

EXHIBIT "A"  
(Franchise Agreement)

Franchise Agreement

between

BOBBY SALAZAR'S MEXICAN RESTAURANT AND CANTINA  
a California corporation

2810 San Antonio Drive  
Fowler, California 93625

and

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BOBBY SALAZAR'S MEXICAN RESTAURANT AND CANTINA  
FRANCHISE AGREEMENT

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**BOBBY SALAZAR'S MEXICAN RESTAURANT AND CANTINA  
FRANCHISE AGREEMENT**

**PARTIES:** (1) **Bobby Salazar's Mexican Restaurant and Cantina, a California corporation (hereinafter "Franchisor")**

(2) \_\_\_\_\_  
\_\_\_\_\_ ("Franchisee")

**RECITALS**

1. Franchisor has developed a distinctive system ("Franchisor's System") for the establishment and operation of a franchised restaurant featuring a wide assortment of fresh Mexican menu items, related food products and beverages, for on-premises consumption and carry-out, delivery and catering

2. Franchisor's System features a distinctive exterior and interior restaurant design, trade dress decor and color scheme; uniform standards, specifications, and procedures for operations; procedures for quality control; training and ongoing operational assistance; advertising and promotional programs; all of which may be changed, improved, and further developed by Franchisor from time to time.

3. Franchisor identifies Franchisor's System by means of certain trade names, service marks, trademarks, logos, emblems, trade dress and other indicia of origin, including but not limited to the mark "Bobby Salazar's Mexican Restaurant and Cantina®" and "Bobby Salazar's Taqueria" and such other trade names, service marks, trademarks and trade dress as are now designated (and may hereafter be designated by Franchisor in writing) for use in connection with Franchisor's System (hereinafter referred to as "Proprietary Marks").

4. Franchisor continues to develop, use, and control the use of such Proprietary Marks to identify, for the public, the source of services and products marketed thereunder and under Franchisor's System and to represent the high standards of consistent quality, appearance, and service of Franchisor and Franchisor's System.

5. Franchisee desires to enter into the business of operating a Bobby Salazar's Mexican Restaurant and Cantina® and/or Bobby Salazar's Taqueria (collectively and alternatively "Franchised Restaurant(s)") under Franchisor's System and wishes to obtain a franchise from

Franchisor for that purpose, as well as to receive the training and other assistance provided by Franchisor in connection therewith.

6. Franchisee understands and acknowledges the importance of Franchisor's high standards of quality, cleanliness, appearance, and service and the necessity of operating the franchised business in conformity with Franchisor's standards and specifications.

In consideration of these premises and the commitments set forth herein, the parties hereby agree as follows:

### SECTION ONE--GRANT

Section 1.1 Franchisor hereby grants to Franchisee, upon the terms and conditions herein contained the right, license, and privilege, and Franchisee undertakes the obligation, to operate a Franchised Restaurant and to use solely in connection therewith the Proprietary Marks and the Franchisor's System, as they may be changed, improved, and further developed from time to time, only at the approved location as provided in Section 1.2.

Section 1.2 The address of the location approved hereunder is: \_\_\_\_\_  
\_\_\_\_\_ (hereinafter the "Approved Location").  
During the term of this Agreement, Franchisor shall not establish, nor license another party or entity to establish another Franchised Restaurant and/or Franchisor owned and operated restaurant outlet of the same names within a two mile distance of the Approved Location (hereinafter the "Protected Territory"). This two mile distance shall be measured by beginning at the Approved Location and continuing along any "expressway", "arterial street" and/or "collector street", but not "local residential streets" (as those terms are defined by the National Committee on Urban Transportation) to the terminating point which shall consist of any existing or proposed Franchised Restaurant and/or Franchisor owned and operated restaurant outlets of the same names.

Section 1.2.1. **BE ADVISED THAT THE FRANCHISOR'S SUBSIDIARIES, BOBBY SALAZAR'S EXPRESS, INC., AND BOBBY SALAZAR'S MEXICAN FOOD PRODUCTS, INC., ARE NOT BOUND BY NOR IS A PARTY TO THE TERRITORIAL LIMITATION OF SECTION 1.2. BOBBY SALAZAR'S EXPRESS MAY OR HAS ESTABLISHED EITHER A CORPORATE OWNED AND OPERATED BOBBY SALAZAR'S EXPRESS OR A FRANCHISE OF THE SAME WITHIN THE PROTECTED TERRITORY. BE FURTHER ADVISED THAT THE FRANCHISOR AND OR ITS BOBBY SALAZAR'S MEXICAN FOOD PRODUCTS, INC., SUBSIDIARY, MAY WHOLESALE ITS FROZEN DINNERS TO RETAIL COMMERCIAL ESTABLISHMENTS WITHIN THE PROTECTED TERRITORY.**

Section 1.3 Franchisee shall complete the construction of the Restaurant in accordance

with the provisions and requirements of Section 5.7 hereof (the "Construction") and shall open the Restaurant for business within nine (9) months of the date of execution of this Franchise Agreement (the "Opening Date").

Section 1.4 Franchisee may operate the Franchised Restaurant only at the location specified in Paragraph 1.2 hereof. If the lease for the site of the Franchised Restaurant expires or terminates without fault of Franchisee, or if the site is destroyed, condemned or otherwise rendered unusable, or if in the judgment of Franchisor there is a change in character of the location of the Franchised Restaurant sufficiently detrimental to its business potential to warrant its relocation, Franchisor will grant permission for relocation of the Franchised Restaurant within Franchisee's Designated Area at a location and site acceptable to Franchisor. Any such relocation shall be at Franchisee's sole expense and Franchisor shall have the right to charge Franchisee for any costs incurred by Franchisor, and a reasonable fee for its services, in connection with any such relocation of the Franchised Restaurant.

Section 1.5 Franchisee will be responsible for purchasing or leasing a suitable site for the Franchised Restaurant. Prior to the acquisition by lease or purchase of any site for the premises of the Franchised Restaurant, Franchisee shall submit a description of the proposed site to Franchisor, together with a letter of intent or other evidence satisfactory to Franchisor which confirms Franchisee's favorable prospects for obtaining the proposed site. Franchisor shall provide Franchisee written notice of approval or disapproval of the proposed site within fifteen (15) business days after receiving Franchisee's written proposal.

Section 1.6 After receiving Franchisor's written approval of the location of the Franchised Restaurant as provided in Section 1.5 hereof, Franchisee shall execute a lease (if the premises are to be leased) or a binding agreement to purchase the site, the terms of which have been previously approved by Franchisor. Franchisor's approval of the lease may be conditioned upon inclusion in the lease of terms acceptable to Franchisor and, at Franchisor's option, shall contain such provisions as Franchisor may reasonably require, including, but not limited to:

Section 1.6.1 A provision reserving to Franchisor the right, at Franchisor's election, to receive an assignment of the leasehold interest upon termination or expiration of the franchise grant;

Section 1.6.2 A provision which expressly permits the lessor of the premises to provide the Franchisor all sales and other information it may have related to the operation of the Franchised Restaurant, as Franchisor may request;

Section 1.6.3 A provision which requires the lessor concurrently to provide Franchisor with a copy of any written notice of deficiency under the lease sent to Franchisee and which grants to Franchisor, in its sole discretion, the right (but no obligation) to cure any deficiency under the lease, should Franchisee fail to do so within fifteen (15) business days after the expiration of the period in which Franchisee may cure the default; and

Section 1.6.4 A provision which evidences the right of Franchisee to display the Proprietary Marks in accordance with the specifications required by Franchisor's informational manuals, subject only to the provisions of applicable law.

Section 1.7 If the franchise location is not designated in section 1.2 above, Franchisor agrees to use reasonable efforts to help analyze Franchisee's market area, to help determine site feasibility, and to assist in the designation of the franchise location, which must be approved by Franchisor. While Franchisor agrees to utilize its experience and expertise in a designation of location, nothing contained herein shall be interpreted as a guarantee of success for said location nor shall any site recommendation or approval made by Franchisor be deemed a representation that any particular site is available for use as a Franchised Restaurant.

Section 1.8 In the event no acceptable site is found and approved by the parties within nine (9) months from the date of this Agreement, then and in that event, upon written application from either party, this contract shall be terminated and funds received by Franchisor shall be returned to Franchisee. Provided, however, that in the event Franchisee has within the aforesaid time submitted in writing to Franchisor two (2) or more sites which are acceptable to Franchisor, and Franchisee has refused to accept same then upon termination Franchisor will refund to Franchisee seventy-five percent (75%) of the then initial Franchise Fee and will retain twenty-five percent (25%) of the then initial Franchise Fee as compensation for Franchisor's efforts in processing Franchisee's application and performing services on Franchisee's behalf.

Section 1.9 Franchisee agrees that promptly after obtaining possession of the site for the Franchised Restaurant he will: (i) cause to be prepared and submit for approval by Franchisor a site survey and any modifications to Franchisor's basic architectural plans and specifications (not for construction) for a Franchised Restaurant (including requirements for dimensions, exterior design, materials, interior design and layout, equipment, fixtures, furniture, signs and decorating) required for the development of a Franchised Restaurant at the site leased or purchased therefor, provided that Franchisee may modify Franchisor's basic plans and specifications only to the extent required to comply with all applicable ordinances, building codes and permit requirements and with prior notification to and approval by Franchisor; (ii) obtain all required zoning changes; all required building, utility, health, sanitation, and sign permits and licenses and any other required permits and licenses; (iii) purchase or lease equipment, fixtures, furniture and signs as provided herein; (iv) complete the construction and/or remodeling, equipment, fixture, furniture and sign installation and decorating of the Franchised Restaurant in full and strict compliance with plans and specifications therefore approved by Franchisor and all applicable ordinances, building codes and permit requirements; (v) obtain all customary contractors' sworn statements and partial and final waivers of lien for construction, remodeling, decorating and installation services; and (vi) otherwise complete development of and have the Franchised Restaurant ready to open and commence the conduct of its business

Section 1.10 During the term of this Agreement, the Approved Location shall be used exclusively for the purpose of operating a Franchised Restaurant. In the event the building shall be

damaged or destroyed by fire or other casualty, or be required to be repaired or reconstructed by any governmental authority, Franchisee shall commence the required repair or reconstruction of the building within ninety (90) days from the date of such casualty or notice of such governmental requirement (or such lesser period as shall be designated by such governmental requirement) and shall complete all required repair or reconstruction as soon as possible thereafter, in continuity, but in no event later than one hundred eighty (180) days from the date of such casualty or requirement of such governmental notice. The minimum acceptable appearance for the restored building will be that which existed just prior to the casualty; however, every effort should be made to have the restored building include the then-current image, design and specifications of a new Franchised Restaurant. If the building is substantially destroyed by fire other casualty, Franchisee may, with Franchisor's agreement and upon payment of an amount equal to six percent (6%) of all insurance proceeds as a consequence of such casualty to the Franchisor as a royalty, terminate this Agreement in lieu of Franchisee's reconstructing the building.

Section 1.11 It is understood and agreed that, except as expressly provided herein, this franchise is non-exclusive and includes no right of Franchisee to subfranchise others.

## SECTION TWO-- TERM

Section 2.1 Except as otherwise provided herein, the term of this Agreement shall commence on the date of execution and acceptance of this Franchise Agreement by Franchisor and shall expire ten (10) years from such date, unless otherwise extended as set forth in Section 2.2, below.

Section 2.2 So long as Franchisee has not breached the terms of this Agreement, Franchisee may have the right to extend the term of this Franchise Agreement at the expiration of the initial term of the franchise for one (1) additional successive term of ten (10) years and provided that all of the following conditions have been fulfilled:

Section 2.2.1 Franchisee has, during the entire term of this Agreement, substantially complied with all its provisions;

Section 2.2.2 Franchisee maintains possession of the Franchised Restaurant and by the expiration date of this Agreement has brought the Franchised Restaurant into full compliance with the specifications and standards then applicable for new or existing Franchised Restaurant facilities and presents evidence satisfactory to Franchisor that it has the right to remain in possession of the Franchised Restaurant premises for the duration of any extension term; or, in the event Franchisee is unable to maintain possession of the premises, or in the judgment of Franchisor the Franchised Restaurant should be relocated, Franchisee secures substitute premises approved by Franchisor and has furnished, stocked and equipped such premises to bring the Franchised Restaurant at its substitute premises into full compliance with the then current specifications and standards by the expiration date of this Agreement;

Section 2.2.3 Franchisee has given notice of extension to Franchisor as provided below;

Section 2.2.4 Franchisee has satisfied all monetary obligations owed by Franchisee to Franchisor and has timely met these obligations throughout the term of this Agreement;

Section 2.2.5 Franchisee has executed Franchisor's then-current form of Franchise Agreement, which agreement may supersede all aspects of this Agreement and may differ from the terms of this Agreement to reflect changed market conditions, including, without limitation, (a) an increase in the percentage rate to be applied to Franchisee's Gross Sales for computing Franchisee's Continuing Services and Royalty Fee due Franchisor and (b) an increased National Advertising Fee. Regardless of any language herein to the contrary, Franchisee shall not be required to pay the then-current initial franchise fee or its equivalent as a condition to an extension of the franchise term;

Section 2.2.6 Franchisee has complied with Franchisor's then current qualification and training requirements; and

Section 2.2.7 Franchisee has executed a general release, in a form prescribed by Franchisor, of any and all claims against Franchisor and its officers, directors, agents, shareholders and employees.

Section 2.3 There is no extension fee.

Section 2.4 If Franchisee desires to extend the term of this Franchise Agreement beyond its initial expiration date, Franchisee shall give Franchisor written notice of its desire to extend at least six (6) months, but not more than twelve (12) months, prior to the expiration of the initial term of this Agreement. Within ninety (90) days after its receipt of such timely notice, Franchisor shall furnish Franchisee with written notice of (1) reasons which could cause Franchisor not to extend, including any deficiencies which require correction and a schedule for correction thereof by Franchisee; and (2) Franchisor's then-current requirements relating to the image, appearance, decoration, furnishings, equipping and stocking of a Franchised Restaurant, and a schedule for effecting such upgrading or modifications in order to bring the Franchised Restaurant in compliance therewith as a condition of extending the franchise term. Extension of the franchise term shall be conditioned upon Franchisee's compliance with such requirements and continued compliance with all the terms and conditions of this Agreement up to the extension date.

Section 2.5 Franchisor shall give Franchisee written notice of its election not to extend the initial franchise term one (1) month prior to the expiration of the initial term of this Agreement. Such notice shall specify the reasons for non-extension.

Section 2.6 FRANCHISEE EXPRESSLY ACKNOWLEDGES THAT NONE OF THE TERMS CONTAINED WITHIN THIS SECTION 2 SHALL BE CONSTRUED TO GRANT FRANCHISEE AN OPTION TO EXTEND THE INITIAL TERM OF THIS FRANCHISE

## AGREEMENT.

### SECTION THREE—FRANCHISOR'S OBLIGATIONS

Section 3.1 Franchisor shall provide Franchisee with advice in locating and opening a completed restaurant, including, but not limited to, providing approved supplier lists, acceptable site criteria, approved renovation criteria and, at Franchisor's option, a set of architectural plans of an existing Franchised Restaurant.

Section 3.2 Franchisor shall make a training and familiarization course available to Franchisee and up to two (2) additional managers/employees. Franchisee and at least one (1) additional employee of Franchisee designated as Franchisee's manager, are required to attend and successfully complete to, Franchisor's satisfaction prior to opening for business, a training and familiarization course of at least ten (10) days in duration which shall be conducted at Franchisor's headquarters or at such other place as Franchisor shall designate. Said training program shall cover all material aspects of the operation of a Franchised Restaurant franchise, including inventory control, food preparation service and operational techniques, marketing and advertising techniques, sanitation and maintenance procedures, deployment of labor, and maintenance of quality standards. All expenses incurred by Franchisee and his employees in attending such program, including without limitation, travel, room and board expense, shall be the sole responsibility of Franchisee.

Section 3.3 For a minimum of two (2) days not to exceed five (5) days during the first month of operation of Your Franchised Restaurant will furnish to you, at your premises and at our expense, one of Franchisor's representatives ("Representative") for the purpose of facilitating the opening of Franchisee's Franchised Restaurant. During this period, such representative will also assist Franchisee in establishing and standardizing procedures and techniques essential to the operation of a Franchised Restaurant and shall assist in training personnel. Should Franchisee request additional assistance from Franchisor in order to facilitate the opening of the Franchised Restaurant, and should Franchisor deem it necessary and appropriate, Franchisee shall reimburse Franchisor for the expense of Franchisor providing such additional assistance. Franchisee acknowledges and agrees that it will pay Franchisor the sum of \$35.00 for each hour the Representative is on the premises of the Franchised Restaurant.

Section 3.4 Each of Franchisee's employees shall complete a training program.

Section 3.5 If the Franchisor determines in its sole discretion that Franchisee is unable to satisfactorily complete the training program at Franchisor's headquarters, Franchisor shall have the right to terminate this Agreement in the manner herein provided. If this Agreement is terminated pursuant to this paragraph, the Franchisor shall return to Franchisee the franchise fees paid by Franchisee to Franchisor minus the expenses incurred by Franchisor as of such date for providing training to Franchisee and other expenses incurred by Franchisor, not to exceed Five Thousand Dollars (\$5,000.00). Upon return of said amount, the Franchisor shall be fully and forever released from any claims or causes of action the Franchisee may have under or pursuant to the Franchise

Agreement and Franchisee shall have no further right, title or interest in the mark "BOBBY SALAZAR'S MEXICAN RESTAURANT AND CANTINA" and "BOBBY SALAZAR'S TAQUERIA."

Section 3.6 Franchisor from time to time may provide and may require that previously-trained and experienced Franchisees or their managers or employees attend and successfully complete refresher training programs or seminars to be conducted within Franchisee's Area of Dominant Influence and at such location as may be designated by Franchisor, and at Franchisee's expense; provided, however, that attendance will not be required at more than two (2) such programs in any calendar year and which shall not collectively exceed two (2) business days in duration during any calendar year.

Section 3.7 Franchisor may, from time to time, provide to Franchisee, at Franchisee's expense, such advertising and promotional plans and materials for local advertising as described in Section 10.1 of this Agreement and may direct the discontinuance of such plans and materials, from time to time. All other advertising and promotional materials which Franchisee proposes to use must be reviewed and approved by Franchisor, pursuant to Section 5.2 hereof.

Section 3.8 Franchisor shall provide Franchisee, manuals to assist in operations, as more fully described in Section 7.1, hereof.

Section 3.9 Franchisor may provide Franchisee, from time to time, as Franchisor deems appropriate, such merchandising, marketing and other data and advice as may from time to time be developed by Franchisor and deemed by Franchisor to be helpful in the managing and operation of the Franchised Restaurant.

Section 3.10 Franchisor may provide such periodic individual or group advice, consultation and assistance, rendered by personal visit or telephone, or by newsletter or bulletins made available from time to time to all Franchisor franchisees, as Franchisor may deem necessary or appropriate.

Section 3.11 Franchisor may provide such bulletins, brochures, manuals and reports, if any, as may from time to time be published by or on behalf of Franchisor regarding its plans, policies, developments and activities. In addition, Franchisor may provide such communication concerning new developments, techniques and improvements in the food preparation, equipment, food products, packaging and restaurant management which Franchisor feels are relevant to the operation of the Restaurant.

Section 3.12 Franchisor shall provide the information for menu item specifications and inventory control.

Section 3.13 Franchisor shall seek to maintain the high standards of quality, appearance, and service of the Franchisor's System, and to that end shall conduct, as it deems advisable, inspections of the Restaurant franchised hereunder, and evaluations of the products sold and services

rendered therein.

Section 3.14 Franchisor is obligated to take any appropriate action to preserve the Proprietary Marks against unauthorized operations which infringe on such Proprietary Marks; however, Franchisor is not obligated to protect the rights granted to Franchisee to use the Proprietary Marks or to protect Franchisee from against claims of infringement or unfair competition arising from Franchisee's use of the Proprietary Marks.

Section 3.15 All obligations of Franchisor under this Agreement shall benefit only the Franchisee, and no other party is entitled to rely on, enforce, benefit from or obtain relief for breach of such obligations, either directly or by subrogation.

#### SECTION FOUR -- FEES

Section 4.1 Franchisee shall pay to Franchisor an initial franchise fee in the amount of Forty Thousand Dollars (\$40,000.00), which is due upon execution of this Agreement and receipt of which is hereby acknowledged by Franchisor. The initial franchise fee shall be paid in a lump sum in immediately available bank funds and shall be deemed fully earned and nonrefundable in consideration of administrative and other expenses incurred by Franchisor in granting this franchise and for Franchisor's lost or deferred opportunity to franchise others, except as described above in Section 1.8.

Section 4.2 In Franchisor's sole discretion, the amount of the franchise fee may be reduced if, in Franchisor's opinion, Franchisee meets the following conditions:

- (1) Franchisee is an existing franchisee;
- (2) Franchisee has demonstrated its ability to perform a substantial portion of the functions and duties normally performed by Franchisor in connection with the opening of a new restaurant; and
- (3) Franchisee has adequate and competent personnel to operate Franchisee's existing restaurant(s) while Franchisee is devoting its time and effort in preparing the new restaurant for its opening.

Section 4.3 During the term of this Agreement, Franchisee shall pay to Franchisor a Continuing Royalty Fee ("Royalty") based on four percent (4%) of each month's gross sales. The Sales Journal is due in the Franchisor's office on the fourth (4<sup>th</sup>) day of the month. The Royalty will then be due and payable on the tenth (10<sup>th</sup>) day of the month. The term Gross Sales is defined in Section 4.7 of this Agreement.

Section 4.4 Franchisee is also required to pay into a trust account an amount equal to three percent (3%) per month of Franchisee's Gross Sales by the tenth of the following month for

a national advertising program. ("National Advertising Fee"). The payments are kept by us in a separate trust account and are used for advertising and promotion; provided, however, that Franchisor shall have the right to approve or disapprove any advertising proposed for use by Franchisee.

Section 4.5 The obligation of Franchisee to pay the Royalty and the National Advertising Fee (collectively the "Fees") shall not be altered by the occurrence of any casualty or event which would cause a temporary closing of the Restaurant for a period of more than five (5) days. In the event that such a casualty or event occurs, the Royalty and the National Advertising Fees to be paid by Franchisee for each month in which such temporary closing occurs shall be the average of all monthly Fees payable by Franchisee during the immediately preceding period of twelve (12) months, or such lesser period as the Restaurant has been open, if the Restaurant has been open less than twelve (12) months. All payments due to Franchisor hereunder shall be payable without counterclaim or set-off.

Section 4.6 Any payment or report not actually received by Franchisor on or before the specified date shall be deemed overdue. If any payment is overdue, in addition to the right to exercise all rights and remedies available to Franchisor under Section 13 of this Agreement, Franchisee shall pay Franchisor, in addition to the overdue amount, interest on such amount from the date it was due until paid at the lesser of the rate of eighteen (18%) percent per annum and the maximum rate allowed by the laws of the State of California, or any successor or substitute law (hereinafter the "Default Rate"), until paid in full.

Section 4.7 As used in this Agreement, "Gross Sales" shall include all revenue accrued from the sale of all products a performance of services in, at, upon, about, through from the Franchised Restaurant, whether for cash or credit and regardless of collection in the case of credit, a income of every kind and nature related to the Franchise Business including insurance proceeds and/or condemnation awards for loss of sales, profits or business; provide however, that "Gross Sales" shall not include revenue from any sales taxes or other add on taxes collected fr customers by Franchisee for transmittal to t appropriate taxing authority, (the retail value of a complimentary services or trade-outs or credit card discounts from Gross Sales up to a maximum of 2% of Gross Sales in the aggregate), and the amount of cash refund to, and coupons used by customers, provided such amount have been included in gross sales. The sale and delivery of products and services away from the Restaurant is strictly prohibited; however, should Franchisor approve such sales in the future, these sales will included in computing Gross Sales.

Section 4.8 All Fees and royalties are payable by Franchisee to Franchisor via automatic electronic transfer of funds from Franchisee's financial institution.

#### SECTION FIVE-- DUTIES OF FRANCHISEE

Section 5.1 Franchisee understands and acknowledges that every detail of the Franchised Restaurant, including the uniformity appearance, service, products and advertising of Franchisor's

System, is important to Franchisee, Franchisor, the Franchisor's System, and other Franchise Restaurant franchisees in order to maintain high and uniform operating standards, to increase the demand for the products and services sold by all franchisees, and to protect Franchisor's reputation and goodwill.

Section 5.2 If Franchisee is an individual, Franchisee and/or Franchisee's designated manager must personally participate in the management and operation of the Franchised Restaurant by devoting Franchisee's full time, energy and best efforts.

Section 5.3 If Franchisee is or becomes a corporation, limited liability company or limited partnership ("Franchisee Entity"), the Franchisee Entity must comply with the following requirements:

Section 5.2.1 The Franchisee Entity shall confine its activities to the establishment and operation of the Franchise Restaurant.

Section 5.2.2 The Franchisee Entity's Articles of Organization, Operating Agreement, Certificate, Limited Partnership Agreement, Articles of Incorporation and/or Bylaws (or comparable governing documents; collectively "Governing Documents") shall at all times provide that its activities are confined exclusively to operation of the Franchised Restaurant and that the issuance and transfer of voting stock, or other ownership interest therein, is restricted by the terms of this Franchise Agreement.

Section 5.2.3 Franchisee shall furnish Franchisor promptly upon request copies of the Franchisee Entity's Governing Documents, and any other documents Franchisor may reasonably request, and any amendments thereto, from time to time.

Section 5.2.4 If the Franchise Entity is a corporation, it shall maintain stop transfer instructions against the transfer on its record of any equity securities except in accordance with the provisions of Section 12. All securities issued by Franchisee shall bear the following legend, which shall be printed legibly and conspicuously on each stock certificate or other evidence of ownership interest:

THE TRANSFER OF THESE SECURITIES IS SUBJECT TO THE TERMS AND CONDITIONS OF A FRANCHISE AGREEMENT WITH BOBBY SALAZAR'S MEXICAN RESTAURANT AND CANTINA, A CALIFORNIA CORPORATION DATED \_\_\_\_\_. REFERENCE IS MADE TO SAID AGREEMENT AND TO THE RESTRICTIVE PROVISIONS OF THE ARTICLES AND BYLAWS OF THIS CORPORATION.

Section 5.2.5 Franchisee shall maintain a current list of all owners of record and all beneficial owners of any class of voting stock of Franchisee and shall furnish the list to Franchisor upon request, from time to time.

Section 5.3 If Franchisee is or becomes a partnership, Franchisee shall furnish Franchisor promptly upon request a copy of its partnership agreement and any other documents Franchisor may reasonably request, and any amendments thereto, from time to time.

Section 5.3.1 Franchisee shall maintain a current list of all general and limited partners and all owners of record and all beneficial owners of any class of voting stock of Franchisee and shall furnish the list to Franchisor promptly upon request, from time to time.

Section 5.4 If Franchisee is or becomes a limited liability company, Franchisee shall furnish Franchisor promptly upon request a copy of its operating agreement and any other documents Franchisor may reasonably request, and any amendments thereto, from time to time.

Section 5.4.1 Franchisee shall maintain a current list of all members and all owners of record and all beneficial and economic interest owners of membership interest in Franchisee and shall furnish the list to Franchisor promptly upon request, from time to time.

Section 5.5 Each individual who or entity which holds a ten percent (10%) or greater ownership or beneficial ownership interest in Franchisee, directly or indirectly, (including each individual holding a fifty percent (50%) or greater interest in any partnership, corporation or limited liability company having a controlling interest in Franchisee) shall enter into a continuing guaranty agreement, in the form attached as Exhibit A, as such form may be amended or modified by Franchisor, from time to time (if such guaranty agreement is to be executed subsequent to the date hereof in accordance with the terms of this Franchise Agreement).

Section 5.6 Franchisee assumes all costs, liability, expense, and responsibility for locating, obtaining, and developing a site for the Restaurant to be established under the Franchise Agreement and for constructing and equipping the Restaurant at such site. Franchisee shall not make any binding commitment, to a prospective vendor or lessor of real estate with respect to the Approved Location for the Restaurant unless such Approved Location is approved in accordance with the procedure herein set forth and which provides, without limitation, for: (a) thirty (30) days prior written notice of any default thereunder specifying such default and the right (but with no obligation) of Franchisor to cure any such default within said period, and (b) approval of the Franchisor as an assignee of Franchisee's interest thereunder. **FRANCHISEE ACKNOWLEDGES THAT FRANCHISOR'S APPROVAL OF A PROSPECTIVE SITE AND THE RENDERING OF ASSISTANCE IN THE SELECTION OF A SITE DOES NOT CONSTITUTE A REPRESENTATION, PROMISE, WARRANTY, OR GUARANTEE BY FRANCHISOR THAT A FRANCHISED RESTAURANT OPERATED AT THAT SITE WILL BE PROFITABLE OR OTHERWISE SUCCESSFUL.**

Section 5.7 Before commencing the Construction of the Restaurant, Franchisee, at its expense, shall comply, to Franchisor's satisfaction, with all of the following requirements:

Section 5.7.1 Franchisee shall submit a site plan to Franchisor, including a footprint

of the proposed building, and architectural, kitchen and signage drawings for approval by Franchisor. Franchisee, at its option, may use any architect or engineer currently used by Franchisor to prepare detailed plans and specifications for the Construction of the Franchised Restaurant;

Section 5.7.2 Franchisee shall use a qualified general contractor or construction supervisor to oversee the Construction of the Restaurant and completion of all improvements, and Franchisee shall submit to Franchisor a statement identifying the general contractor or construction supervisor; and

Section 5.7.3 Franchisee shall obtain all licenses, permits and certifications required for lawful construction and operation of the Franchised Restaurant including, without limitation, building, zoning, access, parking, driveway access, sign permits and licenses, and shall certify in writing to Franchisor that all such permits, licenses and certifications have been obtained. Franchisee shall obtain all health, life safety, liquor and other permits and licenses required for operation of the Restaurant and shall certify that all such permits and licenses have been obtained prior to the Opening Date.

Section 5.7.4 Franchisee shall cause such construction to be performed only in accordance with the site plan, and plans and specifications, approved by Franchisor, and no changes will be made to said approved plans and specifications, or the design thereof, or any of the materials used therein, or to interior and exterior colors thereof, without the express written consent of Franchisor.

Section 5.8 Pursuant to Section 3.2, Franchisor shall make a training and familiarization course available to Franchisee and up to two (2) additional managers/employees. Franchisee and at least one (1) additional employee of Franchisee designated as Franchisee's manager, are required to attend and successfully complete to, Franchisor's satisfaction prior to opening for business, a training and familiarization course of at least fourteen (14) days in duration which shall be conducted at Franchisor's headquarters or at such other place as Franchisor shall designate. Said training program shall cover all material aspects of the operation of a Franchised Restaurant, including inventory control, food preparation service and operational techniques, marketing and advertising techniques, sanitation and maintenance procedures, deployment of labor, and maintenance of quality standards. All expenses incurred by Franchisee and his employees in attending such program, including without limitation, travel, room and board expense, shall be the sole responsibility of Franchisee.

Section 5.9 Each of Franchisee's employees shall complete a training program as prescribed in the New Employee Manual.

Section 5.10 Franchisee shall use the Restaurant premises solely for the operation of the Franchised Restaurant; keep the business open and in normal operation for a minimum of seven (7) days a week, fifty-two (52) weeks per year, hours determined by location and approved by Franchisor. Days and hours of operation may be changed as Franchisor may from time to time specify in the Manual or as Franchisor may otherwise approve in writing (subject to local ordinances

or lease restrictions, if any); and refrain from using or permitting the use of the premises for any other purpose or activity at any time without first obtaining the written consent of Franchisor. Franchisee shall not locate or permit to be located on or about the Franchised Restaurant premises any slot machines or gambling devices, or coin-operated machine for vending of any merchandise, or entertainment devices, the playing of electronic or manual games or for any other similar purpose except as prescribed in the Manual or otherwise approved by Franchisor in writing; nor shall Franchisee permit the sale of products or services not included in the Franchisor's System without Franchisor's prior express written consent, provided that Franchisor, in its sole discretion, may prescribe conditions under which such products or services may be sold.

Section 5.11 Franchisee shall maintain the Restaurant in a first class repair and condition, in accordance with all maintenance and operating standards set forth in the Manual. In connection therewith, Franchisee shall make such additions, alterations, repairs, and replacements thereto (but no others without Franchisor, s prior written consent) as may be required for that purpose, including, without limitation, such periodic repainting, repairing, and replacing of obsolete signs, fixtures, and furnishings as Franchisor may reasonably direct.

Section 5.12 Franchisee agrees to display all signs and other promotional materials provided by Franchisor, to the extent permitted by applicable codes, laws, ordinances, rules and regulations of all federal, state and local governmental authorities having jurisdiction over the Restaurant (hereinafter collectively the "Laws"). The color, size, design and location of said signs shall be as specified and/or approved by Franchisor. Franchisee shall not place additional signs, posters or other decor items in, on, or about the Approved Location without the prior written consent of Franchisor.

Section 5.12 Franchisee shall operate and maintain in the Restaurant and all exterior areas at the Approved Location in a clean and neat manner.

Section 5.13 Franchisee shall, at Franchisee's sole expense, comply (or cause compliance of the Restaurant and the Approved Location) with all applicable Laws. Franchisor's standards may exceed the requirements of the Laws.

Section 5.14 At Franchisor's request, which shall not be more often than once every three (3) years, Franchisee shall refurbish the Restaurant at its expense, to conform to the building design, trade dress, color schemes, and presentation of trademarks and service marks consistent with Bobby Salazar's Mexican Restaurant and Cantina® and Bobby Salazar's Taqueria designate images, including without limitation, remodeling, redecoration, and modifications to existing improvements.

Section 5.15 Franchisee shall operate the Restaurant in strict conformity with such methods, standards, and specifications as Franchisor may from time to time prescribe in the Manual or otherwise in writing, to maintain maximum efficiency and productivity and service is uniformly maintained. Franchisee agrees:

Section 5.15.1 To maintain in sufficient supply, and use at all times, only such products, materials, supplies, ingredients, methods of preparation and service, weight and dimensions of products served, standards of cleanliness, health and sanitation and methods of service as conform to Franchisor's standards and specifications; and to refrain from deviating therefrom by using non-conforming items or methods without Franchisor's written consent;

Section 5.15.2 To purchase such equipment, supplies, or products as may be required by Franchisor, for the appropriate handling and selling of any food or beverage products that become approved for offering in Franchisor's System;

Section 5.15.3 To require clean uniforms conforming to such specifications as to color, design, etc., as Franchisor may designate from time to time, to be worn by all of Franchisee's employees at all times while in attendance at the Restaurant, and to cause all employees to present a clean, neat appearance and render courteous service to customers, as may be further detailed in the Manual;

Section 5.15.4 To permit Franchisor or its agents, at any reasonable time, to remove from the Restaurant samples of items without payment therefor, in amounts reasonably necessary for testing by Franchisor or an independent laboratory to determine whether said samples meet Franchisor's then-current standards and specifications. In addition to any other remedies it may have under this Agreement, Franchisor requires Franchisee to bear the cost of such testing if the supplier of the item has not previously been approved by Franchisor, or if the sample fails to conform to Franchisor's specifications;

Section 5.15.5 Not to install or permit to be installed on or about the Restaurant premises, without Franchisor's prior written consent, any fixtures, furnishings, signs, equipment, or other improvements not previously approved as meeting Franchisor's standards and specifications;

Section 5.15.6 To employ a sufficient number of employees and maintain sufficient inventories as necessary to operate the Restaurant at its maximum capacity as prescribed or approved by Franchisor and to comply with all applicable Laws with respect to such employees.

Section 5.16 Franchisee further acknowledges that complete and detailed uniformity among Franchised Restaurants under varying conditions may be inadvisable, impractical or impossible and, accordingly, agrees that Franchisor, at its sole discretion, may modify or vary aspects of the Franchisor's System with respect to any franchisee or group of franchisees based on (by way of example and not limitation) local site conditions, sales potential, demographics, competition, local business practices, or any other condition or circumstances that Franchisor deems a reasonable basis for such variances. Franchisee further agrees that Franchisor shall have no obligation to disclose or offer the same or similar variances to Franchisee.

Section 5.17 Franchisee shall purchase Franchisee's requirements of enchilada sauce,

refried beans, Mexican rice, chili verde, chili colorado, salsa, chopped salsa, shredded beef, shredded chicken, chili beans, and tamales and/or proprietary spice packs from Franchisor or from sources designated or approved by Franchisor, to the extent permitted by law.

Section 5.18 Franchisor shall have the right to require that certain equipment, fixtures, furnishings, signs, supplies, and other products and materials required for the operation of the Restaurant be purchased solely from suppliers (including manufacturers, distributors, and other sources), who demonstrate, to the continuing reasonable satisfaction of Franchisor, the ability to meet Franchisor's then-current standards and specifications for such items; who possess adequate quality controls and capacity to supply Franchisee's needs promptly and reliably; and who have first been approved in writing by Franchisor and not thereafter withdrawn from the approved supplier list. Such items shall be listed in the Manual, as well as in periodic bulletins and newsletters supplied by Franchisor. If Franchisee desires to purchase any items from an unapproved supplier, Franchisee shall submit to Franchisor a written request for Franchisor's consent to use such supplier, and have such supplier acknowledge in writing that Franchisee is an independent entity from Franchisor and that Franchisor is not liable for debts incurred by Franchisee. Franchisor shall have the right to require that its representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered, at Franchisor's option, either to Franchisor or to an independent laboratory designated by Franchisor for testing. A charge not to exceed the reasonable cost of the inspection and the actual cost of the test shall be paid by Franchisee. Franchisor may also require that the supplier comply with such other reasonable requirements as Franchisor may deem appropriate, including payment of the cost of reasonable continuing inspection fees and administrative costs. Franchisor reserves the right, following consent to use any supplier and at its option, to reinspect the facilities and products of any such supplier and to revoke its consent upon the supplier's failure to continue to meet any of Franchisor's then current criteria and standards. If, in providing services to Franchisee, any third party may obtain access to confidential information as defined in Section 8 herein, Franchisor may require, as a condition of approval of such provider, the execution of covenants of non-disclosure and non-competition in a form provided by Franchisor.

Section 5.19 Franchisee shall grant Franchisor and its agents the right to enter upon the Restaurant premises at any reasonable time to inspect, photograph, audiotape or videotape the Restaurant, equipment, and operations therein to insure compliance with the provisions of this Agreement and the "Manual"; provided, that Franchisor, in the exercise of such rights, shall utilize all reasonable efforts to prevent disruption or interference with the business of the Franchisee. Franchisee shall cooperate with Franchisor's representatives in such inspections by rendering such assistance as they may reasonably request and shall enforce and comply with all inspection systems established by Franchisor from time to time; and, upon reasonable notice from Franchisor or its agents, and without limiting Franchisor's other rights under this Agreement, take such steps as may be necessary to correct immediately the deficiencies detected during any such inspection, including, without limitation, immediately desisting from the further use of any equipment, advertising materials, products, or supplies that do not conform with Franchisor's then-current specifications, standards, or requirements.

Section 5.20 Franchisee shall not engage in any trade practice or other activity or sell any product or literature which Franchisor determines to be harmful to the goodwill or to reflect unfavorably on the reputation of Franchisee or Franchisor, the Restaurant, or the products sold thereat; or which constitutes deceptive or unfair competition, or otherwise is in violation of any applicable laws.

Section 5.20.1 The above limitations are closely related to the restaurant image, purpose and marketing strategy of the Franchisor's System, and therefore any change therefrom would fundamentally change the nature of the business.

Section 5.21 Franchisee shall give Franchisor advance written notice of Franchisee's intent to institute legal action against Franchisor, specifying the basis for such proposed action, and shall grant Franchisor thirty (30) days from receipt of said notice to cure the alleged act upon which such legal action is to be based.

Section 5.22 During the term of this Agreement, except as otherwise approved in writing by Franchisor, Franchisee and/or Franchisee's designated manager must devote his or her full time, energy and best efforts to the management and operation of the Franchised Restaurant.

Section 5.23 In any real property or equipment or trade fixture lease or financing that Franchisee executes in connection with the Franchised Restaurant, Franchisee shall include a provision approving Franchisor as transferee without any right to accelerate or to modify said lease or financing, and requiring the lessor or lender to send notice of any default by the Franchisee on said lease or financing to Franchisor at the address provided herein and to give Franchisor thirty (30) days from the date notice of default is delivered to Franchisor to cure said default. Franchisor is under no duty or obligation whatsoever to cure said default, but should Franchisor elect to cure said default, Franchisee agrees to re-pay and to indemnify Franchisor for any costs and expenses incurred by Franchisor in connection with the cure of said default upon demand by Franchisor.

Section 5.24 In order to secure payment of all amounts which Franchisee is obligated to pay under this Agreement, Franchisee grants a first priority, unsubordinated security interest in all trade fixtures, equipment, inventory and accounts receivables and proceeds of same possessed by Franchisee, or its assigns, in connection with the Restaurants franchised herein and Franchisee agrees to execute all documents necessary to perfect Franchisor's security interest including, without limitation, U.C.C. financing statements.

Section 5.25 Franchisee shall expend a minimum of Three Thousand Dollars (\$3,000.00) on Franchisor's printed, grand opening package materials, during Franchisee's initial six (6) weeks of operating the Franchised Restaurant. Franchisee may spend the balance at your discretion on any media or promotion, with Franchisor's prior approval.

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## SECTION SIX--PROPRIETARY MARKS

Section 6.1 Franchisor represents with respect to the Proprietary Marks that:

Section 6.1.1 Franchisor is the exclusive owner of all rights to and in the Proprietary Marks. Franchisor has taken, shall take or cause to be taken all steps reasonably necessary to preserve and protect the ownership and validity of the Proprietary Marks.

Section 6.1.2 Franchisor shall permit Franchisee and other franchisees to use the Proprietary Marks only in accordance with the Franchisor's System and the standards and specifications attendant thereto which underlie the goodwill associated with and symbolized by the Proprietary Marks.

Section 6.2 With respect to Franchisee's licensed use of the Proprietary Marks pursuant to this Agreement, Franchisee agrees that:

Section 6.2.1 Franchisee shall use only the Proprietary Marks designated by Franchisor, and shall use them only in the manner authorized and permitted by Franchisor. Franchisee shall not sub-license and/or assign his/her/its non-exclusive rights to the Proprietary Marks without first obtaining Franchisor's consent which shall not be unreasonably withheld. 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 Franchisor's rights.

Section 6.2.2 Franchisee shall use the Proprietary Marks only for the operation of the Franchised Restaurant and only at the Approved Location authorized hereunder, or in advertising for the business conducted at or from the Approved Location.

Section 6.2.3 Unless otherwise authorized or required by Franchisor, Franchisee shall operate and advertise the Franchised Restaurant only under the name "Bobby Salazar's Mexican Restaurant and Cantina" or "Bobby Salazar's Taqueria" without prefix or suffix, except to describe the location of their franchise. Franchisee shall not use the Proprietary Marks as part of its corporate or other legal name.

Section 6.2.4 During the term of this Agreement and any extension hereof, Franchisee shall identify itself as the owner of the Franchised Restaurant in conjunction with any use of the Proprietary Marks, including, but not limited to, on invoices, order forms, receipts, and contracts, as well as at such conspicuous locations on the premises of the Franchised Restaurant as Franchisor may designate in writing. The form and content of such identification shall comply with standards set forth in the Manual.

Section 6.2.5 Franchisee shall not use the Proprietary Marks to incur any obligation or indebtedness on behalf of Franchisor.

Section 6.2.6 Franchisee shall file and maintain requisite trade name or fictitious name registrations as shall be required and directed by Franchisor and/or by law, and shall execute any documents deemed necessary by Franchisor or its counsel to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability.

Section 6.2.7 In the event that litigation involving the Proprietary Marks is instituted or threatened against Franchisee, Franchisee shall promptly notify Franchisor and, if Franchisor takes the case over, although Franchisor is not required to do so, Franchisee shall cooperate fully in defending or settling such litigation, as determined exclusively by Franchisor.

Section 6.3 Franchisee expressly understands and acknowledges that:

Section 6.3.1 As between the parties hereto, Franchisor has the exclusive right and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them;

Section 6.3.2 The Proprietary Marks are valid, distinctive, and serve to identify Franchisor as the source of the goods and services offered pursuant to those marks and by those who are authorized to operate under the Franchisor's System;

Section 6.3.3 Franchisee shall not directly or indirectly contest the validity, distinctiveness, the ownership or Franchisor's right to license the Proprietary Marks;

Section 6.3.4 Franchisee's use of the Proprietary Marks pursuant to this Agreement does not give Franchisee any ownership interest or other interest in or to the Proprietary Marks, except the license granted by this Agreement. In the event Franchisor substitutes different Proprietary Marks, Franchisee shall be responsible for the costs associated with such a change in connection with the Franchised Restaurant;

Section 6.3.5. Any and all goodwill arising from Franchisee's use of the Proprietary Marks in its franchised operation under the Franchisor's System shall inure solely and exclusively to Franchisor's benefit, and upon expiration or termination of this Agreement and the license herein granted, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee's use of the Franchisor's System or the Proprietary Marks;

Section 6.3.6 The right and license of the Proprietary Marks granted hereunder to Franchisee is nonexclusive, and Franchisor has and thus retains the rights, including but not limited to:

- a. Use the Proprietary Marks itself in connection with selling products and services;
- b. Grant other licenses for the Proprietary Marks, in addition to those licenses already granted to existing franchisees; and

- c. Develop and establish other systems using similar Proprietary Marks, or any other proprietary marks, and to grant licenses or franchises thereto at any location(s) whatsoever without providing any rights therein to Franchisee; and,
- d. Assign, transfer, lien, pledge and/or hypothecate the Proprietary Marks.

Section 6.3.7 Franchisor is not obligated by this agreement, or any other document or agreement, to protect any rights granted to Franchisee to use the Proprietary Marks or to protect Franchisee against claims of infringement or unfair competition arising out of Franchisee's non-exclusive use of the Proprietary Marks.

Section 6.4 Franchisee understands and acknowledges that Franchisor has the unrestricted right to engage, directly or indirectly, through its or their employees, representatives, licensees, assigns, agents and others, at wholesale, retail and otherwise, in the production, distribution and sale of products bearing the Proprietary Marks licensed hereunder or other names or marks, including without limitation, products included as part of the Franchisor's System. Franchisee shall not under any circumstances engage in any wholesale trade or sale of Franchisor's System products for resale.

## SECTION SEVEN- FRANCHISOR'S MANUALS

Section 7.1 In order to protect the reputation and goodwill of Franchisor and to maintain high standards of operation under Franchisor's Proprietary Marks, Franchisee shall conduct its business in accordance with this Agreement and the Manual(s) which Franchisor has or may develop from time to time (one copy of which Franchisee shall acknowledge in writing upon receipt has been received on loan from Franchisor for the term of this Agreement), other written directives which Franchisor may issue to Franchisee from time to time whether or not such directives are made part of the Manuals, and any other manuals, videotapes, and materials created or approved for use in the operation of the Franchised Restaurant by Franchisor, from time to time.

Section 7.2 Franchisee shall at all times treat the Manuals, any written directives of Franchisor, any restaurant plans and specifications, and any other manuals created for or approved for use in the operation of the Franchised Restaurant, and any supplements thereto, and the information contained therein, in trust and as confidential information, and shall use all reasonable efforts to maintain such information as secret and confidential. Franchisee shall not at any time copy, duplicate, record, or otherwise reproduce the foregoing materials, in whole or in part, nor otherwise make the same available to any unauthorized person.

Section 7.3 The Manuals, written directives, other manuals and materials, and any other confidential communications provided or approved by Franchisor, shall at all times remain

the sole property of Franchisor and shall at all times be kept and maintained in a secure place on the Restaurant premises.

Section 7.4 Franchisor may from time to time revise the contents of the Manuals and the contents of any other manuals and materials created or approved for use in the operation of the Franchised Restaurant, and Franchisee expressly agrees that each new or changed standard shall be deemed effective upon receipt by Franchisee or as specified in such standard.

Section 7.5 Franchisee shall at all times insure that its copy of the Manuals is kept current and up-to-date; and, in the event of any dispute as to the contents of the Manuals, the master copy of the Manuals maintained by Franchisor at Franchisor's headquarters shall be controlling.

Section 7.6 Any suggestions Franchisee may have concerning the improvement of products, equipment, uniforms, restaurant facilities, service format and advertising are encouraged and shall be considered by Franchisor when adopting or modifying the standards, specifications and procedures for the Franchisor's System.

#### SECTION EIGHT--CONFIDENTIAL INFORMATION

Section 8.1 Franchisee shall strictly comply with the terms of the Confidentiality Agreement attached hereto as Exhibit "B" and made a part hereof (hereinafter the "Confidentiality Agreement").

Section 8.2 At Franchisor's request, Franchisee shall require its principals, managers and any other personnel having access to any confidential information from Franchisor to execute and deliver the Confidentiality Agreement.

Section 8.3 Franchisee acknowledges that any failure to comply with the requirements of the Confidentiality Agreement or this Section 8 shall cause Franchisor irreparable injury, and Franchisee agrees to pay, in addition to other damages, all court costs and reasonable attorney's fees incurred by Franchisor in obtaining specific performance of, or an injunction against violation of, the requirements of this Section 8.

#### SECTION NINE--ACCOUNTING AND RECORDS

Section 9.1 Franchisee shall maintain during the term of this Agreement, and shall preserve for at least two (2) years from the dates of their preparation, full, complete, and accurate books, records, and accounts prepared in accordance with generally accepted accounting principles consistently applied and in the form and manner prescribed by Franchisor from time to time in the Manuals or otherwise in writing.

Section 9.2 Franchisee shall submit to Franchisor during the term of this Agreement, after the opening of the Franchised Restaurant, (a) a royalty report, on a four (4) week accounting period basis in the form prescribed by Franchisor from time to time, accurately reflecting all Gross Sales during each preceding four week accounting period, and such other data or information as Franchisor may require, from time to time, said report to be received by Franchisor within ten (10) days from the date of expiration of each such four (4) week accounting period; and (b) profit and loss statements, balance sheets and trial balances prepared in accordance with generally accepted accounting principles, consistently applied, for each accounting period, to be received by Franchisor within fifteen (15) days after the date of expiration of each period covered by the report, (c) copies of all tax returns relating to sales at the Franchised Restaurant to be received by Franchisor within ten (10) days of the end of the state sales tax reporting period, and (d) such other data or information as Franchisor may require, from time to time.

Section 9.3 Franchisee shall, at its expense, provide to Franchisor a profit and loss statement and balance sheet, accompanied by a review report certified by the President or Chief Financial Officer of Franchisee, within ninety (90) days after the end of each fiscal year of the Franchised Restaurant during the term hereof, showing the results of operations of the Franchised Restaurant during said fiscal year. Franchisor also reserves the right to require Franchisee to have such review report prepared by an independent certified public accountant satisfactory to Franchisor.

Section 9.4 Franchisee shall also submit to Franchisor, for review or auditing, such other forms, reports, records, sales tax returns information, and data as Franchisor may reasonably designate, in the forms and at the times and places reasonably required by Franchisor, upon request and as specified from time to time in the Manuals or otherwise in writing. Franchisee shall provide to Franchisor, or its designee, on forms designated for use by Franchisor, reports of daily receipts, vendor purchases, payroll payments, and such other forms, reports, records, and information as Franchisor may request from time to time. Franchisee shall also report all discounts, allowances and premiums received from vendors.

Section 9.5 Franchisor or its designated agents shall have the right, at all reasonable times, to examine and copy, at Franchisor's expense, the books, records, and tax returns of Franchisee and the Franchised Restaurant. Franchisor shall also have the right, at any time, to have an independent audit made of the books of the Franchised Restaurant. If an inspection should reveal that any payments to Franchisor have been understated in any report to Franchisor, then Franchisee shall immediately pay to Franchisor the amount understated upon demand, in addition to interest on such amount from the date such amount was due until paid, at the Default Rate, calculated on a daily basis. If an inspection discloses an understatement in any payment to Franchisor of two percent (2%) or more, Franchisee shall, in addition, reimburse Franchisor for any and all costs and expenses relating to the inspection (including, without limitation, travel, lodging and wage expenses and reasonable accounting and legal costs), and, at Franchisor's discretion, submit audited financial statements prepared, at Franchisee's expense, by an independent certified public accountant satisfactory to Franchisor. If an inspection discloses an understatement in any payment to Franchisor of four percent (4%) or more, such act or omission shall constitute grounds for immediate

termination of this Agreement, as set forth in Section 8, hereof. The foregoing remedies shall be in addition to any other remedies Franchisor may have pursuant to this Agreement and as provided at law and in equity.

Section 9.6 Franchisee hereby grants permission to Franchisor to release to Franchisee's landlord, lenders or prospective landlords or lenders, any financial and operational information relating to Franchisee and/or the Franchised Restaurant; however, Franchisor has no obligation to do so.

Section 9.7 Franchisee shall follow and adhere to the daily accounting and reporting procedures as required by Franchisor, from time to time, and shall purchase accounting and reporting equipment including, but not limited to, point of sale equipment as required by Franchisor. The point of sale equipment to be used in the Franchised Restaurant shall possess several important features in order to facilitate the operation and internal accounting control of the Franchised Restaurant. The hardware of the point of sale system shall contain the following, without limitation:

Section 9.7.1 A highly sensitive keyboard for fast input;

Section 9.7.2 Controlled access to management functions such as item voids, sales reports, refunds and adjustments;

Section 9.7.3 Remote printer to aid in the service of beer, wine and liquor;

Section 9.7.4 Internal communication among cash registers;

Section 9.7.5. Check printer to document the detail of all sales transactions;

Section 9.7.6. Capability to provide telecommunications to a central polling location; and

Section 9.7.7. A hard copy slip printer for guest checks.

Section 9.8 Additionally, the software of the point of sale system shall contain the following, without limitation:

Section 9.8.1 Security key and password identification for each employee, allowing the point of sale system to provide detailed sales information for each employee;

Section 9.8.2 Detailed sales tracking ability including, but not limited to, hourly sales, department sales, customer counts, sales for the individual employees and accounting period to date sales information; and

Section 9.8.3 Communication or polling ability for all sales information to be

retrieved by Franchisee or Franchisor.

## SECTION TEN--ADVERTISING

Recognizing the value of advertising and the importance of the standardization of advertising programs to the furtherance of the goodwill and public image of the Franchisor's System, the parties agree as follows:

Section 10.1. Franchisor may, from time to time, provide to Franchisee, at Franchisee's expense, such advertising and promotional plans and materials as Franchisor deems advisable for local advertising. In addition, Franchisor may develop advertising programs for the promotion of the Proprietary Marks or merchandise offered at Bobby Salazar's Mexican Restaurant and Cantina® and Bobby Salazar's Taqueria restaurants.

Section 10.2 Franchisee may undertake additional advertisement and promotion of the Restaurant at Franchisee's election. All advertising and promotion by Franchisee in any manner or medium shall conform to such standards and requirements as are specified by Franchisor. Franchisee shall submit to Franchisor for its prior written approval (except with respect to product prices to be charged), samples of all advertising and promotions plans and materials that Franchisee desires to use and which have not been prepared or previously approved by Franchisor. Franchisee shall display the Proprietary Marks in the manner prescribed by Franchisor on all signs and all other advertising and promotional materials used in connection with the Franchised Restaurant.

Section 10.3 Franchisee shall obtain listings and place advertisements in the white and yellow pages of local telephone directories, in the form, size and type of directories specified by Franchisor.

Section 10.4(a) Franchisee agrees to make continuing monthly contributions to the National Advertising Fund as required by Franchisor in an amount equal to three percent (3%) per month of Franchisee's Gross Sales by the tenth of each month. Franchisee agrees that the National Advertising Fund shall be maintained and administered by Franchisor, or its designee, on terms determined by Franchisor and that the Franchisor or its designee will direct all advertising and/or promotional programs with sole discretion over the concepts, materials and media used in such programs and the placement and allocation thereof. Franchisee acknowledges that the National Advertising Fund shall be used to maximize general public recognition and acceptance of the Proprietary Marks and all Bobby Salazar's Taquerias and Bobby Salazar's Mexican Restaurant and Cantina® restaurants, and that Franchisor is not obligated in administering the National Advertising Fund to undertake expenditures for Franchisee which are equivalent to Franchisee's contribution, or to ensure that any particular franchise owner benefits directly or pro rata from expenditures by the National Advertising Fee. Upon written request of Franchisee, Franchisor will furnish or cause to be furnished to

Franchisee, not more than once annually, an accounting of receipts and disbursements of the National Advertising Fund.

(b) The National Advertising Fund, all contributions thereto, and any earnings thereon, will be used exclusively to meet any and all costs of maintaining, administering, researching, directing, and preparing advertising and/or promotional activities.

(c) All sums paid by the Franchisee to the National Advertising Fund will be maintained in an account separate from the other monies of the Franchisor, and will not be used to defray any of the Franchisor's expenses, except for such reasonable administrative costs and overhead as the Franchisor may incur in activities reasonably related to the administration or direction of the National Advertising Fund and advertising programs for the franchisees under the Franchisor's System. The National Advertising Fund will not otherwise inure to the benefit of the Franchisor. The Franchisor or its designee will maintain separate bookkeeping accounts for the National Advertising Fund.

(d) It is anticipated that all contributions to and earnings of the National Advertising Fund will be expended for advertising and/or promotional purposes during the taxable year within which the contributions and earnings are received. If, however, excess amounts remain in the National Advertising Fund at the end of such taxable year, all expenditures in the following taxable year(s) will be made first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from contributions.

(e) The National Advertising Fund is not and will not be an asset of the Franchisor or its designee.

(f) Although the National Advertising Fund is intended to be of perpetual duration, the Franchisor retains the right to terminate the National Advertising Fund. The National Advertising Fund will not be terminated, however, until all monies in the National Advertising Fund have been expended for advertising and/or promotional purposes or returned to contributors on the basis of their respective contributions.

Section 10.5 Franchisee is encouraged, although not required, to take part in promotional programs which may be developed by Franchisor. However, Franchisee may be required to participate in cooperative advertising programs with certain suppliers or approved sources of goods. Franchisee shall have the right to sell its products and offer services at any price Franchisee may determine, and shall in no way be bound by any price which may be recommended or suggested by Franchisor.

#### SECTION ELEVEN--INSURANCE

Section 11.1 Franchisee shall procure, or cause to be procured, prior to the commencement of any operations under this Agreement, and shall maintain, or cause to be maintained, in full force

and effect at all times during the term of this Agreement, at Franchisee's expense, an insurance policy or policies insuring Franchisee and Franchisor, and their respective officers, directors, shareholders, partners, and employees, as additional insured, 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 Franchised Restaurant.

Section 11.2 Such policy or policies shall be written by an insurance company rated A-minus or better, in Class 10 or higher, by Best Insurance Ratings Service and satisfactory to Franchisor in accordance with standards and specifications set forth in the Manuals or otherwise in writing, from time to time, and shall include, at a minimum (except as additional coverages and higher policy limits may be specified by Franchisor from time to time), the following initial minimum coverage:

Section 11.2.1 Commercial General Liability Insurance, including coverages for products-completed operations, contractual liability, personal and advertising injury, fire damage, medical expenses, and liquor liability, having a combined single limit for bodily injury and property damage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate (except for fire damage and medical expense coverages, which may have different limits of not less than \$50,000 for one fire and \$5,000 for one person, respectively); plus (ii) non-owned automobile liability insurance and, if Franchisee owns, rents or identifies any vehicles with any Proprietary Mark or vehicles are used in connection with the operation of the Franchised Restaurant, automobile liability coverage for owned, non-owned, scheduled and hired vehicles having limits for bodily injuries of \$100,000 per person and \$300,000 per accident, and property damage limits of \$50,000 per occurrence; plus (iii) excess liability umbrella coverage for the general liability and automobile liability coverages in an amount of not less than \$5,000,000 per occurrence and aggregate. All such coverages shall be on an occurrence basis and shall provide for waivers of subrogation.

Section 11.2.2 Franchisee shall also maintain comprehensive crime and blanket employee dishonesty insurance in an amount of not less than \$100,000.

Section 11.2.3 All-risk property insurance, including theft and flood coverage (when applicable), written at replacement cost value covering the building, improvements, furniture, fixtures, equipment, food and beverage products. Coverage shall be written in a value which will cover not less than eighty (80%) percent of the replacement cost of the building and one hundred (100%) percent of the replacement cost of the contents of the building.

Section 11.2.4 Employer's Liability and Worker's compensation Insurance, as required by state law.

Section 11.2.5 Business interruption insurance of not less than Fifty Thousand Dollars (\$50,000.00) per month for loss of income and other expenses with a limit of not less than six (6) months of coverage.

Section 11.3 Franchisee's obligation to obtain and maintain, or cause to be obtained and maintained, the foregoing policy or policies in the amounts specified 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 18 of this Agreement.

Section 11.4 Prior to the opening of the Franchised Restaurant and thereafter at least thirty (30) days prior to the expiration of any such policy or policies, Franchisee shall deliver to Franchisor certificates of insurance evidencing the proper coverage with limits not less than those required hereunder. All certificates shall expressly provide that not less than thirty (30) days prior written notice shall be given to Franchisor in the event of material alteration to termination, non-renewal, or cancellation of, the coverages evidenced by such certificates.

#### SECTION TWELVE--TRANSFER OF INTEREST

Section 12.1 Franchisor shall have the right to transfer or assign all or any part of its rights or obligations herein to any person or legal entity.

Section 12.2 Franchisee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Franchisee, and that Franchisor has granted this Agreement in reliance on information provided by Franchisee relating to Franchisee's business skill, financial capacity, and personal character. Accordingly, Franchisee agrees that Franchisor's express prior written consent shall be a necessary condition precedent to the sale, assignment, transfer, conveyance, gift, pledge, mortgage, encumbrance, or hypothecation of any of the following:

Section 12.2.1 any direct or indirect interest in this Agreement or the franchise and license granted hereunder;

Section 12.2.2 any direct or indirect interest in Franchisee, except that, if the Franchisee is a corporation, the interest of a stockholder may be transferred to another existing and approved shareholder of the corporation and, if the Franchisee is a partnership, the partnership interest of a partner may be transferred to another existing and approved partner of the partnership; and

Section 12.2.3 Restaurant, the Approved Location, or all or substantially all of the assets of the Franchised Business.

Section 12.3 Franchisor, in its sole discretion, except as herein specifically provided, may withhold its consent to a transfer of any interest in Franchisee, this Agreement, or the franchise; provided, however, in all events, Franchisor may, at its sole discretion, require any or all of the following as conditions of its approval:

Section 12.3.1 All of Franchisee's accrued monetary obligations and all other outstanding obligations to Franchisor, and Franchisor's approved vendors/suppliers, shall have been satisfied;

Section 12.3.2 Franchisee shall have substantially complied with all of the terms and provisions of this Agreement, any amendment hereof or successor hereto, or any other agreements between the Franchisee and Franchisor at the time of transfer, shall not be in default thereof;

Section 12.3.3 The transferor shall have executed a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and its officers, directors, shareholders, and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances;

Section 12.3.4 The transferee (and, if the transferee is other than an individual, such principals and/or owners of a beneficial interest in the transferee as Franchisor may request) shall enter into a written assumption agreement, in a form satisfactory to Franchisor, assuming and agreeing to discharge all of Franchisee's obligations under this Agreement and/or any new franchise agreement, as hereinafter provided;

Section 12.3.5 The transferee shall demonstrate to Franchisor's satisfaction that the transferee meets Franchisor's educational, managerial, and business standards; possesses a good moral character, business reputation, and credit rating; has the aptitude and ability to conduct the Franchised Restaurant (as may be evidenced by prior related business experience or otherwise); and has adequate financial resources and capital to operate the Franchised Restaurant.

Section 12.3.6 The transferee (and, if the transferee is other than an individual, such principals and/or owners of a beneficial interest in the transferee as Franchisor may request) shall execute, for a term ending on the expiration date of this Agreement and with such extension term, if any, as may be provided by this Agreement, the standard form franchise agreement then being offered to new Franchisor's System franchisees and such other ancillary agreements as Franchisor may require for the Franchised Restaurant, which agreements shall supersede this Agreement in all respects and the terms of which agreements may differ from the terms of this Agreement, including, without limitation, a higher percentage royalty rate, advertising contribution, and service charge for goods; provided; however, that the transferee shall not be required to pay an initial franchise fee as provided in Section 4;

Section 12.3.7 The transferee, at its expense, shall upgrade the Restaurant to conform to the then-current standards and specifications of the new entry Franchisor's System and shall complete the upgrading and other requirements within the time specified by Franchisor;

Section 12.3.8 Franchisee shall remain liable for all of the obligations to Franchisor in connection with the Franchised Restaurant prior to the effective date of the transfer and shall