 Queens Blvd #3, Elmhurst, NY 11373	718-785-6666

Great Neck, NY	Yi Chen	41 Great Neck Rd, Great Neck, NY 11021	347-459-5075
Flushing Northern, NY	Juhyeop Park	164-01 Northern Blvd, Flushing, NY 11358	646-770-5057
Westbury, NY	Ying Zhang	1500 Old Country Rd, Westbury, NY 11590	415-215-4872
Spring Mt., NV	Yong Jin Chang	5760 Spring Mountain Rd, Las Vegas, NV 89146	702-468-4442
NV	Yong Jin Chang	TBD	702-468-4442
NV	Yong Jin Chang	TBD	702-468-4442
Omaha, NE	Ning Yang	16950 Wright Plaza, Omaha, NE 68130	308-850-0080
Oxford, OH	Jiaji Li	5 W High St, Oxford, OH 45056	513-593-5987
Oklahoma City, OK	Hong Zhang	2900 N Classen Blvd Suite B, Oklahoma City, OK	316-258-9870
Tulsa, OK	Hong Zhang	TBD	316-258-9870
Elkins Park, PA	Bowen Zheng	50 Yorktown Plz, Elkins Park, PA 19027	215-930-2006
Wayne, PA	Hao Yan Chen	275 E Swedesford Rd, Wayne, PA 19087	646-797-6218
Colleyville, TX	David Choi	5605 Colleyville Blvd, Colleyville, TX 76034	714-231-1219
TX	David Choi	TBD	714-231-1219
TX	David Choi	TBD	714-231-1219
Richardson, TX	Tiffany Lam	201 S Plano Rd, Richardson, TX 75081	469-258-6807
Provo, UT	Jiali Zhang	386 E University Pkwy, Orem, UT 84058	801-660-8453
Salt Lake City, UT	Jiali Zhang	TBD	801-660-8453
UT	Jiali Zhang	TBD	801-660-8453
Centerville, VA	Jason Kim	14102 Lee Hwy, Centerville, VA 20120	703-623-8126
Sterling, VA	Jung Moon	30 Pidgeon Hill Dr, Sterling, VA 20165	321-316-4969
Redmond, WA	Hyuna Chong	7589 170th Ave NE, Redmond, WA 98052	425-802-7122

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the System

**EXHIBIT G**

**LIST OF FRANCHISEES WHO HAVE LEFT THE SYSTEM  
IN 2022**

City, State	Name	Last Known Address	Last Known Telephone Number	Category
Centerville, VA	Erica Yoo	13834 Braddock Rd. #100 Centerville, VA 20121	703-298-5000	Termination

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the System.

**EXHIBIT H**  
**FINANCIAL STATEMENTS**

**Tous Les Jours International Corp.**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2022 and 2021**

**Tous Les Jours International Corp.**  
**FINANCIAL STATEMENTS**  
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## INDEPENDENT AUDITORS' REPORT

To the Board of Directors  
Tous Les Jours International Corp.

### Opinion

We have audited the accompanying financial statements of Tous Les Jours International Corp., which comprise the balance sheets as of December 31, 2022 and 2021, respectively, and the related statements of income, changes in stockholder's equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Tous Les Jours International Corp. as of December 31, 2022 and 2021, 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 audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the financial statements section of our report. We are required to be independent of Tous Les Jours International Corp. and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. 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 Tous Les Jours International Corp.'s ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

## **Auditor's 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 auditor's 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, including omissions, 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 Tous Les Jours International Corp.'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 Tous Les Jours International Corp.'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.

*LEK Partners LLC*

Duluth, Georgia USA  
February 24, 2023



**Tous Les Jours International Corp.**  
**BALANCE SHEETS**  
**DECEMBER 31, 2022 AND 2021**

<b>ASSETS</b>	<b>2022</b>	<b>2021</b>
<b>CURRENT ASSETS</b>		
Cash	\$ 1,593,869	\$ 526,638
Accounts receivable, less allowance for doubtful accounts of \$28,346 in 2022 and \$50,000 in 2021	621,943	484,801
Due from the Parent	1,247,497	7,234
Loan to the Parent	9,900,000	6,000,000
Prepaid expenses and other current assets	<u>53,878</u>	<u>44,083</u>
Total current assets	13,417,187	7,062,756
<b>DEFERRED INCOME TAXES</b>	<u>147,421</u>	<u>-</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 13,564,608</u></u>	<u><u>\$ 7,062,756</u></u>
<b>LIABILITIES AND STOCKHOLDER'S EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Due to the Parent	\$ 25,000	\$ 234,321
Income taxes payable to the Parent	3,221,492	1,368,067
Accrued expense and other current liabilities	<u>915,637</u>	<u>545,034</u>
Total current liabilities	<u>4,162,129</u>	<u>2,147,422</u>
<b>TOTAL LIABILITIES</b>	4,162,129	2,147,422
<b>STOCKHOLDER'S EQUITY</b>		
Common stock, no par value. Authorized 1,000,000 shares; issued and outstanding 800,000 shares.	800,000	800,000
Retained earnings	<u>8,602,479</u>	<u>4,115,334</u>
Total stockholder's equity	9,402,479	4,915,334
<b>TOTAL LIABILITIES AND EQUITY</b>	<u><u>\$ 13,564,608</u></u>	<u><u>\$ 7,062,756</u></u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**STATEMENTS OF INCOME**  
**FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021**

	<u>2022</u>	<u>2021</u>
<b>REVENUE</b>		
Royalties	\$ 5,824,393	\$ 4,471,405
Upfront franchise fees	442,500	315,000
Total revenues	<u>6,266,893</u>	<u>4,786,405</u>
<b>SELLING, GENERAL, AND ADMINISTRATIVE EXPENSES</b>	<u>327,567</u>	<u>1,756,817</u>
<b>OPERATING INCOME</b>	5,939,326	3,029,588
<b>INTEREST INCOME</b>	<u>269,218</u>	<u>55,475</u>
<b>INCOME BEFORE INCOME TAX EXPENSES</b>	6,208,544	3,085,063
<b>INCOME TAX EXPENSES</b>	<u>1,721,399</u>	<u>909,450</u>
<b>NET INCOME</b>	<u>\$ 4,487,145</u>	<u>\$ 2,175,613</u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**STATEMENTS OF CHANGES IN STOCKHOLDER'S EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021**

	<u>Common Stock</u>	<u>Retained Earnings</u>	<u>Total Stockholder's Equity</u>
<b>BALANCE AT JANUARY 1, 2021</b>	\$ 800,000	\$ 1,939,721	\$ 2,739,721
Net income	-	2,175,613	2,175,613
<b>BALANCE AT DECEMBER 31, 2021</b>	800,000	4,115,334	4,915,334
Net income	-	4,487,145	4,487,145
<b>BALANCE AT DECEMBER 31, 2022</b>	<u>\$ 800,000</u>	<u>\$ 8,602,479</u>	<u>\$ 9,402,479</u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021**

	<u>2022</u>	<u>2021</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 4,487,145	\$ 2,175,613
Adjustments to reconcile net income to net cash provided by operating activities:		
Deferred tax benefit	(147,421)	-
Changes in assets and liabilities:		
Accounts receivable	(137,142)	125,664
Due from the Parent	(1,240,263)	(5,744)
Prepaid expenses and other current assets	(9,795)	(30,000)
Accounts payable	-	(5,500)
Due to the Parent	(209,321)	(532)
Income taxes payable to the Parent	1,853,425	597,225
Accrued expense and other current liabilities	370,603	425,250
Net cash provided by operating activities	<u>4,967,231</u>	<u>3,281,976</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Loan to the Parent	<u>(3,900,000)</u>	<u>(5,000,000)</u>
<b>INCREASE (DECREASE) IN CASH</b>	1,067,231	(1,718,024)
<b>CASH AT BEGINNING OF YEAR</b>	<u>526,638</u>	<u>2,244,662</u>
<b>CASH AT END OF YEAR</b>	<u>\$ 1,593,869</u>	<u>\$ 526,638</u>
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</b>		
Income taxes	<u>\$ 24,000</u>	<u>\$ 30,000</u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022 and 2021**

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## **1. NATURE OF BUSINESS**

Tous Les Jours International Corp. (the Company) incorporated in the state of California on May 22, 2009, is a wholly owned subsidiary of CJ Foodville USA, Inc. (the Parent). The Company franchises French-Asian style bakery-café under the brand name of Tous Les Jours.

The Company's bakery-café business is operated by franchisees under franchise agreements. The Company grants right to a franchisee to operate a bakery-café at a specific location for on-premises dining and carry-out services which offers a unique selection of bakery and pastry goods, sandwich items, coffee and beverages. As of December 31, 2022, there are 86 bakery-café operated by independent franchisees under franchise agreements and two operated by the Company.

## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

### **Estimates and Uncertainties**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP) requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Given the global economic climate and additional or unforeseen effects from COVID-19, those estimates have become more challenging, and actual results could differ materially from those estimates.

### **Cash**

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

The Company places its cash with high-quality financial institutions and such deposits may be in excess of the Federal Deposit Insurance Corporation limit of \$250,000; however, the Company has not yet experienced losses with respect to these deposits.

### **Accounts Receivable**

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions and customers' financial condition, the amount of receivables in dispute, and the current receivables aging and current payment patterns. The Company regularly reviews its allowance for doubtful accounts. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022 and 2021**

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## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED**

### **Revenue Recognition**

Effective January 1, 2019, the Company adopted the FASB Accounting Standards Codification Topic 606, Revenue from Contracts with Customers, which amended the existing accounting standards for revenue recognition.

The Company recognizes revenue when it satisfies performance obligations under the terms of its contracts, and control of its products or services is transferred to its customers in an amount that reflects the consideration the Company expects to receive from its customers in exchange for those products or services. This process involves identifying the customer contract, determining the performance obligations in the contract, determining the contract price, allocating the contract price to the distinct performance obligations in the contract, and recognizing revenue when the performance obligations have been satisfied. A performance obligation is considered distinct from other obligations in a contract when it (a) provides a benefit to the customer either on its own or together with other resources that are readily available to the customer and (b) is separately identified in the contract. The Company considers a performance obligation satisfied once it has transferred control of the products or services to a customer, meaning the customer has the ability to use and obtain the benefit of the product or service. The Company typically satisfies its performance obligations over time, as services are performed.

Under franchise agreements, the Company provides franchisees with a license of the symbolic intellectual property of the Company's brand, administration of advertising programs and other ongoing support functions. These services are highly interrelated so the Company does not consider them to be individually distinct performance obligations, and therefore, account for them as a single performance obligation.

Revenues from franchised cafes include royalties based on a percentage of franchisees' sales and upfront franchise fees. Sales-based royalties are recognized in the period earned and are variable consideration related to the Company's performance obligation to franchisees to maintain the intellectual property being licensed. Upfront franchise fees associated with pre-opening services are recognized when all material services or conditions relating to the opening of new bakery-café have been substantially completed since the upfront fees are distinct from the ongoing franchise license and related to the activities of opening a new location such as employee training and general architectural and design services.

### **Income Taxes**

Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases under the asset-and-liability method. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. For tax positions not meeting the "more likely than not" test, no tax benefit is recorded.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
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## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED**

### **Fair Value of Financial Instruments**

The Company's financial instruments such as cash, accounts receivable, prepaid expenses and other current assets, due from and to the Parent and affiliates, income taxes payable to the Parent are of short-term duration. The carrying value, therefore, approximates fair value.

The Company uses valuation approaches that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, a three-tier fair value hierarchy distinguishes between observable and unobservable inputs.

The three-tier fair value hierarchy includes: Level 1, defined as quoted prices in active markets; Level 2, defined as observable prices that are based on inputs not quoted in active markets, but corroborated by market data; and Level 3, defined as unobservable inputs about which little or no market data exist, therefore requiring an entity to develop its own assumptions.

### **Recently Issued Accounting Standards**

In June 2016, the FASB issued ASU 2016-13, Measurement of Credit Losses on Financial Instruments which significantly changes the way entities recognize impairment of many financial assets by requiring immediate recognition of estimated credit losses expected to occur over their remaining life, instead of when incurred. In November 2018, the FASB issued ASU 2018-19, Codification Improvements to Topic 326, Financial Instruments—Credit Losses, which amends Subtopic 326-20 (created by ASU 2016-13) to explicitly state that operating lease receivables are not in the scope of Subtopic 326-20. Additionally, in April 2019, the FASB issued ASU 2019-04, Codification Improvements to Topic 326, Financial Instruments—Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments; in May 2019, the FASB issued ASU 2019-05, Financial Instruments—Credit Losses (Topic 326): Targeted Transition Relief; in November 2019, the FASB issued ASU 2019-10, Financial Instruments—Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates, and ASU 2019-11, Codification Improvements to Topic 326, Financial Instruments—Credit Losses; and in March 2020, the FASB issued ASU 2020-03, Codification Improvements to Financial Instruments, to provide further clarifications on certain aspects of ASU 2016-13 and to extend the nonpublic entity effective date of ASU 2016-13. The changes (as amended) are effective for the Company for annual and interim periods in fiscal years beginning after December 15, 2022. The entity may early adopt ASU 2016-13, as amended, for annual and interim periods in fiscal years beginning after December 15, 2018. While the Company expects its allowance for credit losses to increase upon adoption of ASU 2016-13, the Company does not expect the adoption of ASU 2016-13 to have a material effect on its financial statements.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
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## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED**

### **Recently Issued Accounting Standards – Continued**

In August 2020, the FASB issued ASU 2020-06, Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity’s Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity’s Own Equity. ASU 2020-06 reduces the number of accounting models for convertible instruments and allows more contracts to qualify for equity classification. ASU 2020-06 is effective for the Company’s annual reporting periods beginning after December 15, 2023. Adoption is either a modified retrospective method or a fully retrospective method of transition. Early adoption is permitted, but no earlier than annual periods beginning after December 15, 2020. The Company is currently evaluating the effect the adoption of ASU 2020-06 will have on its financial statements.

In October 2021, the FASB issued ASU 2021-08, Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers, which provides an exception to fair value measurement for contract assets and contract liabilities related to revenue contracts acquired in a business combination. The ASU requires an entity (acquirer) to recognize and measure contract assets and contract liabilities acquired in a business combination in accordance with Topic 606. At the acquisition date, an acquirer should account for the related revenue contracts in accordance with Topic 606 as if it had originated the contracts. The ASU is effective for the Company for annual and interim periods in fiscal years beginning after December 15, 2023. Early adoption is permitted. The ASU is applied to business combinations occurring on or after the effective date.

In June 2022, the FASB issued ASU 2022-03, Fair Value Measurement (Topic 820): Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions. The ASU clarifies that a contractual restriction on the sale of an equity security should not be considered in measuring the fair value of the equity security, and also cannot be recognized as a separate unit of account. The ASU also requires the investor to disclose the fair value of equity securities subject to contractual sale restrictions, the nature and remaining duration of the restriction(s), and the circumstances that could cause a lapse in the restriction(s). The ASU is effective for the Company for annual and interim periods beginning after December 15, 2024. Early adoption is permitted. The Company does not expect the adoption of ASU 2022-03 to have a material effect on its financial statements.

In September 2022, the FASB issued ASU 2022-04, Liabilities—Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations. The ASU requires a buyer of goods and services to disclose information about its supplier finance program obligations. This ASU is effective for annual and interim periods in fiscal years beginning after December 15, 2022, except for the rollforward disclosure, which is effective for annual and interim periods in fiscal years beginning after December 15, 2023, and annual periods thereafter. The amendments in this ASU are to be applied retrospectively to each period in which a balance sheet is presented, except for the rollforward disclosure, which is to be applied prospectively. Early adoption is permitted. The Company does not expect the adoption of ASU 2022-04 to have a material effect on its financial statements.



**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022 and 2021**

**3. CONTINGENCIES**

The Company is involved in various legal claims and actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company's financial position, results of operations, or liquidity.

**4. SIGNIFICANT RISKS AND UNCERTAINTIES**

Since March 2020, the outbreak of COVID-19 has been recognized as a pandemic by the World Health Organization and the outbreak has become widespread in the U.S. and the areas in which the Company operates. The extent to which the pandemic impacts the Company's business will depend on future developments, which are highly uncertain and difficult to predict. However, this pandemic may present uncertainty and risk with respect to the Company's business, financial condition and results of operations.

**5. INCOME TAX EXPENSES**

The income tax expenses (benefits) for the years ended December 31, 2022 and 2021 are summarized as follows:

	2022	2021
Current:		
Federal	\$ 1,301,013	\$ 647,078
State	567,807	262,372
	1,868,820	909,450
Deferred:		
Federal	(136,659)	-
State	(10,762)	-
	(147,421)	-
	\$ 1,721,399	\$ 909,450

The components of deferred income tax assets as of December 31, 2022 and 2021 are summarized as follows:

	2022	2021
Deferred tax assets:		
Accrued royalty	\$ 29,385	\$ 29,385
Allowance for doubtful accounts	8,330	14,693
Other	109,706	54,324
Total deferred tax assets	147,421	98,402
Valuation allowance	-	(98,402)
Deferred tax assets, net	\$ 147,421	\$ -

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022 and 2021**

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**5. INCOME TAX EXPENSES – CONTINUED**

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of sufficient future taxable income during the periods in which those temporary differences become deductible and the scheduled reversals of deferred tax liabilities. Based upon the level of historical taxable losses incurred and projections for future taxable income over the periods in which the deferred tax assets are deductible, management believes it is more likely than not that the Company will not realize the benefits of these deductible differences.

The Company files its California franchise tax return with its affiliates on the water's edge method. Accordingly, the provision for California franchise taxes provided is different from the amount computed by applying the California franchise tax rate to income before income tax expense.

The Company did not have any material uncertain tax positions or unrecorded tax benefits, which, if recognized, would affect the effective tax rates for the years ended December 31, 2022 and 2021.

**6. RELATED PARTY TRANSACTIONS**

The following summarizes related party transactions and balances as of and for the years ended December 31, 2022 and 2021:

	<u>2022</u>	<u>2021</u>
Due from the Parent	\$ 1,247,497	\$ 7,234
Loan to the Parent	9,900,000	6,000,000
Due to the Parent	25,000	234,321
Income taxes payable to the Parent	3,221,492	1,386,067
Management service fee to the Parent	300,000	1,611,856
Other income from the Parent and affiliates, net	269,217	55,475

**7. EVALUATION OF EVENTS SUBSEQUENT TO THE BALANCE SHEET DATE**

Subsequent events have been evaluated through February 24, 2023, the date the financial statements were available for issue, and there was no item to be disclosed.

**Tous Les Jours International Corp.**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2021 and 2020**

**Tous Les Jours International Corp.**  
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## INDEPENDENT AUDITORS' REPORT

To the Board of Directors  
Tous Les Jours International Corp.

### **Report on the Financial Statements**

We have audited the accompanying financial statements of Tous Les Jours International Corp., which comprise the balance sheets as of December 31, 2021, and the related statements of income, changes in stockholder's equity, and cash flows for the years then ended, and the related notes to the financial statements. The financial statements of Tous Les Jours International Corp. as of December 31, 2020, and for the year then ended were audited by other auditors whose report dated March 4, 2021, expressed an unqualified opinion on those financial statements.

### **Management's Responsibility**

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.

### **Auditors' Responsibility**

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 auditors' 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 auditors consider 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.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Tous Les Jours International Corp. as of December 31, 2021, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*LEK Partners LLC*

Duluth, Georgia USA  
February 4, 2022

**Tous Les Jours International Corp.**  
**BALANCE SHEETS**  
**DECEMBER 31, 2021 AND 2020**

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<b>ASSETS</b>	<u><b>2021</b></u>	<u><b>2020</b></u>
<b>CURRENT ASSETS</b>		
Cash	\$ 526,638	\$ 2,244,662
Accounts receivable, less allowance for doubtful accounts of \$50,000 in 2021 and 2020	484,801	610,465
Due from related parties	6,007,234	1,001,490
Prepaid expenses and other current assets	44,083	14,083
Total current assets	<u>7,062,756</u>	<u>3,870,700</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 7,062,756</u></u>	<u><u>\$ 3,870,700</u></u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**BALANCE SHEETS**  
**DECEMBER 31, 2021 AND 2020**

<b>LIABILITIES AND STOCKHOLDER'S EQUITY</b>	<b>2021</b>	<b>2020</b>
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ -	\$ 5,500
Due to related parties	234,321	234,853
Income taxes payable to Parent	1,368,067	770,842
Accrued expense and other current liabilities	545,034	119,784
Total current liabilities	2,147,422	1,130,979
<b>STOCKHOLDER'S EQUITY</b>		
Common stock, no par value. Authorized 1,000,000 shares; issued and outstanding 800,000 shares.	800,000	800,000
Retained earnings	4,115,334	1,939,721
Total stockholder's equity	4,915,334	2,739,721
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$ 7,062,756</b>	<b>\$ 3,870,700</b>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**STATEMENTS OF INCOME**  
**FOR THE YEARS ENDED DECEMBER 31, 2021 AND 2020**

	<u>2021</u>	<u>2020</u>
<b>REVENUE</b>		
Royalties	\$ 4,471,405	\$ 2,943,319
Upfront franchise fees	315,000	237,500
Total revenues	<u>4,786,405</u>	<u>3,180,819</u>
<b>SELLING, GENERAL, AND ADMINISTRATIVE EXPENSES</b>	<u>1,756,817</u>	<u>1,657,633</u>
<b>OPERATING INCOME</b>	3,029,588	1,523,186
<b>Other income (expense):</b>		
Interest income	55,475	21,342
Other, net	-	52,089
	<u>55,475</u>	<u>73,431</u>
<b>INCOME BEFORE INCOME TAX EXPENSE</b>	3,085,063	1,596,617
<b>INCOME TAX EXPENSE</b>	<u>909,450</u>	<u>458,617</u>
<b>NET INCOME</b>	<u>\$ 2,175,613</u>	<u>\$ 1,138,000</u>

See notes to the financial statements



**Tous Les Jours International Corp.**  
**STATEMENTS OF CHANGES IN STOCKHOLDER'S EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2021 AND 2020**

	<u>Common Stock</u>	<u>Retained Earnings</u>	<u>Total Stockholder's Equity</u>
<b>BALANCE AT JANUARY 1, 2020</b>	\$ 800,000	\$ 801,721	\$ 1,601,721
Net income	-	1,138,000	1,138,000
<b>BALANCE AT DECEMBER 31, 2020</b>	800,000	1,939,721	2,739,721
Net income	-	2,175,613	2,175,613
<b>BALANCE AT DECEMBER 31, 2021</b>	<u>\$ 800,000</u>	<u>\$ 4,115,334</u>	<u>\$ 4,915,334</u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED DECEMBER 31, 2021 AND 2020**

	<u>2021</u>	<u>2020</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 2,175,613	\$ 1,138,000
Adjustments to reconcile net income to net cash provided by operating activities:		
Changes in assets and liabilities:		
Accounts receivable	125,664	(247,050)
Due from related parties	(5,744)	242,660
Prepaid expenses and other current assets	(30,000)	(14,083)
Other assets	-	
Accounts payable	(5,500)	
Due to related parties	(532)	(6,251)
Income taxes payable to Parent	597,225	458,617
Accrued expense and other current liabilities	425,250	(83,501)
Net cash provided by operating activities	<u>3,281,976</u>	<u>1,488,392</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Loan to Parent	<u>(5,000,000)</u>	<u>-</u>
<b>INCREASE (DECREASE) IN CASH</b>	(1,718,024)	1,488,392
<b>CASH AT BEGINNING OF YEAR</b>	<u>2,244,662</u>	<u>756,270</u>
<b>CASH AT END OF YEAR</b>	<u>\$ 526,638</u>	<u>\$ 2,244,662</u>
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</b>		
Income taxes	<u>\$ 30,000</u>	<u>\$ 14,000</u>

See notes to the financial statements

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2021 and 2020**

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## **1. NATURE OF BUSINESS**

Tous Les Jours International Corp. (the Company) incorporated in the state of California on May 22, 2009, is a wholly owned subsidiary of CJ Foodville USA, Inc. (the Parent). The Company franchises French-Asian style bakery-café under the brand name of Tous Les Jours.

The Company's bakery-café business is operated by franchisees under franchise agreements. The Company grants right to a franchisee to operate a bakery-café at a specific location for on-premises dining and carry-out services which offers a unique selection of bakery and pastry goods, sandwich items, coffee and beverages. As of December 31, 2021, there are 62 bakery-café operated by independent franchisees under franchise agreements and two operated by the Company.

## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

### **Estimates and Uncertainties**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP) requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Given the global economic climate and additional or unforeseen effects from COVID-19, those estimates have become more challenging, and actual results could differ materially from those estimates.

### **Cash and Cash Equivalents**

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

The Company places its cash with high-quality financial institutions and such deposits may be in excess of the Federal Deposit Insurance Corporation limit of \$250,000; however, the Company has not yet experienced losses with respect to these deposits.

### **Accounts Receivable**

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions and customers' financial condition, the amount of receivables in dispute, and the current receivables aging and current payment patterns. The Company regularly reviews its allowance for doubtful accounts. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2021 and 2020**

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## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED**

### **Leases**

In February 2016, the FASB issued ASU No. 2016-02, *Leases* (Topic 842). ASU No. 2016-02 requires recognition of operating leases as lease assets and liabilities on the balance sheet, and disclosure of key information about leasing arrangements. It was scheduled to take effect for private companies for fiscal years beginning after December 15, 2020, and interim periods within fiscal years beginning after December 15, 2021. In April 2020, the FASB proposed delaying the lease accounting effective date for private companies which would have the option to apply the new lease accounting standard for fiscal years beginning after December 15, 2021, and to interim periods within fiscal years beginning after December 15, 2022. The Company has not applied ASU No. 2016-02, *Leases* in 2021. The Company accounted for various lease contracts in accordance with ASC 840 *Leases*. The Company expects that it apply ASU No. 2016-02, *Leases* in 2022 and the new guidance will have an impact on its balance sheet for the addition of right-of-use assets and lease liabilities, but the Company does not expect it to have a material impact on its statement of income.

### **Revenue Recognition**

Effective January 1, 2019, the Company adopted the FASB Accounting Standards Codification Topic 606, Revenue from Contracts with Customers, which amended the existing accounting standards for revenue recognition.

The Company recognizes revenue when it satisfies performance obligations under the terms of its contracts, and control of its products or services is transferred to its customers in an amount that reflects the consideration the Company expects to receive from its customers in exchange for those products or services. This process involves identifying the customer contract, determining the performance obligations in the contract, determining the contract price, allocating the contract price to the distinct performance obligations in the contract, and recognizing revenue when the performance obligations have been satisfied. A performance obligation is considered distinct from other obligations in a contract when it (a) provides a benefit to the customer either on its own or together with other resources that are readily available to the customer and (b) is separately identified in the contract. The Company considers a performance obligation satisfied once it has transferred control of the products or services to a customer, meaning the customer has the ability to use and obtain the benefit of the product or service. The Company typically satisfies its performance obligations over time, as services are performed.

Under franchise agreements, the Company provides franchisees with a license of the symbolic intellectual property of the Company's brand, administration of advertising programs and other ongoing support functions. These services are highly interrelated so the Company does not consider them to be individually distinct performance obligations, and therefore, account for them as a single performance obligation.

Revenues from franchised cafes include royalties based on a percentage of franchisees' sales and upfront franchise fees. Sales-based royalties are recognized in the period earned and are variable consideration related to the Company's performance obligation to franchisees to maintain the intellectual property being licensed. Upfront franchise fees associated with pre-opening services are recognized when all material services or conditions relating to the opening of new bakery-cafés have been substantially completed since the upfront fees are distinct from the ongoing franchise license and related to the activities of opening a new location such as employee training and general architectural and design services.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2021 and 2020**

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## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED**

Payment terms and conditions may vary by contract, although terms generally include a requirement of payment up to 60 days after the performance obligation has been satisfied. As a result, the contracts do not include a significant financing component.

### **Income Taxes**

Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases under the asset-and-liability method. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Group recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. For tax positions not meeting the “more likely than not” test, no tax benefit is recorded.

### **Fair Value of Financial Instruments**

The Company’s financial instruments such as cash, accounts receivable, due from and to Parent and affiliates, accounts payable and short-term borrowings are of short-term duration or have a variable interest rate. The carrying value, therefore, approximates fair value.

The Company uses valuation approaches that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, a three-tier fair value hierarchy distinguishes between observable and unobservable inputs.

The three-tier fair value hierarchy includes: Level 1, defined as quoted prices in active markets; Level 2, defined as observable prices that are based on inputs not quoted in active markets, but corroborated by market data; and Level 3, defined as unobservable inputs about which little or no market data exist, therefore requiring an entity to develop its own assumptions.

### **Reclassifications**

The Company has reclassified certain amounts relating to its prior year results to conform to its current year presentation. These reclassifications have not changed the results of operations of prior year.

## **3. CONTINGENCIES**

The Company is involved in various legal claims and actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company’s financial position, results of operations, or liquidity.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2021 and 2020**

**4. SIGNIFICANT RISKS AND UNCERTAINTIES**

Since March 2020, the outbreak of COVID-19 has been recognized as a pandemic by the World Health Organization and the outbreak has become widespread in the U.S. and the areas in which the Company operates. The extent to which the pandemic impacts the Company's business will depend on future developments, which are highly uncertain and difficult to predict. However, this pandemic may present uncertainty and risk with respect to the Company's business, financial condition and results of operations.

**5. PROVISION FOR INCOME TAXES**

The provision for income taxes for the years ended December 31, 2021 and 2020 are summarized as follows:

	<u>2021</u>	<u>2020</u>
Current:		
Federal	\$ 647,078	\$ 323,318
State	262,371	135,299
	<u>909,450</u>	<u>458,617</u>
Deferred:		
Federal	-	-
State	-	-
	<u>-</u>	<u>-</u>
	<u>\$ 909,450</u>	<u>\$ 458,617</u>

The components of deferred income tax assets (liabilities) as of December 31, 2021 and 2020 are summarized as follows:

	<u>2021</u>	<u>2020</u>
Deferred Tax Assets:		
Accrued service fee	\$ 29,385	\$ 29,385
Allowance for doubtful accounts	14,693	14,693
Other	54,324	27,928
Total deferred tax assets	<u>98,402</u>	<u>72,006</u>
Valuation allowance	(98,402)	(72,006)
Deferred tax assets, net	<u>\$ -</u>	<u>\$ -</u>

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of sufficient future taxable income during the periods in which those temporary differences become deductible and the scheduled reversals of deferred tax liabilities. Based upon the level of historical taxable losses incurred and projections for future taxable income over the periods in which the deferred tax assets are deductible, management believes it is more likely than not that the Company will not realize the benefits of these deductible differences.

**Tous Les Jours International Corp.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2021 and 2020**

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**5. PROVISION FOR INCOME TAXES – CONTINUED**

The Company files its California franchise tax return with its affiliates on the water's edge method. Accordingly, the provision for California franchise taxes provided is different from the amount computed by applying the California franchise tax rate to income before income tax expense.

The Company did not have any material uncertain tax positions or unrecorded tax benefits, which, if recognized, would affect the effective tax rates for the years ended December 31, 2021 and 2020.

**6. RELATED PARTY TRANSACTIONS**

The following summarizes related party transactions and balances as of and for the years ended December 31, 2021 and 2020:

	<u>2021</u>	<u>2020</u>
Due from Parent	\$ 6,007,234	\$ 1,001,490
Due to Parent and affiliates	234,321	234,853
Income taxes payable to Parent	1,386,067	770,842
Management service fee to Parent	1,611,856	1,611,856
Other income from Parent and affiliates, net	55,475	17,151

**7. EVALUATION OF EVENTS SUBSEQUENT TO THE BALANCE SHEET DATE**

Subsequent events have been evaluated through February 4, 2022, the date the financial statements were available for issue, and there was no item to be disclosed.



**Tous Les Jours International Corp.**  
(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Financial Statements

December 31, 2020 and 2019

(With Independent Auditors' Report Thereon)





2100 Main Street, Suite 200  
Irvine, CA 92614

## **Independent Auditors' Report**

The Board of Directors  
Tous Les Jours International Corp.:

We have audited the accompanying financial statements of Tous Les Jours International Corp. (a wholly owned subsidiary of CJ Foodville USA, Inc.), which comprise the balance sheets as of December 31, 2020 and 2019, and the related statements of income, changes in stockholder's equity, and cash flows for the years then ended, and the related notes to the financial statements.

### ***Management's Responsibility for 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.

### ***Auditors' Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits 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 auditors' 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.

### ***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Tous Les Jours International Corp. as of December 31, 2020 and 2019, 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.

*PK LLP*

Irvine, California  
March 4, 2021

**Tous Les Jours International Corp.**  
(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Balance Sheets

December 31, 2020 and 2019

<b>Assets</b>	<b>2020</b>	<b>2019</b>
<b>Current assets:</b>		
Cash	\$ 2,244,662	756,270
Accounts receivable, less allowance for doubtful accounts of \$50,000 in 2020 and 2019	610,465	363,415
Due from Parent	1,001,490	1,244,150
Prepaid expenses and other current assets	14,083	-
Total assets	\$ 3,870,700	2,363,835
<b>Liabilities and Stockholder's Equity</b>		
<b>Current liabilities:</b>		
Accounts payable	\$ 5,500	-
Due to Parent and affiliates	234,853	241,104
Income taxes payable to Parent	770,842	312,225
Accrued expenses and other current liabilities	119,784	208,785
Total liabilities	1,130,979	762,114
<b>Stockholder's equity:</b>		
Common stock, no par value. Authorized 1,000,000 shares; issued and outstanding 800,000 shares	800,000	800,000
Retained earnings	1,939,721	801,721
Total stockholder's equity	2,739,721	1,601,721
Total liabilities and stockholder's equity	\$ 3,870,700	2,363,835

See accompanying notes to financial statements.

**Tous Les Jours International Corp.**  
(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Statements of Income

Years ended December 31, 2020 and 2019

	<b>2020</b>	<b>2019</b>
Revenues:		
Royalties	\$ 2,943,319	2,976,095
Upfront franchise fees	237,500	150,000
Total revenues	3,180,819	3,126,095
Selling, general, and administrative expenses	1,657,633	2,501,462
Income from operations	1,523,186	624,633
Other income (expense):		
Interest income	21,342	33,964
Other, net	52,089	(7,467)
	73,431	26,497
Income before income tax expense	1,596,617	651,130
Income tax expense	458,617	129,496
Net income	\$ 1,138,000	521,634

See accompanying notes to financial statements.

**Tous Les Jours International Corp.**  
(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Statements of Changes in Stockholder's Equity

Years ended December 31, 2020 and 2019

	<u>Common stock</u>	<u>Retained earnings</u>	<u>Total stockholder's equity</u>
Balance at January 1, 2019	\$ 800,000	280,087	1,080,087
Net income	-	521,634	521,634
Balance at December 31, 2019	800,000	801,721	1,601,721
Net income	-	1,138,000	1,138,000
Balance at December 31, 2020	<u>\$ 800,000</u>	<u>1,939,721</u>	<u>2,739,721</u>

See accompanying notes to financial statements.

## **Tous Les Jours International Corp.**

(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

### Statements of Cash Flows

Years ended December 31, 2020 and 2019

	<u>2020</u>	<u>2019</u>
Cash flows from operating activities:		
Net income	\$ 1,138,000	521,634
Adjustments to reconcile net income to net cash provided by operating activities:		
Allowance for doubtful accounts	-	(121,316)
Changes in operating assets and liabilities:		
Accounts receivable	(247,050)	113,328
Due from Parent	242,660	(233,060)
Prepaid expenses and other current assets	(14,083)	591
Due to Parent and affiliates	(6,251)	(371,599)
Income taxes payable to Parent	458,617	129,495
Accrued expenses and other current liabilities	(83,501)	(27,856)
Net cash provided by operating activities	<u>1,488,392</u>	<u>11,217</u>
Cash at beginning of year	<u>756,270</u>	<u>745,053</u>
Cash at end of year	<u>\$ 2,244,662</u>	<u>756,270</u>
Supplemental disclosure of cash paid for:		
Income tax	\$ 14,000	200

See accompanying notes to financial statements.

## **Tous Les Jours International Corp.**

(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Notes to Financial Statements

December 31, 2020 and 2019

### **1) Description of Business and Summary of Significant Accounting Policies**

#### **(a) Description of Business**

Tous Les Jours International Corp. (the Company) incorporated in the state of California on May 22, 2009, is a wholly owned subsidiary of CJ Foodville USA, Inc. (the Parent). The Company franchises French-Asian style bakery-café under the brand name of Tous Les Jours.

The Company's bakery-café business is operated by franchisees under franchise agreements. The Company grants right to a franchisee to operate a bakery-café at a specific location for on-premises dining and carry-out services which offers a unique selection of bakery and pastry goods, sandwich items, coffee and beverages. As of December 31, 2020, there are 2 and 63 bakery-café operated by the Parent and independent franchisees throughout the United States of America, respectively.

#### **(b) Revenue Recognition**

Effective January 1, 2019 the Company adopted the FASB Accounting Standards Codification (ASC) *Topic 606, Revenue from Contracts with Customers (Topic 606)*, which amended the existing accounting standards for revenue recognition. The Company adopted *Topic 606* using the modified retrospective method and the adoption had no impact on the opening balance of retained earnings as of January 1, 2019.

The Company recognizes revenue when it satisfies performance obligations under the terms of its contracts, and control of its services is transferred to its customers in an amount that reflects the consideration the Company expects to receive from its customers in exchange for those services. This process involves identifying the customer contract, determining the performance obligations in the contract, determining the contract price, allocating the contract price to the distinct performance obligations in the contract, and recognizing revenue when the performance obligations have been satisfied. A performance obligation is considered distinct from other obligations in a contract when it (a) provides a benefit to the customer either on its own or together with other resources that are readily available to the customer and (b) is separately identified in the contract. The Company considers a performance obligation satisfied once it has transferred control of the services to a customer, meaning the customer has the ability to use and obtain the benefit of the service. The Company typically satisfies its performance obligations over time, as services are performed.

Revenues from franchised cafes include royalties based on a percentage of franchisees' sales and upfront franchise fees. Sales-based royalties are recognized in the period earned and are variable consideration related to the Company's performance obligation to franchisees to maintain the intellectual property being licensed. Upfront franchise fees associated with pre-opening services are recognized when all material services or conditions relating to the opening of new bakery-café have been substantially completed since the upfront fees are distinct from the ongoing franchise license and related to the activities of opening a new location such as employee training and general architectural and design services.

Payment terms and conditions may vary by contract, although terms generally include a requirement of payment up to 60 days after the performance obligation has been satisfied. As a result, the contracts do not include a significant financing component.

## **Tous Les Jours International Corp.**

(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Notes to Financial Statements

December 31, 2020 and 2019

### ***(c) Cash and Cash Equivalents***

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company's cash is deposited with financial institutions located in the United States of America. At times, such deposits may be in excess of the Federal Deposit Insurance Corporation limit of \$250,000. However, the Company does not anticipate any loss on excess deposits.

### ***(d) Accounts Receivable***

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions and customers' financial condition, the amount of receivables in dispute, and the current receivables aging and current payment patterns. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. There were no accounts receivable written off in 2020 (\$12,255 in 2019). The Company regularly reviews the adequacy of the allowance for doubtful accounts.

### ***(e) Fair Value Measurements***

The Company's financial instruments such as cash, accounts receivable, due from Parent and due to Parent and affiliates are of short-term duration. The carrying value, therefore, approximates fair value.

The Company uses valuation approaches that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, a three-tier fair value hierarchy distinguishes between observable and unobservable inputs.

The three-tier fair value hierarchy includes: Level 1, defined as quoted prices in active markets; Level 2, defined as observable prices that are based on inputs not quoted in active markets, but corroborated by market data; and Level 3, defined as unobservable inputs about which little or no market data exist, therefore requiring an entity to develop its own assumptions.

### ***(f) Use of Estimates***

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Given the global economic climate and additional or unforeseen effects from COVID-19, those estimates have become more challenging, and actual results could differ materially from those estimates.

## **Tous Les Jours International Corp.**

(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Notes to Financial Statements

December 31, 2020 and 2019

### **(g) *Income Taxes***

For income tax reporting purposes, the Company's income or loss is included in the Parent's federal income tax returns. However, for financial reporting purposes, the Company's income taxes are computed on a separate return method. Under this method, the Company is assumed to file a separate return with the taxing authority, thereby reporting its taxable income or loss and paying the applicable tax to or receiving the appropriate refund from the Parent. At December 31, 2020 and 2019, the Company recorded income taxes payable to Parent of \$770,842 and \$312,225, respectively.

Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases under the asset and liability method. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The Company reports tax-related interest and penalties in other expenses. All deferred tax assets and liabilities are classified as noncurrent.

### **(h) *New Accounting Pronouncements***

In February 2016, the FASB issued Accounting Standards Update (ASU) 2016-02, *Leases (Topic 842)*, which requires lessees to recognize leases on the balance sheet and disclose key information about leasing arrangements. The new standard establishes a right of use (ROU) model that requires a lessee to recognize a ROU asset and lease liability on the balance sheet for all leases with a term longer than 12 months. Leases will be classified as finance or operating, with classification affecting the pattern and classification of expense recognition in the statement of income. In June 2020, the FASB issued ASU 2020-05, *Revenue from Contracts with Customers (Topic 606) and Leases (Topic 842): Effective Dates for Certain Entities* in response to COVID-19 and deferred the effective date of ASU 2016-02 to annual reporting period beginning after December 15, 2021 from December 15, 2020 for nonpublic entities, with early adoption continued to be permitted. The Company is currently evaluating the effect that the standard will have on its financial statements.

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* which significantly changes the way entities recognize impairment of many financial assets by requiring immediate recognition of estimated credit losses expected to occur over their remaining life, instead of when incurred. ASU 2016-13 is effective for annual reporting period beginning after December 15, 2022 for nonpublic entities. The Company does not expect the adoption of ASU 2016-13 to have a material effect on its financial statements.



## Tous Les Jours International Corp.

(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

Notes to Financial Statements

December 31, 2020 and 2019

### 2) Significant Risks and Uncertainties

Since March 2020, the outbreak of COVID-19 has been recognized as a pandemic by the World Health Organization and the outbreak has become widespread in the U.S. and the areas in which the Company operates. The extent to which the pandemic impacts the Company's business will depend on future developments, which are highly uncertain and difficult to predict. However, this pandemic may present uncertainty and risk with respect to the Company's business, financial condition and results of operations.

### 3) Related-Party Transactions

Balances and transactions with related parties as of and for the years ended December 31, 2020 and 2019 were as follows:

	<u>2020</u>	<u>2019</u>
Due from Parent	\$ 1,001,490	1,244,150
Due to Parent and affiliates	234,853	241,104
Income taxes payable to Parent	770,842	312,225
Management service fee to Parent	1,611,856	1,611,856
Other income from Parent and affiliates, net	17,151	27,325

The Company entered into a management service agreement with the Parent which would assist the Company in financial and other reporting requirements. For both years ended December 31, 2020 and 2019, the annual management service fees to the Parent amounted to \$1,611,856, which were included in selling, general, and administrative expenses in the accompanying statements of income.

### 4) Income Taxes

Income tax expense for the years ended December 31, 2020 and 2019 consists of the following:

		<u>2020</u>		
		<u>Current</u>	<u>Deferred</u>	<u>Total</u>
Federal	\$	323,318	-	323,318
State		135,299	-	135,299
	\$	<u>458,617</u>	<u>-</u>	<u>458,617</u>
		<u>2019</u>		
		<u>Current</u>	<u>Deferred</u>	<u>Total</u>
Federal	\$	90,060	-	90,060
State		39,436	-	39,436
	\$	<u>129,496</u>	<u>-</u>	<u>129,496</u>

Income tax expense differs from the amount computed by applying the statutory federal tax rate of 21% primarily due to state tax.

## Tous Les Jours International Corp.

(A Wholly Owned Subsidiary of CJ Foodville USA, Inc.)

### Notes to Financial Statements

December 31, 2020 and 2019

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets as of December 31, 2020 and 2019 are as follows:

	<u>2020</u>	<u>2019</u>
Deferred tax assets:		
Accrued service fee	\$ 29,385	29,498
Allowance for doubtful accounts	14,693	14,749
Other	<u>27,928</u>	<u>11,937</u>
Total deferred tax assets	72,006	56,184
Valuation allowance	<u>(72,006)</u>	<u>(56,184)</u>
Net deferred tax assets	<u>\$ -</u>	<u>-</u>

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of sufficient future taxable income during the periods in which those temporary differences become deductible. Management considers projected future taxable income in making this assessment. Based upon the level of projections for future taxable income, management believes it is more likely than not that the Company will not realize the benefits of these deductible differences.

The Company files its California franchise tax return with its affiliates on the water's edge method. Accordingly, the provision for California franchise taxes provided is different from the amount computed by applying the California franchise tax rate to income before income tax expense.

The Company did not have any material uncertain tax positions or unrecorded tax benefits, which, if recognized, would affect the effective tax rates for the years ended December 31, 2020 and 2019.

#### 5) Subsequent Events

The Company has evaluated subsequent events from the balance sheet date through March 4, 2021, the date at which the financial statements were authorized for issuance, and determined there are no other items to disclose.

### State Effective Dates

The following states have franchise laws that 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:

<b>State</b>	<b>Effective Date</b>
California	
Hawaii	
Illinois	
Indiana	
Maryland	
Michigan	
Minnesota	
New York	
Rhode Island	
Virginia	
Washington	
Wisconsin	

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**

**(RETURN ONE COPY TO US)**

THIS DISCLOSURE DOCUMENT SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT, THE AREA DEVELOPMENT AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS DISCLOSURE DOCUMENT AND ALL AGREEMENTS CAREFULLY.

IF TOUS LES JOURS INTERNATIONAL CORP. 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. BE THAT AS IT MAY, THE STATE LAW OF NEW YORK REQUIRES YOU TO RECEIVE THIS FRANCHISE 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.

IF TOUS LES JOURS INTERNATIONAL CORP. 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 AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE STATE ADMINISTRATORS LISTED IN EXHIBIT A.

The sellers of Tous Les Jours franchise are:

Tous Les Jours International Corp.  
President and CEO: Hun Soo Ahn  
6832 E. Slauson Ave.  
Commerce, CA 90040  
(323) 480-9100

Date of Issuance: March 16, 2023

I have received a disclosure document dated March 16, 2023 that included the following Exhibits:

- A. State Administrators/Agents for Service of Process
- B. State Specific Addendum
- C. Franchise Agreement
- D. Area Development Agreement
- E. Table of Contents of Confidential Operating Manual
- F. List of Current Franchisees
- G. List of Former Franchisees
- H. Financial Statements

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

\_\_\_\_\_  
Prospective Franchisee

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

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Prospective Franchisee

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