

**A BIG PHILLY CHEESESTEAK, INC.
DBA TASTE OF PHILLY**

FRANCHISE OFFERING CIRCULAR

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**INFORMATION FOR PROSPECTIVE FRANCHISEES
REQUIRED BY THE FEDERAL TRADE COMMISSION**

To protect you, we've required your franchisor to give this information. We haven't checked it, and don't know if it's correct. It should help you make up your mind. Study it carefully. While it includes some information about your contract, don't rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor, like a lawyer or an accountant. If you find anything you think may be wrong or anything important that's been left out, you should let us know about it. It may be against the law.

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

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

The date of issuance of this Offering Circular is: **Oct. 25, 2006**

Franchise Offering Circular

Big Philly Cheesesteak, Inc.
(a Colorado S Corporation)
3818 S. Broadway
Englewood CO 80113
Telephone: 303-832-4463
Tasteofphilly.biz

A Big Philly Cheesesteak, Inc. (DBA Taste of Philly) (hereinafter referred to as “we” or “us”) is offering franchises to operate a restaurant offering Philly Cheesesteaks, sandwiches, hoagie sandwiches, salads, soups, French fries and soft drinks under the service mark “Taste of Philly.” The initial franchise fee for a traditional Taste of Philly Restaurant is \$5,000.00. The estimated initial investment required for your traditional TASTE OF PHILLY Restaurant ranges from \$142,200.00 to \$290,000.00. This sum does not include rent for the Franchised Location.

Risk Factors:

1. THE FRANCHISE AGREEMENT PERMITS YOU TO SUE US ONLY IN COLORADO. ALSO, ANY LEGAL ACTION THAT WE BRING AGAINST YOU WILL BE FILED ONLY IN COLORADO. OUT OF STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT ALSO MAY COST YOU MORE TO SUE US IN COLORADO THAN IN YOUR HOME STATE.
2. THE FRANCHISE AGREEMENT STATES THAT COLORADO LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
3. WE MAY TERMINATE YOUR FRANCHISE AGREEMENT IF YOU DO NOT OPEN YOUR RESTAURANT WITHIN 12 MONTHS AFTER YOU SIGN THE FRANCHISE AGREEMENT. THE FRANCHISE FEE IS NONREFUNDABLE.
4. THE FRANCHISE AGREEMENT PERMITS US TO ESTABLISH OTHER FRANCHISED OR COMPANY-OWNED LOCATIONS AT ANY LOCATION OTHER THAN YOUR FRANCHISED LOCATION, TO SELL OR DISTRIBUTE ANY PRODUCT OR SERVICE TO THE GENERAL PUBLIC, OR TO ESTABLISH OTHER CHANNELS OF DISTRIBUTION WHICH MAY COMPETE WITH YOUR FRANCHISE.
5. WE WILL REQUIRE YOUR SPOUSE (OR, IF YOU ARE AN ENTITY, THE SPOUSE OF EACH OF YOUR OWNERS) TO SIGN A GUARANTY AND ASSUMPTION OF FRANCHISEE’S OBLIGATIONS CAUSING YOUR SPOUSE (OR THE SPOUSE OF EACH OF YOUR OWNERS) TO BECOME INDIVIDUALLY LIABLE FOR ALL OBLIGATIONS OF THE FRANCHISE AND BOUND BY THE RESTRICTIVE

COVENANTS, CONFIDENTIALITY PROVISIONS, AND INDEMNIFICATION PROVISIONS OF THE FRANCHISE AGREEMENT, EVEN IF YOUR SPOUSE IS (OR YOUR OWNERS' SPOUSES ARE) NOT INVOLVED IN THE OPERATION OF THE FRANCHISE BUSINESS. THIS REQUIREMENT PLACES THE PERSONAL ASSETS OF OWNERS AND SPOUSES AT RISK.

6. IF THE FRANCHISE AGREEMENT IS TERMINATED BECAUSE OF YOUR DEFAULT, YOU WILL BE LIABLE TO US FOR A LUMP SUM AMOUNT EQUAL TO THE NET PRESENT VALUE OF THE ROYALTIES, OTHER ROYALTIES, AND MONTHLY FEES THAT WOULD HAVE BECOME DUE FOLLOWING TERMINATION OF THE FRANCHISE AGREEMENT FOR THE PERIOD THE FRANCHISE AGREEMENT WOULD HAVE REMAINED IN EFFECT BUT FOR YOUR DEFAULT. ROYALTIES, OTHER ROYALTIES, AND MONTHLY FEES WILL BE CALCULATED BASED ON YOUR RESTAURANT'S AVERAGE MONTHLY ROYALTIES, OTHER ROYALTIES AND MONTHLY FEES FOR THE 12 MONTHS PRECEDING THE TERMINATION DATE.
7. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this Offering Circular. If you learn that anything in this Offering Circular is untrue, contact the Federal Trade Commission.

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ITEM 1

THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

To simplify the language in this offering circular “Big Philly” or “We” means Big Philly Cheesesteak, Inc., the franchisor. “You” means the person, or entity, who buys the franchise.

The Franchisor. Big Philly was incorporated in the state of Colorado in 2003 for the purpose of collecting fees from the then operating Taste of Philly Restaurants, who at that time operated as Licensees. Our home office is currently located at 3818 S. Broadway, Englewood CO 80113. Big Philly currently does business as Taste of Philly Restaurants and grants Franchises to people or entities who desire to operate Taste of Philly Restaurants. Prior to the existence of Big Philly, the name, methods and marks associated with Taste of Philly were owned by the original location, Taste of Philly, Inc. The Franchisor, Big Philly, is currently the sole owner of the name, method and marks associated with Taste of Philly. Big Philly does not own or operate any businesses of the type being franchised. Big Philly has no other business activities beside Taste of Philly Restaurants.

Our Predecessors and Affiliates. We have no affiliated companies. We have some Vendors from whom we require you to purchase services and materials but we do not own or have any real interest in these companies other than our vendor/customer relationship. We may, from time to time charge these vendors, or any other vendors a fee to do business with you. Our Predecessor is the original Taste of Philly store, Taste of Philly, Inc.

The Franchises. We offer franchises to individuals or entities for restaurants with dine-in, delivery and carry-out facilities that sell Philly cheesesteak sandwiches and other sandwiches, salads, other food products and beverages, and related services (“**Taste of Philly Restaurants**” or “**Restaurants**”) under the form of Franchise Agreement attached as Exhibit A (the “**Franchise Agreement**”).

Market Competition. In your market, you might compete with submarine and other sandwich restaurants that offer similar items and any other restaurant or business that sells food items and prepared foods. Our Restaurants appeal to a broad range of customers because of the perceived variety and quality of our products.

Regulations. There are no regulations specific to the operation of a Taste of Philly Restaurant, although you must comply with all local, state, and federal health and sanitation laws. Franchisees also must comply with all local, state, and federal laws of a more general nature that affect the Restaurant, including employment, workers’ compensation, insurance, corporate, tax, licensing, and similar laws and regulations. You should familiarize yourself with these laws.

Business Experience. Big Philly, has over 3 years in the cheesesteak shop business as of this date. Its predecessor, Taste of Philly, Inc. has 13 years experience in the Cheesesteak shop business as of this date.

Agent of Service of Process. Ken Brown, 3818 S. Broadway, Englewood CO 80113.

ITEM 2

BUSINESS EXPERIENCE

President: Ken Brown

Ken Brown has served as President since February 2006. He is the previous owner of Taste of Philly, Inc. and is the incorporator of Big Philly. Mr. Brown has been in the cheesesteak shop business since December 1993. Mr. Brown's office is located in Denver, Colorado.

Director of Operations: Martin Garvey

Martin Garvey has served as our Director of Operations since February 2006. Mr. Garvey is the owner of Culinary Creations Inc. (Taste of Philly, Highlands Ranch, Colorado) and a partner in Taste of Philly, Inc. Martin has been in the cheesesteak shop business for over eight years. Mr. Garvey's office is located in Denver, Colorado.

Vice President : Charles Chen

Charles Chen has served as our Vice President since February 2006. Mr. Chen is the previous owner of Chucky's Cheesesteak, Inc. (our second store), located in Colorado Springs, Colorado. Mr. Chen has been a shareholder of Big Philly since its inception and is the one of the original two partners in Big Philly. Mr. Chen's office is located in Denver, Colorado.

Secretary: [TBD]

[TBD]

Treasurer: Tina Yee

Tina Yee has served as the Treasurer since February 2006. Ms. Yee has been our CPA since our inception and was our predecessor's CPA since 1999. Ms. Yee has been a CPA since 1986, with an emphasis in the foodservice industry. Ms. Yee's office is located in Englewood, Colorado.

ITEM 3

LITIGATION

No litigation involving a predecessor or a person identified in Item 2 is required to be disclosed in this offering circular.

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ITEM 4

BANKRUPTCY

No person previously identified in Item 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

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ITEM 5

INITIAL FRANCHISE FEE

Initial Franchise Fee - You currently must pay an initial franchise fee of \$5,000 for the first Franchise Agreement that you sign for a traditional location (“**Initial Franchise Fee**”). The Initial Franchise Fee applies against future Franchise Fees, Royalties and Other Royalties that will be due in the future, as defined in the Franchise Agreement. The Initial Franchise Fee is due upon signing of the Franchise Agreement and is not refundable, even if you never incur future Franchise Fees, Royalties and Other Royalties. The Franchise agreement may be terminated in 24 months, under certain terms, in which case we would keep the Initial Franchise Fee. We currently charge \$5,000 for the second and each subsequent effective Franchise Agreement that you sign for a traditional location. You must sign a separate Franchise Agreement for each Restaurant you operate and pay the Initial Franchise Fee in a lump sum when you sign each Franchise Agreement. We fully earn the Initial Franchise Fee when paid; it reserves that area for you and we cannot sell another Taste of Philly store in that area, unless your Franchise Agreement is terminated after 24 months, due to your failure to open a Restaurant in that defined area or lack of diligence to do so. It is not refundable under any circumstances once you sign the Franchise Agreement and make the payment.

We reserve the right to waive or reduce the Initial Franchise Fee either for our employee's or our Franchisees' employees, or other franchise candidates. Because Taste of Philly is a new franchise, we have not yet collected any Initial Franchise Fees, and thus, the range of Initial Franchise Fees collected during the last fiscal year for a Taste of Philly Restaurant franchise was \$0.00 to \$0.00.

ITEM 6

OTHER FEES

| Name of Fee¹ | Amount | Due Date | Remarks |
|--------------------------------|--|--|--|
| Royalty ² | See Schedule A of the Franchise Agreement. | 30 days after the end of the billing period. | Refer to Schedule A for details. |
| Other Royalty ² | 1% of Purchases (see Schedule B of the Franchise Agreement). | 30 days after the end of the billing period. | 1% of all food and paper purchases |
| Monthly Fee ² | \$200 | 30 days after the end of the billing period. | Fixed fee, payable monthly |
| Late Fee ² | 10% | On demand | Due one day after due date |
| Interest on Late Payments | 18% | As Incurred | Due on any Late Payments |
| Transfer | \$5,000 | Before the Transfer | Payable when your interest in the Franchise Agreement, a material portion of the Restaurants assets, or an interest in you is transferred. |
| Renewal Fee | None. | | |
| Training Program Expenses | As incurred. | As Incurred | Expenses associated with travel, meals, and lodging while you attend initial training sessions, as well as any fees charged by test facilities. All of these expenses are paid to third parties. Although we currently do not do so, we may in the future charge a tuition fee for training additional managers. |
| Costs and Attorneys' Fees | As incurred. | As Incurred | Payable only if you do not comply with Franchise Agreement |
| Insurance Premiums/Rent | Varies Under Circumstances | As Incurred | If you do not pay your rent or insurance we can pay them for you and you must reimburse us. Rents include all payments required under your lease. |
| Product and Service Purchases | See Other Royalty. | See "Other Royalty" above. | See "Other Royalty" above |
| Non-competition Violation | See Section 6(h) of the Franchise Agreement. | Upon a violation of the non-competition covenants. | |

| | | | |
|-----------------------------------|-------|--|--|
| Operations Manual Replacement Fee | \$100 | Upon receipt of the replacement copy of the Operations Manual. | If you lose, destroy, or damage your copy of the Operations Manual, you must pay for the replacement copy. |
|-----------------------------------|-------|--|--|

NOTES:

¹ Except as otherwise noted, fees are imposed by us under the Franchise Agreement and collected by and payable to us.

²Cap on Monthly Fee, Royalty and Other Royalty is \$1,500/month in 2006 and can be increased by 3% per year or the CPI, whichever is the greater.

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ITEM 7

INITIAL INVESTMENT

| Investment | Lower Cost Unit ¹ | Higher Cost Unit ¹ | When Due | Whether Refundable | To Whom Payment Is Made |
|---|------------------------------|-------------------------------|-----------------------------------|---|--|
| Initial Franchise Fee, deposit toward future fees | \$5,000 | \$5,000 | At signing of Franchise Agreement | No | A Big Philly Cheesesteak, Inc. |
| Leasehold Improvements ² | \$58,000 | \$120,000 | As incurred | No | Vendor, builder, contractors |
| Equipment, Construction Materials and Signs ^{2,3} | \$56,000 | \$65,000 | As incurred | No | Sign vendor, equipment vendor |
| Cash Register & Credit Card Systems | \$600 | \$1,300 | As incurred | No | vendor |
| Phones, Other Miscellaneous Items | \$600 | \$1,000 | As incurred | No | vendor |
| Security Deposits, Utility Deposits, and Business Licenses | \$3,000 | \$5,000 | As incurred | Deposit, Yes (at end of Lease). License, No | Landlord, utility company, applicable licensing agency |
| Professional, Legal and Architect Fees | \$7,000 | \$15,000 | As incurred | No | Architect, engineers, lawyer, accountant |
| Opening Advertising Campaign | \$0 | \$2000 | As incurred | No | Advertising vendor |
| Real Estate | Note ⁴ | Note ⁴ | | | |
| Opening Inventory | \$2,000 | \$4,000 | As incurred | No | US Foods, Coca Cola, Sams Club, Boulder Water |
| Lease Review Fee ⁵ | \$0 | \$0 | As incurred | No | n/a |
| Additional Funds – 3 months ⁶ | \$10,000 | \$60,000 (note below) | As incurred | No | Employees, suppliers Vendor, utilities, etc. |
| TOTAL ESTIMATED INITIAL INVESTMENT⁷ (excluding real estate costs) | \$142,200.00 | \$290,000.00 | | | |

NOTES:

- Investment figures represent approximate costs based on the size of your Taste of Philly Restaurant location, and the extent of renovations required. A lower cost Restaurant is one that would require fewer leasehold improvements, less seating, and fewer equipment

- expenditures. A higher cost Restaurant might require extensive interior renovations, extensive seating, and additional equipment. It might not be possible to build a Restaurant for the lower total investment cost listed.
2. These amounts might be reduced if the landlord contributes any tenant finish allowance. The amounts include any applicable sales taxes (which are your responsibility). Leasehold improvement costs, including floor covering, wall treatment, counters, ceilings, painting, window coverings, electrical, HVAC, plumbing (including grease trap), carpentry and similar work, and contractor's fees, depend on the site's condition, location, and size, the site's previous use, the build-out required to conform the site for your Restaurant, and any construction or other allowances the landlord grants. Also included is any other interior work required to comply with our requirements, or the requirements of the applicable regulatory agency including, but not limited to, Building Inspectors, Health Inspectors and Fire Inspectors.
 3. Included in the equipment and construction materials are: 1 Sign, Furniture and Fixtures for dining area, and all kitchen equipment and refrigeration equipment.
 4. Real estate costs depend on whether you owned the Franchised Location before signing the Franchise Agreement or instead purchased or leased your Franchised Location. A traditional Restaurant typically is located in an outdoor or enclosed mall or a strip shopping center and generally is from 1,600 to 3,000 square feet. If you lease your Franchised Location, rent is estimated at between \$1,500 to \$4,000 per month depending on the market, Restaurant size, and common area expenses passed through to tenants. Rent for enclosed mall locations generally will be higher.
 5. Once you select a proposed location that we approve, we (or our designated supplier) will review the lease. There is no lease review fee.
 6. This estimates the funds needed to cover your initial expenses for the first 3 months of operation. It includes payroll costs (but not any draw or salary for you), utilities, and miscellaneous supplies. However, this is only an estimate, and it is possible that you will need additional working capital during the first 3 months you operate your Restaurant and for a longer time period after that. This 3-month period is not intended, and should not be interpreted, to identify a point at which your Restaurant will break even. Your costs will depend on your management skill, experience, and business acumen; local economic conditions; the prevailing wage rate; competition; and your Restaurant's sales during the initial period. This also includes expenses associated with travel, meals, and lodging while you attend initial training sessions. All of these expenses are paid to third parties.
 7. This amount does not include real estate costs. We have relied on our principals' many collective years of experience in this business to compile these estimates. Because these figures are only estimates, it is possible both to reduce and to exceed costs in any of the areas listed above. Actual costs will vary depending on physical size and current condition of the premises. In addition, actual costs may substantially exceed these estimates in a few major metropolitan markets. To avoid excessive construction costs, we strongly recommend that you pick contractors carefully by obtaining several competitive bids beforehand. These estimates do not include extensive exterior renovations. You should review all figures in this Item 7 carefully with a business advisor before you decide to purchase the franchise. Except as noted in Item 10, neither we nor our affiliates

offer financing directly or indirectly for any part of the initial investment. The availability and terms of financing depend on the availability of financing generally, your creditworthiness and collateral and lending policies of financial institutions. The estimate does not include any finance charge, interest, or debt service obligation.

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ITEM 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Lease Review. There are no restrictions on who may review your lease for your benefit, however we will want to review the lease as well for our own benefit. We must approve the location you select and we reserve the right to deny approval should it not meet our requirements for size, or for other reasons.

Architectural Services. There are no restrictions concerning who you may use for architectural services, however we must approve any floor plan before it is built and may deny you approval should it not meet our specifications for seating or any other reason.

Food Products, Packaging Materials, Equipment and Fixtures. You must purchase your food products, packaging materials, construction materials, equipment, items bearing the TASTE OF PHILLY® trademark, and other products and materials required for the operation of your restaurant, in accordance with Big Philly's specifications. You must follow all Big Philly standards and specifications for construction, design, and remodeling of your Restaurant premises, food products, packaging, advertising materials, supplies, ingredients, equipment, computerized cash register, fixtures, furnishings, and other items used in operating your Restaurant. If there is no approved or designated supplier for a particular item, you must obtain all products and services from suppliers who meet Big Philly specifications and standards as to quality, composition, appearance, and service and adequately demonstrate their capacity to supply your needs in the quantities, at the times, and with the reliability required for an efficient operation.

At present Big Philly has the following approved suppliers for all items that you will buy: US Foods, Sam's Club and Coca Cola and its affiliated local bottlers. Big Philly negotiates prices, discounts, and other purchase arrangements for the benefit of TASTE OF PHILLY® franchisees, with approved suppliers of food products, packaging materials, construction materials, equipment, items bearing the TASTE OF PHILLY® trademark, and other products and materials required for the operation of your restaurant.

Big Philly negotiates rebates with the approved suppliers, and derives a profit from the rebates. US Food pays Big Philly 1% of all purchases in excess of \$500,000. In the fiscal year ended Dec. 31, 2005, we earned \$1,166.00 from US Foods. Coca Cola pays Big Philly \$0.60 per gallon of soda syrup you buy. In the Fiscal Year ended Dec.31, 2005, Lamb Wesson, through its broker, Kirkpatrick Foods pays Big Philly \$0.03 per pound for the French Fried potatoes you buy. In the Fiscal Year ended Dec 30, 2005, we earned \$229.00 from Lamb Wesson and Kirkpatrick. Tyson Foods pays Big Philly \$3.00 per case for the meatballs you buy. In the Fiscal Year ended Dec. 30, 2005, we earned \$85.00 from Tyson for meatballs. Tyson Foods, thru its Hobby-Whalen pays Big Philly \$3.00 per case for the Chicken Breast you buy. In the fiscal year ended Dec 30, 2005, Big Philly earned \$540.00 for Chicken Breast from Tyson and Hobby-Whalen. Frito Lay pays Big Philly \$0.70 per case for the Chips, Snacks and Gatorade you buy. In the Fiscal year ended Dec 30, 2005 Big Philly earned \$825.00 for these items. Boylan's Soda pays Big Philly \$1.00 per case for the Boylan's Soda you buy. In the Fiscal year ended Dec 30, 2005, Big Philly earned \$425.00 from Boylan's Soda.

We anticipate that 99% of your purchases for food, paper and other commodities will be from our approved supplier, US Food. In the fiscal year ended Dec. 30, 2006, we will earn approximately 25% of our Revenues from this Distributor, and these Brokers and Manufacturers.

Insurance. You must maintain the following types and minimum amounts of insurance coverage, described in greater detail in the Operations Manual: comprehensive general liability – bodily injury and property damage (\$1 million per occurrence), including products/completed operations (\$2 million general aggregate); automobile liability – any owned vehicles, hired and non-owned auto liability (\$1 million per accident, which is a separate limit from the comprehensive general liability limit); workers’ compensation – comply with state and local laws. If you fail to purchase this insurance, we may obtain insurance for you, and you must reimburse us for its cost, which might be higher than the cost of insurance you could obtain for yourself. All insurance policies must name us as additional insureds and give us at least 30 days prior written notice of termination, amendment, or cancellation. You also must provide certificates of insurance evidencing your insurance coverage in compliance with these minimums no later than 10 days before your Restaurant opens and each year when your policies renew.

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 OFFERING CIRCULAR.

| Obligation | Section in Agreement | Item in Offering Circular |
|---|----------------------|---------------------------|
| a) Site Selection and acquisition/lease | 3(a) | Item 7, 12 |
| b) Pre-opening purchases/leases | n/a | n/a |
| c) Site development and other pre-opening requirements | 3(a) | Item 7 |
| d) Initial and ongoing training | 3(a), 3(c) | Item 11 |
| e) Opening | 3(a) | Item 7 |
| f) Fees | 1(a)-(e) | Item 5, 6, 7 |
| g) Compliance with standards and policies/Operations Manual | 3(d) | Item 16 |
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| i) Restrictions on products/services offered | 1(d) | Item 8, 16 |
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| k) Territorial development | 2(a) | Item 12 |
| l) On-going product/service purchases | 1(d) | Item 16 |
| m) Maintenance, appearance and remodeling requirements | 4(t) | |
| n) Insurance | 4(g)-(h) | Item 8 |
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| p) Indemnification | 13 | |
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| r) Records/reports | 4(k) | |
| s) Inspections/audits | 4(j) | |
| t) Transfer | 9(a)-(b) | Item 17 |
| u) Renewal | 6(b) | Item 17 |
| v) Post-termination obligations | 6(h), 6(j) | |
| w) Non-competition covenants | 4(i), 6(j) | |
| x) Dispute resolution | 8 | |
| y) Other (Security Interest) | n/a | n/a |
| | | |

ITEM 10

FINANCING

Neither we nor our affiliates offer, either directly or indirectly, any financing arrangements nor guarantee your note, lease, or other obligations.

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ITEM 11

FRANCHISOR'S OBLIGATIONS

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

Pre-Opening Assistance. As your franchisor, we are contractually responsible for making sure that these services are performed as required under the Franchise Agreement and are accountable to you if they are not properly performed. Before you open a Restaurant, we or our authorized representative will perform for you the services listed below.

1. We will give you specifications for the Restaurant's site if you do not have an approved location when you sign the Franchise Agreement. Approval of any proposed site is based on information you submit in a form sufficient to assess the location. We also will provide certain lease review, lease negotiation, and lease assistance services. (Section 3(a)(i), Franchise Agreement).
2. We will give you advice regarding the required build-out, interior design, layout, floor plan, signs, design, color, and decoration of the Restaurant's premises. (Section 3(a)(ii), Franchise Agreement).
3. We will give you advice regarding Taste of Philly standards and specifications for the equipment, supplies, and materials used in, and the menu items offered for sale by, your Restaurant and the selection of suppliers. You will receive a list of designated and approved suppliers of equipment, supplies, and materials and, if available, a description of any national or central purchase and supply agreements that approved suppliers offer to Taste of Philly Franchisees. (Section 3(a)(iii), Franchise Agreement).
4. We will train you and your employees in Denver, Colorado or at another specified location. (Section 3(c)(i), Franchise Agreement).
5. We will loan you one copy of an Operations Manual (and appropriate updates and revisions), covering the Restaurant's operating and marketing techniques. (Section 3(d), Franchise Agreement).
6. We will provide opening assistance to assist you in opening your Restaurant. (Section 3(a)(vi), Franchise Agreement).
7. We will guide you in implementing advertising and marketing programs, and operating and sales procedures, (Section 3(a)(iv), Franchise Agreement).

Continuing Assistance. During the operation of your Restaurant, we or an authorized representative will perform for you the services listed below.

1. If you request, provide telephone consultation regarding the continued operation and management of your Restaurant and advice regarding Restaurant services, product quality control, menu items, customer relations, and similar matters.

2. Give you access to advertising and promotional materials developed for the Taste of Philly System, the cost of which may be passed on to you. [Section 3, Franchise Agreement]
3. Provide you, as deemed necessary, on-going updates of information and programs regarding menu items and their preparation, the Restaurant business, and related Licensed Methods, including information about special or new services or products developed for the Taste of Philly System and made available to Franchisees. [Section 3, Franchise Agreement].
4. Train replacement or additional managers for your Restaurant (“**Designated Managers**”) during the franchise term. You might have to pay a tuition or fee for training, payable in advance, equal to the current rates. (See Item 6). You must pay all travel and living expenses for your personnel during the training program. The availability of the training programs depends on space considerations and prior commitments to new Taste of Philly Franchisees. (Section 3(b) (viii), Franchise Agreement).

Local Advertising. You must spend at least 2% of Gross Sales each calendar quarter on local advertising. We may require an accounting from you of the amounts spent on local advertising within 10 days following the end of each calendar quarter. We have the right to collect and designate all or a portion of the Local Advertising Fee for either a regional advertising program or all Restaurants operating under the Taste of Philly Marks. All Restaurants spend money for local advertising on an equal percentage basis. You may purchase local advertising separately through local marketing and media sources within a geographical area. Local advertising is your responsibility. (Section 4(v), Franchise Agreement).

Local Advertising Cooperative. You may develop a Local Advertising Cooperative program to permit Taste of Philly Restaurants in a geographic region to establish a local advertising cooperative (“Local Advertising Cooperative”) in accordance with the policies prescribed by us. If you implement such a program, formation of a Local Advertising Cooperative will be at the option of the franchisees of Taste of Philly Restaurants in the geographical area.

Computer Hardware and Software/Cash Register Systems. You must obtain point-of-sale work stations or cash registers for taking customer orders, recording sales, and running local reports. You must use a point-of-sale system or cash register designated in the Operations Manual or elsewhere.

Operations Manuals. Exhibit G to this Offering Circular is the table of contents of the Taste of Philly Operations Manual. **The total number of pages in the Operations Manual is yet to be determined, we haven’t completed the Operations Manual as of this date. This Franchisee acknowledges that he understands that the Operations Manual is not complete.**

Site Selection Assistance. While we may provide certain assistance in finding a site for you, it is your responsibility to locate suitable premises for your Restaurant. We make no guaranty or assurance that any particular site or area in which you have expressed an interest prior to signing your Franchise Agreement will be available, and your obligations under the Franchise Agreement are not conditioned upon securing any particular site or a site in a particular area.

We will make the final determination to approve or reject any site which you propose to us. That determination may be based on various criteria and procedures which may change from time to time in our discretion. If you propose a site and we determine that it does not meet our criteria, it will be rejected, and you will be required to propose an alternative site.

Currently, the procedure we utilize involves us identifying a general area in which you may search for an acceptable location. This search area is simply the area in which you are expected to concentrate your efforts to find an acceptable location and is the grant of, or right to, an exclusive or protected territory. (See Item 12). If a search area is identified, it is identified in order to facilitate the orderly development of the market and for purposes of granting you exclusivity or protection within the area. So long as you are actively and diligently seeking an acceptable location in the identified area, as determined by us in our sole discretion, we will not permit another franchisee to search for a site in that area. However, if you are unable to locate a site that meets Taste of Philly criteria within the initially identified general area within the specified timeframe (which is often determined by the timing of availability of suitable sites in the area and the prospective landlord's leasing deadlines), we will allow another Franchisee to search for a site in the area. In addition, if you are presented with a site that meets Taste of Philly criteria (as determined in our sole discretion) and you refuse to secure the site for any reason (including because you do not agree with lease provisions we negotiate on your behalf as described below), we may present the site to another Franchisee or allow another Franchisee to search for a site in the area. Nothing contained in the Franchise Agreement obligates us to continue to utilize the procedure described above.

Unless we approve otherwise, we will assist in the negotiation of the terms your lease, including review for the benefit of the Taste of Philly system to ensure that it meets minimum Taste of Philly requirements. When a negotiated lease is presented to you, you will have the option of proceeding with or passing on the site. It is important that you understand that you have been advised to obtain the advice of your own professional advisors before you sign a lease. If you do not agree with the lease provisions that our affiliate or representative has negotiated, you need not move forward with the particular site, but you would then have to find another suitable site for the Franchised Location. You must not, without our prior written consent, enter into any contract to purchase or lease the premises you intend to use as a Franchise Location. (See Items 6, 7, 8, and 10). Doing so may result in your being obligated on a lease for premises which we will not allow to be developed as a Taste of Philly Restaurant.

Our lease negotiations and approval of locations are for our sole benefit and are not intended to imply or guarantee the success or profitability of the Franchise Location. You understand that you are not relying on our lease negotiations or site approval for such purposes.

Generally, it may take from 8 to 18 months to find an acceptable site and/or obtain an acceptable lease. If you do not find an acceptable site and/or have an acceptable lease so that you can open your Restaurant within 12 months after signing the Franchise Agreement, we may terminate the Franchise Agreement, unless we determine, in our sole discretion, that you are continuing to actively and diligently obtain a suitable location and/or lease. If we determine at the end of 12 months that you are continuing to actively and diligently obtain a suitable location and/or lease so that you can reasonably be expected to open your Restaurant within 24 months after signing the Franchise Agreement, we will not terminate the Franchise Agreement until the earlier of 24 months after signing the Franchise Agreement or such time as we determine, in our sole discretion, that you are no longer actively and diligently seeking to obtain a suitable location and/or lease.

Schedule For Opening. We estimate that the typical length of time between the date you sign the Franchise Agreement and open your Restaurant is 12 to 24 months. This depends on your ability to locate a site, secure financing, and obtain a lease; the extent to which you must upgrade or remodel an existing location; the delivery schedule for equipment, inventory, and supplies; and

completing training. You must open your Restaurant within 12 months after you sign the Franchise Agreement unless at that time we determine, in our sole discretion, that you are continuing to actively and diligently obtain a suitable location and/or lease so that you can reasonably be expected to open your Restaurant within 24 months. In that case, we will not terminate the Franchise Agreement until the earlier of 24 months after signing your Franchise Agreement or such time as we determine, in our sole discretion, that you are no longer actively and diligently seeking a suitable location and/or lease.

Additional Training Information. After you sign the Franchise Agreement and no later than 60 days before you open your Restaurant, you (or your managing owner) and your Designated Manager must attend and satisfactorily complete the initial Taste of Philly training program. There is no charge for up to 3 individuals, although you must pay travel and living expenses, wages, and applicable test facility fees for all employees who attend the training session. Training may be conducted in Denver, Colorado, a certified regional training store, or a combination of both. (Section 3(c)(i), Franchise Agreement).

We may require you (or your managing owner) or your Designated Manager to attend, at your expense (although without a tuition charge), meetings, seminars, or conferences presented to discuss topics such as advertising programs, new operations methods, training, management, sales, or sales promotion. Attendance at quarterly market meetings is mandatory. You need not attend any other training programs or seminars more than 4 times a year or for more than 3 days at any one seminar. (Section 3(c)(iii), Franchise Agreement).

Currently, the following training is provided:

| Subject ¹ | Hours of Classroom Training | Instruction Material | Hours of On the Job Training and Activities | Hours of Homework | Instructor ² |
|--|-----------------------------|--|---|-------------------|---------------------------|
| Position or Hourly Task | 0 Hours | On the Job Training | 40 Hours | 0 Hours | Big Philly Representative |
| Management of Daily Operations | 15 Hours | On the Job Training | 16 Hours | 0 Hours | Big Philly Representative |
| Customer Service | 4 Hours | On the Job Training | 16 Hours | 0 Hours | Big Philly Representative |
| Point-of-Sale System Training ³ | 15 Hours | Point-of-Sale Workbook, Instructional Material from Vendor | To be determined by vendor and Franchisee | 0 Hours | Vendor Representative |

¹ These topics are interwoven throughout the 24 days of on-the-job training.

² To be determined.

³ Applicable POS vendor representative.

ITEM 12

TERRITORY

You do have an exclusive or protected territory. Your specific area is described in Exhibit 1 of your Franchise Agreement. We may not establish other franchised and company-owned units in that territory. Under the Franchise Agreement, you must operate your Restaurant at a specific location identified in the Franchise Agreement. That location will be a specific numbered street or mail address. You may not conduct business from any other site, including unapproved catering and delivery services. If the location has not yet been identified when we and you sign the Franchise Agreement, you will look for an acceptable site after signing the Franchise Agreement. We must approve the site before you sign a lease.

You will propose a location to us for approval. If a proposed site is not approved, you must propose a new site. The site you propose for approval may be a site you present to us, or a site that has been presented to you by our authorized representatives. We may approve or disapprove the proposed location according to the terms of the Franchise Agreement and then-current Taste of Philly site selection and approval criteria and procedures. We may use various criteria and procedures to evaluate a location you propose, which may change from time to time. Currently, the procedure involves identifying a general area (the size of which will depend upon the characteristics of the particular market involved) in which you may search for an acceptable location. This area is the area in which you are required to concentrate your efforts to find an acceptable location and is the grant of, or right to, an exclusive or protected territory.

Once you select and propose a site that we approve it will be the Franchised Location. There is no minimum sales quota. You may not relocate the Restaurant without our prior express written consent. You may advertise your Restaurant and solicit customers from that area only and serve all customers who enter your Restaurant. We do not grant you any options or similar rights to acquire additional franchises in any area contiguous to your Restaurant.

We retain the right under the Franchise Agreement: (1) to use, and to license others to use, the Marks and Licensed Methods to operate Taste of Philly Restaurants at any location other than your Franchised Location and in your area; (2) to use the Marks and Licensed methods with services and products, in promotional and marketing efforts or with related items, or in alternative channels of distribution, without regard to location; (3) to use and license the use of alternative proprietary marks or methods for the operation of restaurants or other businesses under names that are not the same as or confusingly similar to the Marks, different from Taste of Philly Restaurants; and (4) to engage in any other activities not expressly prohibited in the Franchise Agreement.

ITEM 13

TRADEMARKS

Under the Franchise Agreement, we grant you the non-exclusive right to use the Marks to operate your Restaurant.

You must follow our rules when you use the Marks. The Marks are the only Marks you may use to identify your restaurant. You must identify yourself as the independent owner of the Restaurant as we require. You may not use any Mark as part of any corporate or trade name; with any prefix, suffix, or other modifying words, terms, designs, or symbols (other than logos licensed to you); as part of any domain name or electronic address you maintain on the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system; to advertise unauthorized services or products; or in any other manner not expressly authorized in writing.

You must modify or discontinue your use of a Mark, at your own expense, if we so require. We need not reimburse you for your direct expenses of changing the Restaurant's signs, for any loss of revenue due to any modified or discontinued Mark, or for your expenses of promoting a modified or substitute mark.

You must immediately notify us of any apparent infringement or challenge to your use of any Mark and may not communicate with any person other than us or our counsel regarding this matter. You may not settle any claim without our prior express written consent. We may take the action we collectively deem appropriate and control exclusively any litigation, USPTO proceeding, or other administrative proceeding arising out of any infringement, challenge, or claim.

We are not contractually obligated to protect you against claims of infringement or unfair competition regarding your use of the Marks but might do so when, in the opinion of our legal counsel, your rights require protection. In that case, we pay all costs, including attorneys' fees and court costs, associated with any litigation required to defend or protect your authorized use of the Marks. We will not pay any of your attorneys' fees if you hire your own attorney. You must cooperate with us in any litigation.

We do not know of any infringing uses or superior prior rights that could materially affect your use of the Marks.

ITEM 14

PATENTS COPYRIGHTS AND PROPRIETARY INFORMATION

No patents are material to the franchise. The Taste of Philly Operations Manual, recipes, and related materials are considered proprietary and confidential, to be used only as described in the Franchise Agreement. We claim copyrights in the Operations Manual, advertising and marketing materials, and similar items used in operating the franchise. We have not registered these copyrights with the United States Registrar of Copyrights but need not do so to protect them. You may use these items only as specified while operating your franchise (and must stop using them if so directed).

There currently are no effective determinations of the Copyright Office (Library of Congress) or any court regarding copyrighted materials. We do not actually know of any infringing uses that could materially affect your using the copyrighted materials in any state. We need not protect or defend copyrights, although we intend to do so if in the System's best interests. We may control any action we choose to bring, even if you voluntarily bring the matter to our attention. We need not participate in your defense or indemnify you for damages or expenses in a proceeding involving a copyright.

The Operations Manual and other materials contain Taste of Philly confidential information. This information may include site selection criteria; methods, formats, specifications, standards, systems, recipes, procedures, sales and marketing techniques, knowledge, and experience in developing and operating Restaurants; marketing and advertising programs for Restaurants; knowledge of specifications for and suppliers of certain equipment, products, materials, and supplies; and knowledge of the operating results and financial performance of Restaurants other than your Restaurant.

All ideas, concepts, techniques, or materials concerning a Taste of Philly Restaurant, whether or not protectable intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the Taste of Philly System and works made-for-hire for Taste of Philly. To the extent any item does not qualify as a "work made-for-hire" for Taste of Philly, you assign ownership of and all related rights to that item to Taste of Philly and must sign whatever assignment or other documents Taste of Philly requests to show its ownership or to help Taste of Philly obtain intellectual property rights to the item.

You may not use confidential information in an unauthorized manner. You must take reasonable steps to prevent its improper disclosure to others and use non-disclosure agreements with those having access.

ITEM 15

OBLIGATION TO PARTICIPATE

Under the Franchise Agreement, you personally (or, if you are not an individual, your managing owner) or your Designated Manager must devote full time and best efforts to manage and operate your Restaurant, and you (or your managing owner) and your Designated Manager must successfully complete our mandatory initial training program. Although we recommend it, you (or your managing owner) need not participate personally in the Restaurant's on-site operation. In that case, however, your Designated Manager must manage the Restaurant's daily operations on a full-time basis.

If you are a corporation, limited liability company, or partnership, we do not require your Designated Manager to have an equity interest in you. However, your Designated Manager and all of your officers, directors, partners, shareholders, and members (and, if you are an individual, your spouse) must agree to be bound by the nondisclosure provisions of the Franchise Agreement.

We require each of your owners (and their spouses) to sign the Guaranty and Assumption of Franchisee's Obligations (which is attached to the Franchise Agreement) personally assuming and agreeing to perform all obligations of the Franchisee and to be bound by the terms of the Franchise Agreement. Your landlord might require you personally to guaranty the tenant's obligations under your lease.

We make no other recommendations and have no other requirements regarding employment or other written agreements between you and your employees.

ITEM 16

RESTRICTIONS ON WHAT THE FRANCHISE MAY SELL

You must offer for sale and sell all of the products, and only those products, that we approve or specify for the Restaurant. You may not offer for sale any products that we have not approved. (See Items 8 and 9). We have the right to change the types of authorized products periodically. There are no limits on our right to do so.

We impose no other restrictions on goods or services you offer or the customers to whom you may sell.

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ITEM 17

RENEWAL TRANSFER TERMINATION AND DISPUTE RESOLUTION

This table lists certain important provisions of the Franchise Agreement and related agreements. You should read these provisions in the agreements attached to this Offering Circular.

| Provision | Section in Agreement | Summary |
|---|-----------------------------|---|
| a. Term of the franchise | 6(b) | 5 years. |
| b. Renewal or extension of the term | 6(b) | Automatic renewal for an additional 5 years. |
| c. Requirements for you to renew or extend | 6(b) | None. Automatic. |
| d. Termination by you | 6(b) | 6 months prior written notice to expiration of then current term. |
| e. Termination by us without cause | 6(b) | 6 months prior written notice to expiration of then current year term. |
| f. Termination by us with cause | 6(c)-(d) | See Section 6(c)-(d) of the Franchise Agreement. |
| g. "Cause" defined- defaults which can be cured | None | |
| h. "Cause" defined – defaults which cannot be cured | None | |
| i. Your obligations on termination/on renewal | 6(b), 6(e)-(k) | See Sections 6(b) and 6(e)-(k) of the Franchise Agreement. |
| j. Assignment of Contract by us | 9(c) | Big Philly may transfer and assign without Franchisee's consent. |
| k. Our approval of transfer by you | 9(a)-(b) | See Section 9(a)-(b) of the Franchise Agreement. |
| l. Conditions for our approval of transfer | 9(a)-(b) | See Section 9(a)-(b) of the Franchise Agreement. |
| m. Our right of first refusal to acquire your business | 9(a) | Right of first approval must be offered, in writing, to Big Philly. |
| n. Our option to purchase your business | 6(f) | Big Philly may repurchase the Restaurant at fair market value within 30 days of termination. |
| o. Your death or disability | 9(d) | Upon death or permanent disability, your interests in the Franchise Agreement may be transferred to an approved third party. |
| p. Non-competition covenants during the term of the franchise | 4(i); | Franchisee will not own, operate or assist another to own or operate a similar business during the term of the Franchise Agreement. |
| q. Non-competition covenants after the | 6(h), 6(j) | Same as above, for 3 years after termination. |

| | | |
|---|-------|--|
| franchise is terminated or expires | | |
| r. Modification of the agreement | 10(a) | Franchisee agrees to all modifications and amendments. |
| s. Integration/merger clause | n/a | None. |
| t. Dispute resolution by arbitration or mediation | 8 | To be administered by an arbitration agency, e.g., American Arbitration Association. |
| u. Choice of forum | 8(d) | Denver, CO |
| v. Choice of law | 7(a) | State of Colorado. |
| w. OTHER | None | none |

ITEM 18

PUBLIC FIGURES

We currently do not use any public figures to promote our franchise.

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ITEM 19

EARNINGS CLAIMS

We do not furnish, or authorize our sales persons to furnish any oral or written information concerning the actual or potential sales, costs, income, or profits of any Taste of Philly Franchise or company-owned units. Actual results vary from unit to unit and we cannot estimate the results of any particular franchise.

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ITEM 20

LIST OF OUTLETS

FRANCHISED RESTAURANT STATUS SUMMARY FOR YEAR 2005

| State | Transfers | Cancelled or Terminated | Not Renewed | Reacquired by Franchisor | Left the System/Other | Total from Left Columns | Franchises Operating at Year End |
|----------|-----------|-------------------------------|----------------|--------------------------------|--------------------------|----------------------------------|--|
| Colorado | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Only include open and operating Restaurants that were cancelled or terminated by our affiliates.

STATUS OF COMPANY OWNED RESTAURANTS FOR YEAR 2005

| State | Restaurants Closed During Year | Restaurants Opened During Year | Total Restaurants Operating At Year End |
|----------|-----------------------------------|-----------------------------------|--|
| Colorado | 0 | 0 | 0 |

PROJECTED OPENINGS FOR 2006

| State | Franchise Agreements Signed But Restaurants Not opened As of December 31, 2005 | Projected New Franchised Restaurants In 2006 | Projected Company Owned Restaurants In 2006 |
|----------|---|---|---|
| Colorado | 0 | 6 | 0 |

ITEM 21

FINANCIAL STATEMENTS

Attached as Exhibit C to Franchise Offering Circular

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ITEM 22

CONTRACTS

The following agreements are exhibits to this Offering Circular:

1. Franchise Agreement
2. Disclosure Acknowledgement Statement
3. Consent to Transfer
4. Renewal Addendum
5. Receipt of Offering Circular
6. Guarantee and Assumption of Franchisee's Obligations

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Item 23
RECEIPT

THIS OFFERING CIRCULAR SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF WE OFFER YOU A FRANCHISE, WE MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- A. THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- B. TEN BUSINESS DAYS (AND 14 CALENDAR DAYS IN ILLINOIS) BEFORE SIGNING OF A BINDING AGREEMENT; OR
- C. TEN BUSINESS DAYS (AND 14 CALENDAR DAYS IN ILLINOIS) BEFORE ANY PAYMENT TO US.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF WE DO NOT DELIVER THIS OFFERING CIRCULAR 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.

The undersigned has received a Uniform Franchise Offering Circular issued on **Oct 25, 2006**. This Offering Circular included the following Exhibits:

- A. Franchise Agreement
- B. List of Franchisees
- C. Financial Statements
- D. Table of Contents of Operations Manual
- E. Disclosure Acknowledgment Statement
- F. Consent to Transfer
- G. Renewal Addendum
- H. Receipt of Offering Circular
- I. Guaranty and Assumption of Franchisee's Obligations
- J. Confidentiality and Non-Compete Agreement

Date

Prospective Franchisee

Print Name

**EXHIBIT A
(TO FRANCHISE OFFERING CIRCULAR)**

FRANCHISE AGREEMENT

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FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter referred to as this "Agreement") is made this ____ day of _____, 2007, (the "Effective Date") between A Big Philly Cheesesteak, Inc. (hereinafter referred to as "Big Philly"), a Colorado S corporation with a principal office at 2030 Martin Luther King Blvd., Denver, Colorado, and the person or entities listed as the Franchisee on the signature block of this Agreement (hereinafter referred to as "Franchisee"), for a TASTE OF PHILLY® restaurant (hereinafter referred to as the "Restaurant") to be located at _____
are the parties to this agreement (hereinafter referred to individually as a "Party" and collectively as the "Parties").

RECITALS

- 1) Big Philly is the creator and owner of a proprietary business system (hereinafter referred to as the "System") for operating restaurants that sell Philly cheesesteak sandwiches and other food products.
- 2) Franchisee would like to obtain access to the System, and acknowledges that the System contains confidential and proprietary information for the establishment and operation of the Restaurant, which Big Philly will grant to Franchisee under the terms and conditions of this Agreement. Franchisee recognizes and acknowledges the benefits to be derived from being identified and associated with Big Philly, and being able to utilize the Restaurant system and concepts, and therefore desires to establish a Restaurant at an approved location. Big Philly is willing to grant to Franchisee the right to operate a Restaurant under the terms and conditions in this Agreement.
- 3) Big Philly operates the System under the trade name and service mark TASTE OF PHILLY®. The System also includes the trademark TASTE OF PHILLY®, other trademarks, trade names, service marks, the slogan "Home of the Real Philly Cheesesteak", other slogans, commercial announcements, related insignia, and logos (hereinafter referred to as the "Marks").
- 4) Big Philly is the owner of goodwill associated with the Marks, food preparation techniques and procedures, recipes, formulas, trade dress, business methods, business forms, trade secrets, knowledge, techniques, and developments.
- 5) This agreement does not grant the Franchisee the right to own or purchase additional TASTE OF PHILLY® restaurants. Big Philly has granted, and will continue to grant, access to the System to others to establish and operate TASTE OF PHILLY® restaurants. Franchisee acknowledges Big Philly does not have to sell Franchisee additional franchises or consent to Franchisee's purchase of existing franchises.
- 6) Franchisee acknowledges that the only consideration Big Philly receives from Franchisee for granting Franchisee the license to use the System consist of the Monthly Fee, the Food Royalty Fee, and the Other Royalty Fee outlined in Section 1 of this agreement, and performance of Franchisee's other promises in this Agreement.
- 7) Franchisee acknowledges that Franchisee personally received Big Philly's Franchise Offering Circular and its exhibits, including this Agreement (hereinafter referred to as the "Offering Circular"), at or prior to Franchisee's first personal meeting with an authorized Big Philly representative and at least ten (10) business days before

Franchisee signed this Agreement, and Franchisee signed a Receipt for the Offering Circular. Franchisee represents that Franchisee carefully reviewed the Offering Circular and had enough time to consult with a lawyer, accountant, consultant, or other professional advisor, if Franchisee wanted, and Franchisee understand and agree to be bound by the terms, conditions, and obligations of this Agreement.

- 8) Franchisee also represent that Franchisee had a full opportunity, with the help of a professional advisor if Franchisee used one, to ask Big Philly and Big Philly's representatives, all appropriate questions and Big Philly and Big Philly's representatives answered all Franchisee's questions to Franchisee's satisfaction, except questions on the subject of potential earnings, discussed in the following paragraph. If Franchisee did not use a professional advisor, Franchisee represents that Franchisee is satisfied relying on Franchisee's own skill, education and experience in evaluating the merits of a franchise offering.
- 9) Franchisee represents that no representative of ours made any oral, written or visual representation or projection to Franchisee of actual or potential sales, earnings, or net or gross profits. Franchisee also acknowledges that no representative of ours has made any statements that are contrary to, or different from, the information contained in the Offering Circular.
- 10) Franchisee represents that Franchisee understands the risks of owning a business and specifically the risks involved with owning and operating a TASTE OF PHILLY® restaurant.
- 11) Franchisee represents that Franchisee understands that operating a restaurant is a labor and capital intensive business with risk involved. Franchisee acknowledges that the successful operation a TASTE OF PHILLY® restaurant depends in large part on diligent labor, ability, and efforts of Franchisee and Franchisee's employees.
- 12) Franchisee represents that Franchisee understands that there are many factors beyond the control of either party, including but not limited to competition, demographic patterns, acts of God, consumer trends, interest rates, economic conditions, government policies, weather, local laws, rules and regulations, legal claims, inflation, labor strife, lease terms, market conditions, and other conditions and factors which may be difficult to identify or anticipate.
- 13) Franchisee acknowledges that Franchisee is subject to all federal, state and local laws relating to the franchise business.
- 14) Franchisee represents that Franchisee understands that the Restaurant may fail, and owning and operating a TASTE OF PHILLY® restaurant does not guarantee success, and Franchisee may lose all or a substantial amount of money or investment in the event of failure.

AGREEMENT

Acknowledging the above recitals, the Parties hereby agree to the following terms:

Section 1: Fees. When Franchisee signs this Agreement, Franchisee will pay Big Philly the fees below, which Big Philly will not refund except as specifically provided for below.

- a. Franchisee shall pay Big Philly a non-refundable amount of \$200.00 a month (hereinafter referred to as the “Monthly Fee”) once the Restaurant is open for business and for the duration of the term of this Agreement.
- b. In addition to the Monthly Fee, Franchisee shall pay Big Philly a royalty on certain items that Big Philly has negotiated deviated pricing, with said Food Items set forth in Schedule A attached hereto (the “Food Royalty Fee”). Big Philly has the right, at their sole discretion, to amend or change the items listed in Schedule A at any time.
- c. In addition to the Monthly Fee and the Food Royalty Fee, Franchisee shall pay Big Philly a royalty on the Other Items set forth in Schedule B attached hereto (hereinafter referred to as the “Other Royalty Fee”). Currently, the Other Royalty Fee is one percent on all purchases on food and paper items, however Big Philly has the right, at their sole discretion, to amend or change the Other Royalty Fee at any time.
- d. Franchisee must purchase all items listed on Schedules A and B, and all other food and paper items, from the approved vendors set forth in Schedule C attached hereto (the “Approved Vendors”). No other vendor shall be used without the expressed written consent of Big Philly for any food item, paper item, or any other item. Franchisee shall only buy the items made available to them by these vendors that are part of Taste of Philly Order Guide. Franchisee may not make any substitutions. At Big Philly’s discretion, changes may be made in items on the Taste of Philly Order Guide, and the items which generate fees may change. Additional fees may be added however the Restaurant shall not be charged more than \$1,500/month in Monthly Fees, Food Royalty Fees and Other Royalty Fees in 2006. In each subsequent year the maximum Monthly Fee, Food Royalty Fee and Other Royalty Fee shall be increased by up to 3% or by the Consumer Price Index, whichever is the greater. Franchisee acknowledges Big Philly’s right to collect fees, rebates, and marketing allowances from food distributors, food manufacturers, food brokers, or other vendors or suppliers, as well as from Franchisee. Franchisee shall have no claim for offset or a reduction in fees with respect to any fees Big Philly may negotiate from any other party.
- e. If any of the Franchisee’s payments are more than one (1) week late, Franchisee will pay a late fee equal to ten percent (10%) on any Monthly Fee, Food Royalty Fee, Other Royalty Fee, or other charges owed to Big Philly under this Agreement. Furthermore, Franchisee will pay interest on all past-due accounts at up to eighteen percent (18%), but the late fee and interest will not be greater than the maximum rate allowed by law in the state in which a Big Philly principal office is located or the Restaurant is located, whichever is higher.

Section 2: Grant of Franchise. Big Philly grants to Franchisee, and Franchisee accepts from Big Philly, during the term of this Agreement:

- a. exclusive territorial rights in connection with the operation of the Restaurant at one (1) location at a site Big Philly and Franchisee approved, and complete with radius restrictions which limit where Big Philly can license or open another TASTE OF PHILLY® restaurant (hereinafter referred to as the “Exclusive Territory”, as noted and described in Exhibit 1 herein).
- b. continued access to the System, including the loan of a copy of the Operations Manual;

- c. continued access to information pertaining to new developments, improvements, techniques and processes in the System; and
- d. a limited, non-exclusive license to use the Marks in connection with the operation of the Restaurant at one (1) location at a site Big Philly and Franchisee approved.
- e. Franchisee agrees at all times to faithfully, honestly and diligently to perform its obligations under this Agreement, to use best efforts to promote its Restaurant, and not to engage in any other business or activity that conflicts with the operation of this Restaurant in compliance with this agreement. Franchisee agrees to utilize the Marks and System to operate all aspects of Franchisee's Restaurant in accordance with the methods and systems developed and prescribed from time to time by Big Philly, all of which are part of the System. Franchisee's Restaurant shall offer all products and services designated by Big Philly. Franchisee shall implement any additions and changes to the products and services offered by its Restaurant that Big Philly requires.

Section 3: Big Philly Obligations. Big Philly will provide Franchisee during the term of this Agreement:

- a. **Development Assistance** – To assist Franchisee in establishing the Restaurant, Big Philly and/or its designated representatives shall provide the following:
 - i. Assistance related to accepting a site for the Restaurant, although Franchisee acknowledges that Big Philly has no obligation to select or acquire a site on behalf of Franchisee. Big Philly's assistance will consist of, at a minimum, providing general criteria for a satisfactory site, determining whether a proposed site fulfills the requisite criteria prior to formal acceptance of a site selected by Franchisee, and (at Big Philly's election) designating a real estate broker whom Franchisee may use to contact the landlord of a proposed site. Site selection, acquisition, and development shall be the sole obligation of Franchisee, except as set forth in this Agreement or any other written agreement executed by Big Philly. Franchisee acknowledges that Big Philly is under no obligation to provide additional site selection services other than as set forth in a written, executed agreement and that Big Philly's acceptance of the site does not imply or guarantee the success or profitability of the site in any manner whatsoever.
 - ii. Standards and specifications for the build-out, interior design, layout, floor plan, signs, designs, color, and décor of the Restaurant.
 - iii. Advice regarding the standards and specifications for the equipment, supplies, and materials used in, and the menu items offered for sale by, the Restaurant and advice regarding selecting suppliers for and purchasing such items.
 - iv. Guidance in implementing advertising and marketing programs, and operating and sales procedures.
 - v. The initial training in accordance with "Training Assistance," below.
 - vi. Opening assistance consisting of one (1) or more representatives on site at the Restaurant for not less than five (5) days to assist Franchisee in opening the Restaurant; provided, however, that Franchisee shall hire and be exclusively responsible for the training, compensation, and control of its employees.
 - vii. One (1) copy of the Operations Manual, as described in "Operations Manual," below, which shall be loaned to Franchisee during the term of this agreement.

- b. **Operating Assistance** – Big Philly agrees that, during Franchisee’s operation of the Restaurant, Big Philly, and/or its designated representatives shall make available to Franchisee the following assistance:
- viii. Training and instruction in all operational matters of the System, and periodic assistance to help the new Franchisee establish a new Restaurant.
 - ix. Periodic consultation and assistance to the Franchisee regarding new developments and techniques in the System.
 - x. Reasonable access to personnel whom the Franchisee may call for assistance regarding operational matters.
 - xi. Upon the reasonable request of Franchisee, telephone consultation regarding the continued operation and management of a Restaurant and advice regarding Restaurant services, product quality control, menu items, and customer relations issues.
 - xii. On-going updates of information and programs regarding menu items and their preparation, the Restaurant business, and related System, including information about special or new services or products developed and made available to franchisees of Big Philly.
 - xiii. The initial training program to assist in the replacement or addition of Designated Managers (as defined below) during the term of this Agreement. Although Big Philly does not currently charge a tuition or fee, Big Philly reserves the right to charge a tuition or fee, payable in advance, commensurate with the then-current published prices of Big Philly for such training. Franchisee shall be responsible for all travel and living expenses incurred by its personnel during the training program.
 - xiv. Access to advertising and promotional materials developed by Franchisor and its affiliates.
- c. **Training Assistance** – Big Philly agrees to provide training assistance to the Franchisee in the following manner:
- i. An Initial Training Program for the Franchisee (the "Initial Training Program"). This program must be attended and successfully completed by the Franchisee (or, if Franchisee is a corporation, partnership, or limited liability company, its managing shareholder, partner, or member (“Managing Owner”)) and the person designated by Franchisee to assume primary responsibility for managing the Restaurant (“Designated Manager”). The Initial Training Program is offered at one of the Big Philly’s designated training facilities. The Managing Owner must own at least fifty-one percent (51%) of the voting and economic interest of the franchisee entity. Franchisee acknowledges that successful completion of the initial training program will require, among other things, that each attendee be able to demonstrate that he/she can read, write, and converse in English. Franchisee agrees that the Designated Manager will be fluent in the English language. Up to three (3) individuals (including the Managing Owner and Designated Manager) are eligible to participate in Big Philly’s initial training program without paying any tuition or fee. Big Philly may require Franchisee (or its Managing Owner) and/or the Designated Manager (each a “Trainee”) to pass certain tests prior to attending certain portions of the training program. These tests include the

English competency test, which each Trainee must have passed before he/she begins training. Big Philly may require a Trainee to take these tests at facilities operated by Big Philly or at test facilities operated by independent third parties. Any costs related to taking these tests, including travel, lodging or test administration fees charged by third parties, will be borne by Franchisee. Franchisee shall be responsible for any and all travel and living expenses incurred in connection with attending the training program as well as wages or salaries, if any, of the person(s) receiving training or undergoing testing. Franchisee (or its Managing Owner) and the Designated Manager must successfully complete the initial training program before Franchisee begins operating the Restaurant. Big Philly reserves the right to waive all or a portion of the training program or alter the training schedule.

- ii. Franchisee (or its Managing Owner) and its Designated Manager may request additional training during the initial training program, to be provided at no additional charge, if Franchisee (or its Managing Owner) and the Designated Manager do not feel completely trained in the operation of a Taste of Philly Restaurant. However, if Franchisee (or its Managing Owner) and the Designated Manager satisfactorily complete Big Philly's initial training program, and do not inform Big Philly in writing at the end of the initial training program that Franchisee (or its Managing Owner) and the Designated manager do not feel completely trained in the operation of a Taste of Philly Restaurant, then Franchisee will be deemed to have been trained sufficiently to operate a Taste of Philly Restaurant.
 - iii. Big Philly reserves the right to conduct Additional Training Programs or seminars at locations to be determined by Big Philly to discuss relevant business trends and share new information relating to the Restaurant business (the "Additional Training Programs"). Attendance at semi-annual market meetings by Franchisee (or its Managing Owner) or its Designated Manager is mandatory. Big Philly shall not require Franchisee to attend any other on-going training programs or seminars more than four (4) times a year. Each mandatory training program and seminar shall not last more than three (3) days. All such mandatory training will be offered without tuition or a fee; provided, however, Franchisee will be responsible for any and all transportation and living expenses incurred in attending such additional training programs or seminars.
- d. **Operations Manual** – Big Philly agrees to loan to Franchisee one (1) or more manuals, technical bulletins, or other written or videotaped materials (collectively referred to as "Operations Manual") covering the Restaurant's operating and marketing techniques and any product(s) applicable to the Restaurant.
- i. Franchisee agrees that it shall comply with the Operations Manual, as amended from time to time, as an essential part of its obligations under this Agreement. Franchisee shall at all times be responsible for ensuring that its employees and all other persons under its control comply with the Operations Manual in all respects. Franchisee shall not duplicate the Operations Manual nor disclose its contents to persons other than employees or officers who need the information to perform their jobs. If Franchisee's copy of the Operations

Manual is lost, destroyed, or significantly damaged, Franchisee agrees to obtain a replacement copy from Big Philly at Big Philly's then applicable charge. The Operations Manual constitutes a confidential trade secret and will remain Big Philly's property.

- ii. At Big Philly's option, Big Philly may post some or all of the Operations Manual on a restricted website, intranet, or extranet to which Franchisee will have access. (For purposes of this Agreement, "website" means an interactive electronic document contained in a network of computers linked by communications software, including, without limitation, the Internet and World Wide Web home pages.) If Big Philly does so, Franchisee agrees to monitor and access the website, intranet, or extranet for any updates to the Operations Manual. Any password or other digital identification necessary to access the Operations Manual on a website, intranet or extranet will be deemed to be Big Philly's proprietary information.
- iii. Changes to Operations Manual. Big Philly reserves the right to revise the Operations Manual from time to time as it deems necessary to update operating and marketing techniques or standards and specifications in any manner, including updates contained in monthly newsletters. Franchisee, within thirty (30) days after receiving any updated information, shall in turn update its copy of the Operations Manual as instructed by Big Philly and conform its operations with the updated provisions. Franchisee acknowledges that the master copy of the Operations Manual maintained by Big Philly at its principal office controls in the event of a dispute over its contents.
- iv. Franchisee will make, at Franchisee's sole expense, changes necessary to conform to the Operations Manual, including, but not limited to, repairing items not in good condition or not functioning properly, and upgrading and remodeling the Restaurant, including leasehold improvements, furniture, fixtures, equipment, and signs. Franchisee acknowledges these requirements are necessary and reasonable to preserve the identity, reputation, and goodwill Big Philly developed and the value of the franchise. Franchisee agrees to make the repairs and the updates, and pay all reasonable and required costs within a reasonable time period as Big Philly may establish. Franchisee will adhere to quality control standards Big Philly prescribes in the Operations Manual or elsewhere with respect to the character or quality of the products Franchisee will sell or the services Franchisee will perform in association with the Marks.
- v. If Franchisee fails to operate the Restaurant in accordance with the Operations Manual, Big Philly will give notice of such failure and give Franchisee reasonable time to come into compliance with the Operations Manual. Franchisee, upon receipt of said notice, shall immediately demonstrate that he is taking the necessary steps to comply and is diligently attempting to be complaint in the minimum amount of time that said compliance would normally require. If Franchisee fails to comply, or fails to demonstrate such diligence, then Big Philly may terminate this Agreement according to the provisions of Sections 6(c) and 6(d) of this Agreement. In lieu of termination, Big Philly may impose a fine for each day the Restaurant is not in compliance

with the Operations Manual to compensate Big Philly for damages and for costs Big Philly incurs to compel Franchisee to bring the Restaurant into compliance.

- vi. The Operations Manual, as amended from time to time, is intended to further the purposes of this Agreement and is specifically incorporated into this Agreement.

Section 4: Franchisee Obligations. Franchisee agrees to do the following:

- a. Franchisee will operate the Restaurant in compliance with all applicable laws and governmental regulations, including, but not limited to, laws concerning labor, employment, tax, health, and safety.
- b. Franchisee will obtain and keep, at the Franchisee's expense, any and all permits, licenses, registrations, consents, or certifications necessary for leasing, constructing, or operating the Restaurant. Upon request, Franchisee agrees to forward all such documentation to Big Philly.
- c. Franchisee will be solely responsible for all costs of building and operating the Restaurant, including, but not limited to, sales or use tax, goods and services tax, gross receipts tax, excise tax or other similar tax ("Sales Tax"), other taxes, fees, customs, stamp duty, other duties, governmental registrations, construction costs and permits, equipment, furniture, fixtures, signs, advertising, insurance, food products, labor, utilities, and rent. Any payment by Big Philly of any of the foregoing costs shall be reimbursable by Franchisee to Big Philly.
- d. Franchisee agrees to register to collect and pay Sales Taxes prior to opening the Restaurant. Franchisee also agrees to maintain these registrations during the term of the Agreement.
- e. Franchisee will recruit and hire all Restaurant employees. Franchisee is also responsible for training and supervising Restaurant employees. In addition, Franchisee from time to time will be responsible for the termination of Restaurant employees.
- f. Franchisee shall be solely responsible for setting wages and paying all wages and related amounts, including but not limited to any employment benefits, unemployment insurance, withholding taxes or other sums.
- g. Franchisee shall be solely responsible for obtaining and maintaining all insurance necessary to run the Restaurant, including but not limited to, statutory worker's compensation in the minimum amount required by law, comprehensive liability insurance, including products liability coverage, in the minimum amount of \$2,000,000, and business vehicle coverage, including owned vehicle liability and non-owned vehicle liability coverage, in the minimum of \$1,000,000. Franchisee shall maintain all insurance policies in force for the mutual benefit of the Parties. All insurance policies must name Big Philly as additional insured and give Big Philly at least 30 days prior written notice of termination, amendment, or cancellation.
- h. From time to time, Big Philly may be required to modify or increase the insurance requirements as set forth in this agreement, and Franchisee agrees to comply with any new requirements.
- i. Franchisee, and all who sign the Franchise Agreement and Guaranty, including their spouses (individually, "Bound Party," and collectively, "Bound Parties") agree not to

own or operate, or assist another person to own or operate, any other business anywhere, directly or indirectly, during the term of this Agreement, which is identical with or similar to the business reasonably contemplated by the Agreement.

Franchisee and the Bound Parties agree to pay Big Philly the Monthly Fee, Royalty Fee, and Other Royalty Fee for each business Franchisee or the Bound Parties own or operate in violation of this provision, which will be a reasonable representation of the damages Big Philly will suffer. Furthermore, in addition to the aforementioned fees, Big Philly reserves the right to enjoin or seek injunctive relief for any Franchisee or Bound Party activities in contravention of this provision.

- j. Franchisee will permit Big Philly and Big Philly's representatives to enter Franchisee's business premises without prior notice during reasonable business hours to inspect, and audit Franchisee's business operations and records. During said visits, Franchisee shall provide unrestricted access to Big Philly and Big Philly's representatives to interview the Restaurant employees and customers. The foregoing notwithstanding, Big Philly agrees that such inspections shall not hinder or disrupt Franchisee's business operations in any unreasonable manner and that any customer has the absolute right not to be interviewed by Big Philly's representatives and that the Franchisee has no control over that, however, the Franchisee shall not hinder or interfere with Big Philly's attempt should the customer be willing to be interviewed.
- k. Franchisee agrees to keep for three (3) years: cash register tapes, weekly inventory sheets, deposit slips, bank statements and canceled checks, sales and purchase records, business tax returns, records of any suppliers relating to Franchisee's purchases, and accounting records, which shall be maintained in accordance with GAAP. Franchisee grants Big Philly permission to examine, without notice, all such records.
- l. Franchisee agrees to make prompt payment of all charges owed to Big Philly, vendors of the Restaurant, landlord of the premises of the Restaurant, and pay all Sales Tax, other taxes, and debts of the Restaurant as they become due.
- m. Franchisee will use or display Marks owned by Big Philly only in connection with the operation of the Restaurant, or as permitted through express written consent by Big Philly. Franchisee will operate and promote the Restaurant under the name TASTE OF PHILLY® or other name Big Philly directs without prefix or suffix added to the name. Franchisee agrees not to use the words "TASTE OF PHILLY" as part of a corporate or other business name. Franchisee will not license or purchase vehicles, fixtures, products, supplies or equipment, or incur any obligations except in the Franchisee's individual, corporate, or business capacity. Any sign face bearing the name "TASTE OF PHILLY" shall remain the exclusive property of the Franchisee, however the right to display the sign is granted only for the purpose of operating the Restaurant.
- n. Franchisee agrees not to obtain any Internet domain name for a website using the words "TASTE OF PHILLY" without prior written consent from Big Philly.
- o. All present and future goodwill associated with the Marks of Big Philly remain the exclusive property of Big Philly. Franchisee agrees to not contest the validity or ownership of any Big Philly Marks, or to assist any person to do so. Franchisee agrees Franchisee does not have and will not obtain any ownership interest in the Marks. Franchisee further agrees to assign and transfer to Big Philly Franchisee's

rights in or registrations of the Marks that Franchisee has or may have. All references to the Marks in this Agreement include any additional or replacement Marks associated with the System that Big Philly authorizes the Franchisee to use.

- p. Franchisee agrees to always indicate Franchisee's status as a Franchisee and an independent operator to others and on any document or information released by Franchisee in connection with the Restaurant. Franchisee is, and will at all times be identified as, a natural person (what if Franchisee is a Corporation?) and an independent contractor. Franchisee is not Big Philly's agent, partner, or employee. This Agreement does not create a partnership, joint venture, agency, or fiduciary relationship.
- q. The Franchisee will display the following notice in a prominent place at the Restaurant: **"The TASTE OF PHILLY® trademarks are owned by A Big Philly Cheesesteak, Inc. and the independent licensed operator of this restaurant is a licensed user of such trademarks."**
- r. Franchisee must respond to, and take all necessary steps to satisfy all reasonable customer complaints. All unresolved customer complaints shall be reported to Big Philly once it has been determined by the Franchisee that the complaint is not resolvable.
- s. Franchisee is prohibited from offering or selling any services or products from or through the Restaurant that have not been previously authorized by Big Philly. However, if Franchisee proposes to offer, conduct, or utilize any services, products, materials, forms, items, or supplies in connection with or for sale through the Restaurant that are not approved by Big Philly, Franchisee shall first notify Big Philly in writing requesting approval. Big Philly may withhold such approval; however, in order to make such determination, Big Philly may require submission of specifications, information, or samples of such services, products, materials, forms, items or supplies. Big Philly will advise Franchisee within a reasonable time whether such products, supplies, or services meet its specifications. A charge not to exceed the actual cost of the review may be made by Big Philly to be paid by Franchisee.
- t. Franchisee shall purchase all equipment, products, services, supplies, and materials required for the operation of the Restaurant from manufacturers, suppliers, or distributors designated by Big Philly and its affiliates or, if there is no designated supplier for a particular product, equipment, service, supply, or material, from such other suppliers who meet all of Big Philly's specifications and standards as to quality, composition, finish, appearance, and service and adequately demonstrate their capacity and facilities to supply Franchisee's needs in the quantities, at the times, and with the reliability requisite to an efficient operation. Big Philly reserve the right to designate, from time to time, a single supplier for any services, products, equipment, supplies, or materials and to require Franchisee to use such a designated supplier exclusively, which exclusive designated supplier may be the Big Philly. Big Philly and its affiliates may receive payments from suppliers on account of such suppliers' dealings with Franchisee and other franchisees and may use all amounts so received without restriction and for any purpose Big Philly deems appropriate (unless Big Philly agrees otherwise with the supplier).
- u. Franchisee shall obtain Big Philly's prior written approval of all written advertising or other marketing or promotional programs not previously approved by Big Philly

regarding the Restaurant, including, without limitation, “Yellow Pages” advertising, newspaper ads, flyers, brochures, coupons, direct mail pieces, specialty and novelty items, radio and television advertising, Internet “web” pages, and other home pages or domain names on any common carrier electronic delivery system. Any proposed uses not previously approved by Big Philly shall be submitted to Big Philly at least ten (10) days prior to publication, broadcast, or use. Franchisee acknowledges that advertising and promoting the Restaurant in accordance with Big Philly’s standards and specifications are essential aspects of the System, and Franchisee agrees to comply with all advertising standards and specifications. Franchisee also agrees to participate in any promotion campaigns and advertising and other programs that Big Philly periodically establishes.

- v. Franchisee agrees to spend not less than two (2%) percent of the total amount of its Gross Sales each calendar quarter for local advertising (“Local Advertising”). Big Philly may request that Franchisee prepare and submit a quarterly report to Big Philly which accounts for the use of the Local Advertising no later than ten (10) days following the end of each quarter during the term of this agreement..

Section 5: Obligations of the Parties. The Parties also agree as follows:

- a. Franchisee understands and acknowledges that Big Philly and Big Philly’s affiliates retain the exclusive unrestricted right to produce, distribute, and sell food products, beverages, and other products, under the TASTE OF PHILLY® mark or any other mark, directly or indirectly, through employees, representatives, assigns, agents, and others, at wholesale, retail, and otherwise, at any location other than a TASTE OF PHILLY® restaurant, without restriction by any right Franchisee may have, and without regard to the location of any TASTE OF PHILLY® restaurant, notwithstanding the Exclusive Territory granted to Franchisee in Section 2 of this Agreement, and these other locations or methods of distribution may compete with the Restaurant and may adversely affect the Restaurant’s sales, except as otherwise noted herein.
- b. The Franchisee agrees not to deliver any food outside of the Exclusive Territory without the expressed written consent of Big Philly. Big Philly has no obligation to and the Franchisee has no right to expand the Exclusive Territory, despite the factors listed in Section 11 of the Recitals.
- c. Franchisee does not have any right to exclude, control, or impose conditions on the location or development of any TASTE OF PHILLY® restaurant, except in Franchisee’s own territorial area.
- d. Franchisee will pay Big Philly any applicable Sales Tax or other tax on behalf of the local taxing authority at the same time and in the same manner Franchisee pays for the taxable goods or services, whether or not the requirement is specifically stated in this Agreement.
- e. If applicable, Franchisee will pay Big Philly Sales Tax or other tax assessed on all payments made by Franchisee to Big Philly that Big Philly must collect from Franchisee or Big Philly pays to the taxing authority.
- f. Franchisee may notify Big Philly of any Big Philly failure or default under this Agreement by certified mail, registered mail or by a mail service which uses a tracking system, such as Airborne Express or Federal Express, within ninety (90)

days of the start of the default, clearly stating each act or omission constituting the default. If Big Philly does not cure the default to Franchisee's satisfaction within sixty (60) days after receipt of Franchisee's notice, Franchisee may notify Big Philly that an arbitrable dispute exists. The parties will work diligently to attempt to resolve the arbitrable dispute in accordance with Paragraph 7.

Section 6: Term and Termination.

- a. If, under local law, this Agreement must be registered then it will not become effective until such registration.
- b. The term of this Agreement is five (5) years from the date of this Agreement, and will automatically renew for an additional five (5) year period unless either party chooses not to renew by submitting written notice to the other party at least six (6) months prior to the expiration of the then current term.
- c. Big Philly may terminate this agreement with ten (10) days written notice in the event that Franchisee:
 - i. abandons the Restaurant;
 - ii. fails to pay Big Philly any money owed, or any amount that Big Philly becomes liable to because of Franchisee's actions or omissions; or
 - iii. is evicted from the Restaurant location for failure to pay rent or any other related charge.
- d. Big Philly may terminate this agreement with ninety (90) days written notice in the event that Franchisee:
 - i. does not substantially perform or comply with all of the terms and conditions of this Agreement;
 - ii. loses possession of the premises of the Restaurant;
 - iii. becomes insolvent, seeks bankruptcy relief, makes an assignment for the benefit of creditors, liquidates its assets; or
 - iv. loses any permit or license necessary to operate the Restaurant.
 - v. fails to build the Restaurant within 12 months after signing the Franchise Agreement, unless Big Philly, at that time, and at Big Philly's sole discretion, determines that Franchisee is actively and diligently attempting to obtain a suitable location and/or lease so that Franchisee can reasonably be expected to open Franchisee's Restaurant within 24 months. In that case, Big Philly will not terminate the Franchise Agreement until the earlier of 24 months after signing Franchisee's Franchise Agreement or such time as Big Philly determines, in Big Philly's sole discretion, that Franchisee is no longer actively and diligently seeking a suitable location and/or lease;
 - vi. allows the Restaurant to cease operating.
- e. Upon termination or expiration of this Agreement, all rights granted to and held by Franchisee with respect to this Agreement shall terminate.
- f. Except in the case of a renewal under Section 6(b), upon termination or expiration of this Agreement for any reason, Big Philly may repurchase within thirty (30) days the Restaurant or a portion of the assets of the Restaurant (including any furniture, fixtures, equipment and improvements) which may include, at Big Philly's option, all of Franchisee's leasehold interest in and to the real estate upon which the Restaurant is located, but not including any other interest in real property. The purchase price

for the assets to be transferred will be at fair market value. Sales of the Restaurant during the twelve (12) calendar months immediately preceding the date of termination or expiration will be adjusted by setting off and reducing the purchase price by any amount then owing by Franchisee to Big Philly, including any amounts paid by Big Philly to cure Franchisee's defaults with third parties such as landlords (the decision to pay such cure amounts to be the sole decision of Big Philly). The following additional terms shall apply to Big Philly's exercise of this option:

- i. Big Philly's option shall be exercisable by providing Franchisee with written notice of its intention to exercise the option no later than the effective date of termination, in the case of termination (unless Franchisee terminates without notice in which case Big Philly shall have thirty (30) days after receipt of actual notice of the termination or such additional time as is reasonably necessary given the circumstances), or at least thirty (30) days prior to the expiration of the term of the franchise, in circumstances where no renewal is granted;
- ii. Big Philly and Franchisee agree that the terms and conditions of this right and option to purchase may be recorded, if deemed appropriate by Big Philly, in the real property records, and Big Philly and Franchisee further agree to execute such additional documentation as may be necessary and appropriate to effectuate such recording;
- iii. The closing for the purchase will take place no later than sixty (60) days after delivery to Franchisee of written notice of Big Philly's exercise of its option. Big Philly has the unrestricted right to assign this option to purchase at any time to a third party, who then will have the rights described in this Section. Big Philly will pay the purchase price in full at the closing or, at its option, in twenty-four (24) equal consecutive monthly installments, with interest at a rate equal to the prime lending rate as of the closing at Big Philly's primary bank. Franchisee must sign all documents of transfer reasonably necessary for purchase of the Restaurant by Big Philly or the third party assignee, which documents shall include all customary representations and warranties from Franchisee as to ownership and condition of, and title to, the assets of the Restaurant being transferred. All assets must be transferred free and clear of all liens and encumbrances, with all sales and transfer taxes paid by Franchisee. Franchisee and its owners further agree to sign general releases, in a form satisfactory to Big Philly, of any and all claims against Big Philly and their respective shareholders, officers, directors, employees, agents, successors, and assigns; and
- iv. Franchisee agrees that it shall be obligated to operate the Restaurant, according to this Agreement's terms, during the period in which Big Philly or the third party assignee is deciding whether to exercise its option to purchase and until the closing takes place, and that a condition to closing is that the Restaurant has remained open during that time period. Big Philly or the third party assignee may decide not to exercise its option to purchase at any time before closing if it determines that any of the conditions noted above have not been or cannot be satisfied

- g. Should Big Philly or a third party assignee choose to not exercise its right to repurchase the Restaurant, the Franchisee will be free, after such termination or expiration, to keep or to sell to any third party all of the physical assets of its Restaurant; provided, however, that all Marks are first removed in a manner approved in writing by Big Philly.
- h. Franchisee is obligated upon termination or expiration of this Agreement to immediately:
 - i. Pay all Royalties and other amounts then owed Big Philly or its affiliates pursuant to this Agreement or otherwise;
 - ii. Cease identifying itself as a Taste of Philly franchisee and cease to engage in, or assist another to engage in, any food service business and must change the appearance of the Restaurant so it will no longer be identified as a TASTE OF PHILLY® restaurant, and stop using the Marks, signs, colors, structures, printed goods and forms of advertising indicative of the System;
 - iii. Immediately cease to identify the Franchised Location as being, or having been, associated with Big Philly and immediately cease using the Marks and System;
 - iv. Deliver to Big Philly all signs, sign-faces, advertising materials, forms, and other materials bearing any of the Marks or otherwise identified with Big Philly;
 - v. Immediately deliver to Big Philly the Operations Manual and all other information, documents, and copies which are proprietary to Big Philly;
 - vi. Promptly take such action required to cancel all fictitious or assumed names or equivalent registrations relating to its use of any marks or, at the option of Big Philly, assign the same to Big Philly or its designee;
 - vii. Notify the telephone company and all telephone directory publishers of the termination or expiration of Franchisee's right to use any telephone number and any regular, classified, or other telephone directory listings associated with any Mark and authorize their transfer to Big Philly or its designee. Franchisee acknowledges that, as between Franchisee and Big Philly, Big Philly has the sole rights to and interest in all telephone, telecopy, or facsimile machine numbers and directory listings associated with any mark. Franchisee authorizes Big Philly, and hereby appoints Big Philly and any of its officers as Franchisee's attorney-in-fact, to direct the telephone company and all telephone directory publishers to transfer any telephone, telecopy, or facsimile machine numbers and directory listings relating to the Restaurant to Big Philly or its designee, should Franchisee fail or refuse to do so, and the telephone company and all telephone directory publishers may accept such directions or this Agreement as conclusive of Big Philly's exclusive rights in such telephone numbers and directory listings and Big Philly's authority to direct their transfer.
- i. Should any of the provisions above which permit Big Philly to terminate the license violate Franchisee's state law, if the law applies, such state law relating to termination shall prevail with regards to the termination provisions, without affecting the other terms and conditions of this Agreement, which shall remain in full force and effect.

- j. For a period of three (3) years from the effective date of termination or expiration of this Agreement for any reason, or the date on which Franchisee and the Bound Parties begin to comply with this Section, whichever is later, neither Franchisee nor any other Bound Party shall have any direct or indirect interest as a disclosed or beneficial owner, investor, partner, director, officer, employee, consultant, representative, agent, or in any other capacity in any food service business selling Philly cheesesteak sandwiches located or operating within a five (5) mile radius of the former Exclusive Territory (including at the former Franchised Location) or within a five (5) mile radius of any other Taste of Philly Restaurant existing on the later of the effective date of termination or expiration of this Agreement or the date on which Franchisee and all other Bound Parties begin to comply with this Section. The restrictions of this Section shall not be applicable to the ownership of shares of a class of securities listed on a stock exchange or traded on the over-the-counter market that represent five percent (5%) or less of the number of shares of that class of securities issued and outstanding. Franchisee and the other Bound Parties expressly acknowledge that they possess skills and abilities of a general nature and have other opportunities for exploiting such skills. Consequently, enforcement of the covenants made in this Section will not deprive them of their personal goodwill or ability to earn a living. Franchisee agrees to pay Big Philly the Monthly Fee and the Monthly Royalty for each business Franchisee owns or operates in violation of this provision during the three (3) year period, which will be a reasonable representation of the damages Big Philly will suffer. Furthermore, in addition to the aforementioned fees, Big Philly reserves the right to enjoin or seek injunctive relief for any Franchisee activities in contravention of this provision.
- k. All or any part of Franchisee's rights and privileges under this Agreement will automatically revert to Big Philly if for any reason Franchisee abandons, surrenders, or suffers revocation of Franchisee's rights and privileges.

Section 7: Governing Law.

- a. This Agreement shall be construed and governed by the laws of the State of Colorado, without reference to its conflict of laws.
- b. Should any court, agency, or tribunal with valid jurisdiction in a proceeding to which Big Philly is a party, decides in a final, non-appealable ruling, that a portion of this Agreement is contrary to, or in conflict with any applicable present or future law, rule, or regulation, after giving such portion the broadest legal interpretation possible, that that portion will be invalid and severable. The remainder of this Agreement will not be affected and will continue to be given full force and effect. Any invalid portion will be deemed not to be part of this Agreement as of the date of the ruling becomes final if Franchisee is a party to the proceedings, or upon Franchisee's receipt of notice of non-enforcement from Big Philly.
- c. Should any court, agency, or tribunal decides a covenant not to compete is too broad as to scope, time, or geographic area, the parties authorize the court, agency or tribunal to modify the covenant to the extent necessary to make it enforceable.
- d. No previous course of dealing or usage in the trade not specifically set forth in this Agreement will be admissible to explain, modify, or contradict this Agreement.

- e. The parties will give any notice required under this Agreement in writing, and will send it by certified mail, registered mail or by a mail service which uses a tracking system, such as Airborne Express or Federal Express. Big Philly will address notices to Franchisee at the Restaurant or at Franchisee's home until Franchisee designates a different address by written notice to Big Philly. Franchisee must notify Big Philly of any address changes, including changes to Franchisee's electronic mail address. All notices to Big Philly will be directed to 3818 S. Broadway, Denver, CO, Attention Legal Department. Any notice will be deemed given at the date and time it is received, or refused, or delivery is made impossible by the intended recipient.

Section 8: Arbitration.

- a. Any dispute, controversy, or claim arising out of or relating to this Agreement or the breach thereof shall be settled by arbitration. The arbitration shall be administered by an arbitration agency, such as the American Arbitration Association or the American Dispute Resolution Center, in accordance with the respective administrative rules.
- b. Any judgment rendered by the Arbitrator may be entered in any court having jurisdiction thereof.
- c. The costs of the arbitration will be borne equally by the parties.
- d. The parties agree that Denver, Colorado shall be the site for all hearings held under this paragraph, and that such hearings shall be conducted before a single arbitrator, not a panel.
- e. Neither party shall pursue class action type claims and / or consolidate the arbitration with any other proceedings to which Big Philly is a party.
- f. Franchisee may only seek damages or any remedy under law or equity for any arbitrable claim against Big Philly or Big Philly's successors or assigns. Franchisee agrees that Big Philly Affiliates, shareholders, directors, officers, employees, agents, and representatives, and their affiliates, shall not be liable nor named as a party to this Agreement. Franchisee further agrees that the foregoing parties are intended beneficiaries of the arbitration clause; and that all claims against them that arise out of or relate to this Agreement must be resolved with Big Philly through arbitration. Should Franchisee name a party in any arbitration or litigation proceeding in violation of this Subparagraph, the Franchisee will reimburse Big Philly for costs incurred, including but not limited to attorney's fees, arbitration fees, court costs, witness fees, management preparation time, travel expenses, and incidental expenses.
- g. Notwithstanding the arbitration clause in Subparagraph 7.a, Big Philly may bring an action for injunctive relief in any court having jurisdiction to enforce Big Philly's trademarks or proprietary rights, the covenants not to compete, or the restriction on disclosure of Confidential Information in order to avoid irreparable harm to Big Philly, Big Philly's affiliates, and the franchise System as a whole.
- h. Big Philly and Big Philly's affiliates, and Franchisee and Franchisee's affiliates, will not withhold any money due to the other party and its Affiliates, under this Agreement or any other agreement. Any party that withholds money in violation of this Subparagraph shall reimburse the other party for any reasonable collection costs, including but not limited to attorney's fees, arbitration fees, court costs, witness fees, management preparation time, travel expenses, and incidental expenses.

Section 9: Transfer and Assignment.

- a. Franchisee may only transfer the Restaurant with this Agreement and only with Big Philly's express written approval, provided:
 - i. Franchisee first offers, in writing, to sell the Restaurant to Big Philly on the same terms and conditions offered by a bona fide third party purchaser;
 - ii. each purchaser has a satisfactory credit rating, and is of good moral character;
 - iii. each purchaser signs the then current form of the Franchise Agreement which will amend and replace this Agreement, and which may contain terms and conditions that are different from this Agreement, including financial terms;
 - iv. Franchisee pays all money owed to Big Philly and Big Philly's affiliates;
 - v. Franchisee pays Big Philly \$5,000 (plus any applicable Sales Tax) for Big Philly's legal, accounting, training, and other expenses Big Philly incurs in connection with the transfer;
 - vi. Franchisee executes and delivers a general release in favor of Big Philly, Big Philly's affiliates, representatives, shareholders, partners, directors, officers, and employees, signed by Franchisee and each purchaser;
 - vii. All transfer documents will be in English and in a form satisfactory to Big Philly.
- b. Franchisee may assign Franchisee's rights under this Agreement to operate the Restaurant (but not this Agreement) to a corporation (or similar business entity), provided:
 - i. the corporation is newly organized and its activities are confined exclusively to operating the Restaurant;
 - ii. Franchisee is the majority shareholder, or owns a controlling interest in the corporation;
 - iii. the corporation executes and delivers a written assumption of Franchisee's obligations under this Agreement;
 - iv. all shareholders of the corporation deliver to Big Philly a written guarantee of the full and prompt payment and performance by the corporation of all its obligations to Big Philly under this agreement;
 - v. Franchisee acknowledges to Big Philly that Franchisee is not relieved of any personal liability;
 - vi. Franchisee executes and delivers a general release, in favor of Big Philly, Big Philly's affiliates, representatives, shareholders, partners, directors, officers, and employees, signed by the Franchisee, the corporation, and each shareholder of the corporation.
- c. Big Philly may transfer and assign this Agreement without Franchisee's consent, and this Agreement will inure to the benefit of Big Philly's successors and assigns.
- d. Upon the death or Permanent Disability (as defined below) of Franchisee (or an individual controlling a Franchisee entity), the personal representative of such person shall transfer Franchisee's interest in this Agreement or such interest in the Franchisee entity to an approved third party. Such disposition of this Agreement or such interest (including, without limitation, transfer by bequest or inheritance) shall be completed within a reasonable time, not to exceed one hundred twenty (120) days from the date of death or permanent disability (unless extended by probate proceedings), and shall be subject to all the terms and conditions applicable to

transfers contained in this Section; provided, however, that for the purpose of this Section, there shall be no transfer fee charged by Big Philly. Failure to transfer the interest within said period of time shall constitute a breach of this Agreement. The term “Permanent Disability” shall mean a mental or physical disability, impairment, or condition that is reasonably expected to prevent, or actually does prevent Franchisee (or an owner controlling a Franchisee entity) from supervising the management and operation of the Restaurant for a period of one hundred twenty (120) days from the onset of such disability, impairment, or condition. In any event, the Restaurant shall at all times be managed by a Designated Manager who has complied with all the Big Philly’s training requirements, regardless of any death or permanent disability covered by this Section.

Section 10: Amendments. By signing this Agreement, the Franchisee acknowledges and understands that this Agreement amends all existing Franchise or Licensing Agreements with Big Philly, and any such Amendment shall survive the termination and expiration of this Agreement.

Section 11: Release. Franchisee acknowledges no employee, agent, or representative of Big Philly has made any representations, and Franchisee has not relied on any representations, except for those contained within this Agreement, and except for those Franchisee has written below:

Section 12: No Prior Claims.

- a. Franchisee represents that as of the date of this Agreement, Franchisee has no claims of any type against Big Philly or Big Philly affiliates, agents, representatives, shareholders, directors, officers, and employees, except for those Franchisee has written below:

- b. Franchisee hereby releases each of these individuals and entities from all claims other than those listed above.
- c. Franchisee acknowledges that by releasing said individuals and entities, the general release shall include any alleged breaches of franchise or other laws, and any alleged breach of agreement, relating not only to this Agreement, but also to any other franchise Franchisee has or had with Big Philly at any time.

Section 13: Indemnification. Franchisee agrees to indemnify, defend, and hold harmless Franchisor and their respective shareholders, directors, officers, employees, agents, successors, and assignees (the "Indemnified Parties"), against, and to reimburse them for, all claims, obligations, and damages, and any and all claims and liabilities directly or indirectly arising out of the operation of the Restaurant or the use of the Marks and the System in any manner, including, without limitation, those alleged to be or found to have been caused by the Indemnified Party's negligence or willful misconduct, unless (and then only to the extent that) the claims and liabilities are determined to be caused solely by the Indemnified Party's gross negligence or willful misconduct in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction. For purposes of this indemnification, claims shall mean and include all obligations, actual and consequential damages, and costs reasonably incurred in the defense of any claim against the Indemnified Parties, including, without limitation, reasonable accountants', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses. Each Indemnified Party shall have the right to defend any such claim against it at Franchisee's expense and agree to settlements or take any other remedial, corrective, or other actions. This indemnity shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

Section 14: Limitation on Damages.

- a. EACH PARTY HEREBY WAIVES, WITHOUT LIMITATION, ANY RIGHT IT MIGHT OTHERWISE HAVE TO ASSERT A CLAIM FOR AND/OR TO RECOVER LOST PROFITS AND OTHER FORMS OF CONSEQUENTIAL, INCIDENTAL, CONTINGENT, PUNITIVE, AND EXEMPLARY DAMAGES FROM THE OTHER EXCEPT AS PROVIDED HEREIN.
- b. EACH PARTY'S LIABILITY SHALL BE LIMITED TO THE ACTUAL COMPENSATORY DAMAGES, SUCH DAMAGES BEING THE GREATER OF (1) \$100,000.00 OR (2) AT FRANCHISEE'S SOLE OPTION, ALL AMOUNTS PAID TO BIG PHILLY FOR FRANCHISE FEES AND ROYALTIES FOR THIS AGREEMENT FOR UP TO THREE (3) YEARS PRECEDING THE DATE OF ANY AWARD HEREIN. SHOULD FRANCHISEE ELECT OPTION (2), BIG PHILLY RESERVES THE RIGHT TO REPURCHASE FRANCHISEE'S EQUIPMENT, PURCHASED FROM OR THROUGH BIG PHILLY, AT DEPRECIATED VALUE USING THE FIVE YEAR, STRAIGHT LINE METHOD OF CALCULATION.
- c. EACH PARTY ACKNOWLEDGES THAT IT HAS HAD A FULL OPPORTUNITY TO CONSULT WITH COUNSEL CONCERNING THIS WAIVER, AND THAT THIS WAIVER IS INFORMED, VOLUNTARY,

INTENTIONAL, AND NOT THE RESULT OF UNEQUAL BARGAINING POWER.

Section 15: Wavier of Jury Trial.

- a. EACH PARTY HEREBY WAIVES, WITHOUT LIMITATION, ANY RIGHT IT MIGHT OTHERWISE HAVE TO TRIAL BY JURY ON ANY AND ALL CLAIMS ASSERTED AGAINST THE OTHER.
- b. EACH PARTY ACKNOWLEDGES THAT IT HAS HAD A FULL OPPORTUNITY TO CONSULT WITH COUNSEL CONCERNING THIS WAIVER, AND THAT THIS WAIVER IS INFORMED, VOLUNTARY, INTENTIONAL, AND NOT THE RESULT OF UNEQUAL BARGAINING POWER.

Section 16: Consent to Terms of Agreement. Franchisee acknowledges reading and understanding this Agreement, including any addenda, amendments, and exhibits, and agrees to be bound by the terms and conditions of the Agreement.

Section 17: Acknowledgement

- a. FRANCHISEE ACKNOWLEDGES NO REPRESENTATIONS HAVE BEEN MADE TO FRANCHISEE EXCEPT THOSE SET FORTH IN THIS AGREEMENT.
- b. FRANCHISEE ACKNOWLEDGES THAT FRANCHISEE HAS NO CLAIMS OF ANY TYPE AGAINST BIG PHILLY, OR BIG PHILLY AFFILIATES, AGENTS, REPRESENTATIVES, SHAREHOLDERS, DIRECTORS, OFFICERS, AND EMPLOYEES, EXCEPT FOR ANY CLAIMS WRITTEN IN PARAGRAPHS 11 AND 12.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Franchise Agreement, as of the Effective Date written above.

A BIG PHILLY CHEESESTEAK, INC.

By: _____

Title: _____

Sign here if you are taking the franchise as
an **INDIVIDUAL(S)**

(Note: use these blocks if you are an
individual or a partnership but the
partnership is not a separate legal entity)

Sign here if you are taking the franchise as a
**CORPORATION, LIMITED LIABILITY
COMPANY OR PARTNERSHIP**

Signature

Print Name: _____

Date: _____

Signature

Print Name: _____

Date: _____

Signature

Print Name: _____

Date: _____

Signature

Print Name: _____

Date: _____

Print Name of Legal Entity

By: _____

Print Name: _____

Title: _____

Date: _____

SCHEDULE A

Food Royalties

Currently those items and the applicable royalties that Big Philly shall collect from the Franchisee are listed below, based on purchased quantities:

| | |
|-----------------------------|--------------|
| Beef Steak for Cheesesteaks | \$2.00/case |
| Chicken Steak | \$1.80/case |
| Chicken Breast | \$1.80/case |
| Turkey | \$0.25/pound |
| Ham | \$0.10/pound |
| Bread, Amoroso 8" & 12" | \$1.00/case |
| Tastykake Dessert | \$1.00/case |
| French Fries | \$0.03/pound |
| American Cheese | \$0.60/pound |

SCHEDULE B

Other Royalties

The Taste of Philly Order Guide ("Order Guide"), as amended from time to time, is incorporated by reference into this Agreement.

Franchisee shall pay Big Philly a royalty of 1% on the Purchase Price of the following items: other food items, paper products, and consumable commodities contained within the Order Guide.

"Purchase Price" shall mean the sale price paid by Franchisee, less sales taxes.

DRAFT

SCHEDULE C

Approved Vendors

The following are the approved vendors from whom Franchisee must purchase all items:

US Foodservice
Coca-Cola and their local affiliated companies
Full Service Beverage (7-Up vendor)
Boulder Water (Boylans vendor)
SAM'S CLUB

DRAFT

EXHIBIT 1

Exclusive Territory

To be determined

DRAFT

EXHIBIT B
(TO FRANCHISE OFFERING CIRCULAR)

LIST OF FRANCHISEES

Currently there are no Franchisees

DRAFT

**EXHIBIT C
(TO FRANCHISE OFFERING CIRCULAR)**

FINANCIAL STATEMENTS

DRAFT

[insert financial statements here]

DRAFT

EXHIBIT D
(TO FRANCHISE OFFERING CIRCULAR)

TABLE OF CONTENTS OF OPERATIONS MANUAL

Currently we have no Operations Manual, and no Table of Contents has been completed.

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EXHIBIT E
(TO FRANCHISE OFFERING CIRCULAR)

DISCLOSURE ACKNOWLEDGMENT STATEMENT

BIG PHILLY CHEESESTEAK, INC.

DISCLOSURE ACKNOWLEDGMENT STATEMENT

A BIG PHILLY CHEESESTEAK, INC. (“Franchisor”), through the use of this document, desires to ascertain (a) that the undersigned, individually and as a representative of any legal entity established to acquire the franchise rights (“Franchisee”), fully understands and comprehends that the purchase of a Taste of Philly Restaurant franchise is a business decision, complete with its associated risks, and (b) that Franchisee is not relying upon any oral statement, representations, promises or assurances during the negotiations for the purchase of the franchise which have not been authorized by the Franchisor. In that regard, the undersigned acknowledges that:

The Franchisee recognizes and understands that business risks, which exist in connection with the purchase of any business, make the success or failure of the franchise subject to many variables, including, among other things, the skills and abilities of the Franchisee, the hours worked by the Franchisee, competition, interest rates, the economy, inflation, Restaurant location, operation costs, lease terms and costs and the market place. The Franchisee hereby acknowledges its awareness of and willingness to undertake these business risks.

The Franchisee acknowledges receipt of the Franchisor’s Uniform Franchise Offering Circular and Exhibits (collectively, the “UFOC”). The Franchisee acknowledges that it has had the opportunity to personally and carefully review these documents. Furthermore, the Franchisee has been advised to seek professional assistance, to have professionals review the documents and to consult with other franchisees regarding the risks associated with the purchase of the franchise.

The Franchisee agrees and states that the decision to enter into this business risk is in no manner predicated upon any oral representations, assurances, warranties, guarantees or promises made by the Franchisor or any of its officers, employees or agents (including any franchise broker) as to the likelihood of success of the franchise. Except as contained in the Franchisor’s UFOC, the Franchisee acknowledges that it has not received any information from the Franchisor or any of its officers, employees or agents (including any franchise broker) concerning actual, average, projected or forecasted franchise sales, profits or earnings. If the Franchisee believes that it has received any information concerning actual, average, projected or forecasted franchise sales, profits or earnings other than those contained in the UFOC, please describe these in the space provided below or write “None.”

The Franchisee further acknowledges that the President of the United States of America has issued Executive Order 13224 (the “Executive Order”) prohibiting transactions with terrorists and terrorist organizations and that the United States government has adopted, and in the future may adopt, other anti-terrorism measures (the “Anti-Terrorism Measures”). The Franchisor therefore requires certain certifications that the parties with whom it deals are not directly or indirectly involved in terrorism. For that reason, the Franchisee hereby certifies that neither it nor any of its employees, agents, or representatives, nor any other person or entity associated with the Franchisee, is:

a person or entity listed in the Annex to the Executive Order;

a person or entity otherwise determined by the Executive Order to have committed acts of terrorism or to pose a significant risk of committing acts of terrorism;

a person or entity who assists, sponsors, or supports terrorists or acts of terrorism; or

owned or controlled by terrorists or sponsors of terrorism.

The Franchisee further covenants that neither it nor any of its employees, agents, or representatives, nor any other person or entity associated with the Franchisee, will during the term of the Franchise Agreement become a person or entity described above or otherwise become a target of any Anti-Terrorism Measure.

[Signatures on following page]

Acknowledged this _____ day of _____, 20__.

FRANCHISEE:

Sign here if you are taking the franchise as an
INDIVIDUAL(S)

Sign here if you are taking the franchise as a
**CORPORATION, LIMITED LIABILITY
COMPANY OR PARTNERSHIP**

Print Name of Legal Entity

By: _____

Signature

Signature

Print Name: _____

By: _____

Signature

Signature

Print Name _____

Title: _____

Print Name: _____

Signature

Print Name: _____

Signature

EXHIBIT F
(TO FRANCHISE OFFERING CIRCULAR)

CONSENT TO TRANSFER

AGREEMENT AND CONDITIONAL CONSENT TO TRANSFER

THIS AGREEMENT ("Agreement") is made among A Big Philly Cheesesteak, Inc. ("Big Philly"), _____ ("Franchisee"), and _____ ("Buyer"), effective as of the Effective Date.

WHEREAS, Franchisee has notified Big Philly that it desires to transfer to Buyer (the "Transfer") all of its rights and obligations (and "Interests") under that certain franchise agreement between Big Philly and Franchisee, dated _____ (the "Franchise Agreement"), governing the operation of the Taste of Philly Restaurant located at _____ ("Restaurant" or "Franchised Location"); and

WHEREAS, Franchisee and the guarantors of the obligations of Franchisee have requested that Big Philly consent to the Transfer and release Franchisee and the guarantors from all obligations under the Franchise Agreement and guaranty, respectively; and

WHEREAS, the parties desire to set forth the terms and conditions under which Big Philly will consent to the Transfer and release.

NOW THEREFORE, the parties agree as follows:

1. **Effective Date.** The "Effective Date" will be the Closing date, as defined below.
2. **Proposed Transfer.** Buyer is purchasing the Interests from Franchisee in accordance with the terms and conditions of a purchase agreement ("Purchase Agreement"), a copy of which has been provided to Big Philly by Franchisee and Buyer. Franchisee and Buyer represent and warrant that the form of Purchase Agreement provided to Big Philly is the final version of the agreement and is the version which will be executed by them to effectuate the Transfer.
3. **Conditional Consent; Release of Guaranty.** The Franchise Agreement provides that the Transfer cannot take place without the consent of Big Philly. Big Philly will consent to the Transfer, as provided in the Franchise Agreement, and will release (a) Franchisee from any obligations arising under the Franchise Agreement and (b) guarantors under any guaranty agreement (in each case except as described below) from and after the
4. **Effective Date;** provided, however, such consent and release are expressly contingent upon compliance with the following terms and conditions on or before the date of the closing of the Transfer ("Closing"):
 - a. **Franchise Agreement.** Big Philly and Buyer have previously entered into a new franchise agreement dated [date] in connection with the Transfer;
 - b. **Payment of Amounts Due.** Franchisee will pay all amounts due and owing to Big Philly through the date of Closing;
 - c. **Transfer Fee.** A transfer fee of \$5000.00 has previously been paid to Big Philly in accordance with the terms and conditions set forth in the Franchise Agreement;
 - d. **Fee Deposit.** Upon execution of this Agreement, Franchisee agrees to deposit \$1,600 with Big Philly ("Fee Deposit"). Within thirty (30) days following Closing, Big Philly will refund the Fee Deposit to Franchisee, less any amounts which may be due.

- e. Financial Statements. Franchisee will provide Big Philly with all required monthly financial statements for the Restaurant through the date of Closing;
 - f. Applications. Buyer will complete and submit to Big Philly any and all additional applications, financial statements and other forms customarily utilized by Big Philly in qualifying and approving Taste of Philly franchisees;
 - g. Training. Buyer's designated representative(s) will satisfactorily complete Big Philly's initial training program as described in the new franchise agreement between Big Philly and Buyer prior to the Closing;
 - h. Right to Possession. Buyer will provide satisfactory evidence to Big Philly that Buyer has the right to possession of the premises for the Restaurant. Prior to the Closing, Franchisee and Buyer shall obtain written consent of Big Philly for Buyer to take possession of the Restaurant;
 - i. Buyer's Personal Guarantee. Buyer's principals and spouses will personally guarantee the performance of franchisee under the new franchise agreement;
 - j. Remodeling. At Closing, the funds necessary, in Big Philly's sole determination, to remodel and upgrade the Restaurant to Taste of Philly's current standards and specifications (in accordance with the pre-sale inspection form attached hereto as Exhibit A) will be placed in an escrow account (if required by Big Philly), to be used by Buyer after Closing to upgrade and remodel the Restaurant. The remodeling and upgrade work will commence within 20 days after Closing and be completed within 60 days after Closing and, failing completion within that time period, Big Philly will be entitled, in addition to whatever other rights it may have, to complete such remodeling and upgrade work at Buyer's expense; and
 - k. Purchase Agreement. The Purchase Agreement reviewed by Big Philly will not be amended and the terms of the transaction thereunder will not be changed except with the prior written consent of Big Philly.
5. **Waiver of Right of First Refusal.** Big Philly hereby waives any right of first refusal to purchase the Interest as it may have pursuant to the Franchise Agreement.
 6. **Release of Big Philly.** Franchisee, for itself and its affiliates, employees, officers, directors, successors, assigns, and other representatives, hereby fully and forever unconditionally releases and discharges Big Philly, and its predecessors, affiliates, employees, owners, officers, directors, successors, assigns, guarantors and other representatives, from any and all claims, demands, obligations, actions, liabilities and damages of every kind or nature whatsoever, in law or in equity, whether known or unknown to them, which they may have against Big Philly, or which may hereafter be discovered, accrued, or sustained, in connection with, as a result of, or in any way arising from, any relations or transactions with Big Philly, however characterized or described, including but not limited to, any claims arising from the Franchise Agreement rights or obligations or the sale of the Interest.
 7. **Termination of Franchise Agreement and Guaranties.** Big Philly and Franchisee acknowledge and agree that, as of the date of Closing, upon the Transfer and upon compliance with the conditions set forth in the Franchise Agreement and the guaranties (if any) will automatically terminate and neither Franchisee nor the guarantors shall have any further rights or obligations thereunder except that neither Franchisee nor any guarantor shall be released from:
 - a) Any obligations to pay money to Big Philly under either the Franchise Agreement or the guaranty prior to Closing; or

- b) The provisions of the Franchise Agreement that, either expressly or by their nature, survive termination of the Agreement (including without limitation the post-termination restrictive covenants, dispute resolution and notice, and confidentiality provisions of the Franchise Agreement).

8. **Additional Documents.** Buyer and Franchisee agree to execute such additional documents as may be necessary to effect the Transfer.

9. **Miscellaneous Provisions.** This Agreement will be construed and enforced in accordance with, and governed by, the laws of the State of Colorado. This Agreement may not be modified or amended or any term hereof waived or discharged except in writing signed by the party against whom such amendment, modification, waiver or discharge is sought to be enforced. The headings of this Agreement are for convenience in reference only and will not limit or otherwise affect the meaning hereof. This Agreement may be executed in any number of counterparts and sent via facsimile, each of which will be deemed an original but all of which taken together will constitute one and the same instrument.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of
_____, 20

A BIG PHILLY CHEESESTEAK, INC.

By: _____

Title: _____

FRANCHISEE:

By: _____

Title: _____

BUYER:

By: _____

Title: _____

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**EXHIBIT G
(TO FRANCHISE OFFERING CIRCULAR)**

RENEWAL ADDENDUM

DRAFT

FIRST ADDENDUM TO FRANCHISE AGREEMENT
(to be signed by a renewing franchisee concurrently with the Franchise Agreement)

BETWEEN BIG PHILLY CHEESESTEAK, INC.
AND

THIS FIRST ADDENDUM (“Addendum”) to the Franchise Agreement dated as of _____, 20__ (“Agreement”) between A BIG PHILLY CHEESESTEAK, INC. (“Franchisor”) and _____ (“Franchisee”), is made as of the same date to amend and supplement certain terms and conditions of the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum shall control. All capitalized terms not otherwise defined in this Addendum shall have their respective meanings set forth in the Agreement.

1. **Franchised Location.** Franchisor has previously approved the Franchised Location as required pursuant to Franchise Agreement. The Franchised Location is:

2. **Lease Approval.** Franchisor has previously approved the lease for the Franchised Location as required pursuant to Franchise Agreement and therefore waives the requirement for lease review and approval (and the associated lease review fee); provided, however, that if Franchisee enters into a new lease for the Franchised Location during the term of the Agreement, all lease review and approval requirements shall remain applicable.
3. **Commencement of Operations.** Franchisor and Franchisee acknowledge that the Franchised location has commenced operations as required pursuant to the Franchise Agreement.
4. **Franchisor’s Development Assistance.** Franchisee acknowledges and agrees that Franchisor has complied with its obligations under the Agreement (or Franchisee waives, as the case may be, Franchisor’s obligation) to (1) assist Franchisee in choosing the Franchised Location and determining fulfillment of the requisite criteria for the Franchised Location, such determination based on information provided by Franchisee (including those obligations set forth in the Franchise Agreement; and (2) to provide opening support services listed in the Franchise Agreement.

5. **Remodeling.** Franchisee will complete the remodeling and renovations of the Restaurant, at Franchisee's expense, listed on Exhibit A to this addendum no later than 60 days following the Effective Date of the Agreement or at such different time as set forth in Exhibit A.
6. **Release.** Franchisee, for itself, and its respective heirs, successors, assigns, agents and representatives, hereby fully and forever unconditionally releases and discharges the Franchisor, and its predecessors, affiliates, successors, assigns, agents, representatives, employees, owners, officers, and directors (collectively referred to as "Franchisor Affiliates") from any and all claims, demands, obligations, actions, liabilities, defenses or damages of every kind and nature whatsoever, in law or in equity, whether known or unknown, which may hereafter be discovered, in connection with, as a result of, or in any way arising from, any relationship or transaction with the Franchisor or the Franchisor Affiliates, however characterized or described, from the beginning of time until the date of this addendum.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this addendum to be executed on the date first set forth above.

BIG PHILLY CHEESESTEAK, INC.

By: _____

Title: _____

Date: _____

FRANCHISEE:

Sign here if you are taking the franchise as an
INDIVIDUAL(S)

(Note: use these blocks if you marked in
Section XXX that you are an individual or a
partnership but the partnership is not a
separate legal entity)

Sign here if you are taking the franchise as a
**CORPORATION, LIMITED LIABILITY
COMPANY OR PARTNERSHIP**

Print Name of Legal Entity

Signature

Print Name: _____
Date: _____

Signature

Print Name: _____
Date: _____

Signature

Print Name: _____
Date: _____

Signature

Print Name: _____
Date: _____

Signature

By: _____
Signature

Print Name: _____
Title: _____
Date: _____

EXHIBIT H
(TO FRANCHISE OFFERING CIRCULAR)

DRAFT

RECEIPT OF OFFERING CIRCULAR
Franchisor's Copy

(Item 23)
RECEIPT

THIS OFFERING CIRCULAR SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF WE OFFER YOU A FRANCHISE, WE MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- D. THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- E. TEN BUSINESS DAYS (AND 14 CALENDAR DAYS IN ILLINOIS) BEFORE SIGNING OF A BINDING AGREEMENT; OR
- F. TEN BUSINESS DAYS (AND 14 CALENDAR DAYS IN ILLINOIS) BEFORE ANY PAYMENT TO US.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF WE DO NOT DELIVER THIS OFFERING CIRCULAR 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.

The undersigned has received a Uniform Franchise Offering Circular issued on **Oct 25, 2006**. This Offering Circular included the following Exhibits:

- A. Franchise Agreement
- B. List of Franchisees
- C. Financial Statements
- D. Table of Contents of Operations Manual
- E. Disclosure Acknowledgment Statement
- F. Consent to Transfer
- G. Renewal Addendum
- H. Receipt of Offering Circular
- I. Guaranty and Assumption of Franchisee's Obligations

Date

Prospective Franchisee

Print Name

EXHIBIT I
(TO FRANCHISE OFFERING CIRCULAR)

Guarantee and Assumption of Franchisees Obligations

DRAFT

GUARANTY AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS

In consideration of, and as an inducement to, the execution of the above Franchise Agreement (the “**Agreement**”) by A Big Philly Cheesesteak, Inc. (“**Franchisor**”), each of the undersigned hereby personally and unconditionally:

- a) Guarantees to Franchisor and its successors and assigns, for the term of this Agreement, including renewals, that Franchisee as that term is defined in the Agreement (“**Franchisee**”) shall punctually pay and perform each and every undertaking, agreement, and covenant set forth in the Agreement; and
- b) Agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement, including, but not limited to, those specifically identified below.

Each of the undersigned waives the following:

1. Acceptance and notice of acceptance by Franchisor of the foregoing undertaking;
2. Notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed;
3. Protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; and
4. Any right he or she may have to require that any action be brought against Franchisee or any other person as a condition of liability.

Each of the undersigned consents and agrees that:

1. His or her direct and immediate liability under this guaranty shall be joint and several;
2. He or she shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so;
3. Such liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Franchisee or any other person;'
4. Such liability shall not be diminished, relieved, or otherwise affected by any extension of time, credit, or other indulgence which Franchisor may from time to time grant to Franchisee or to any other person, including, without limitation, the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which shall in any way modify or amend this guaranty, which shall be continuing and irrevocable during the term of the Agreement, including renewals thereof;
5. He or she shall be bound by the restrictive covenants, confidentiality provisions, and indemnification provisions contained in the Agreement; and

6. The provisions contained in Section, and the costs and attorneys' fees provisions contained in [the Agreement](#) shall govern this Guaranty, and such provisions are incorporated into this Guaranty by this reference.

IN WITNESS WHEREOF, each of the undersigned has affixed his or her signature effective on the same day and year as the Agreement was executed.

| | |
|---|---|
| GUARANTOR(S): _____ | _____ |
| SIGNATURE _____ | SIGNATURE _____ |
| NAME – TYPED OR PRINTED _____ | NAME – TYPED OR PRINTED _____ |
| SPOUSE'S SIGNATURE _____ | SPOUSE'S SIGNATURE _____ |
| NAME – TYPED OR PRINTED _____ | NAME – TYPED OR PRINTED _____ |
| SIGNATURE _____ | SIGNATURE _____ |
| NAME – TYPED OR PRINTED _____ | NAME – TYPED OR PRINTED _____ |
| SPOUSE'S SIGNATURE _____ | SPOUSE'S SIGNATURE _____ |
| NAME – TYPED OR PRINTED _____ | NAME – TYPED OR PRINTED _____ |

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