

Number: _____

EXHIBIT E

AREA DEVELOPMENT AGREEMENT

Number: _____

AREA DEVELOPMENT AGREEMENT

BETWEEN

PARTY AMERICA FRANCHISING, INC.

980 Atlantic Avenue, Suite 103

Alameda, California 94501

(510) 747-1800

Fax: (510) 747-1810

AND

Name(s) of FRANCHISEE

Street

City State Zip Code

() ()
Area Code Telephone

TERRITORY:

CONFIDENTIAL

© 2004 PARTY AMERICA FRANCHISING, INC.

PARTY AMERICA®
AREA DEVELOPMENT AGREEMENT

INDEX

<u>SECTION</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1.	TERRITORY	1
2.	TERM; RIGHT OF FIRST REFUSAL.....	2
3.	TERRITORY FEE; INITIAL FEES; DEVELOPMENT SCHEDULE	3
4.	OTHER OBLIGATIONS OF FRANCHISEE	5
5.	CONFIDENTIAL OPERATIONS MANUALS AND OTHER INFORMATION	7
6.	FRANCHISOR'S RIGHT OF TERMINATION	8
7.	FRANCHISEE'S RIGHTS AND OBLIGATIONS UPON TERMINATION.....	9
8.	FRANCHISEE'S COVENANTS NOT TO COMPETE	10
9.	INDEPENDENT CONTRACTORS; INDEMNIFICATION	11
10.	ASSIGNMENT	12
11.	DISPUTE RESOLUTION	15
12.	GENERAL PROVISIONS	16
13.	NOTICES	18
14.	ACKNOWLEDGMENTS.....	18
15.	LEGAL REPRESENTATION	19
16.	GOVERNING LAW	19
17.	DEFINITIONS	20

PERSONAL GUARANTY

PARTY AMERICA®
AREA DEVELOPMENT AGREEMENT

THIS AREA DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, _____, by and between Party America Franchising, Inc., a Minnesota corporation ("Franchisor"), and _____ ("Franchisee");

BACKGROUND:

WHEREAS, Franchisor has developed and owns a distinctive business system for operating specialty retail store businesses of a distinctive character under the name PARTY AMERICA® (the "Business System") and has publicized the name PARTY AMERICA and other trademarks, trade names, service marks, logos and commercial symbols (the "Marks") to the public as an organization of specialty retail store businesses operating under the Business System; and

WHEREAS, Franchisee desires to operate PARTY AMERICA specialty retail store businesses at locations in the area designated in Section 1 of this Agreement which will conform to the uniformity requirements and quality standards established and promulgated from time to time by Franchisor; and

WHEREAS, Franchisor is willing to provide Franchisee with marketing, advertising, technology, operational and other business information, experience and "know how" about the Business System that has been developed over time by Franchisor at significant cost and expense; and

WHEREAS, Franchisee acknowledges that it would take substantial capital and human resources to develop a business similar to the PARTY AMERICA business and, as a consequence, Franchisee desires to acquire the right to use the Marks and the Business System and to own and operate PARTY AMERICA businesses subject to and under the terms and conditions set forth in this Agreement; and

WHEREAS, Franchisee has had a full and adequate opportunity to be thoroughly advised of the terms and conditions of this Agreement by its legal counsel or other advisor, and has had sufficient time to evaluate and investigate the Business System, the financial investment requirements, and the business risks associated with owning and operating PARTY AMERICA businesses;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement and for other good and valuable consideration, the parties hereby contract as follows:

1. TERRITORY

1.1 TERRITORY. Franchisor grants to Franchisee, for the term of this Agreement, the right to enter into Franchise Agreements with Franchisor for the operation of PARTY AMERICA specialty retail store businesses (the "PARTY AMERICA Businesses," the "Businesses" or the "Stores"), to be located only within the following area _____

_____, (the "Territory"). The Territory may be further described and delineated in Exhibit A attached hereto and signed by both Franchisee and Franchisor.

1.2 PROTECTIVE RIGHTS. The rights and privileges granted to Franchisee in this Agreement are expressly limited to the Territory and are expressly subject to the terms and conditions of this Agreement. Franchisor will not franchise, license, subfranchise, develop, own or operate ("develop") any PARTY AMERICA Stores physically located in the Territory while this Agreement is in effect without the consent of Franchisee. Franchisee understands that Franchisor and its affiliates are free to sell without reservation products and services under the Marks through other channels of distribution (including, without limitation, the internet), within the Territory, and that Franchisor and its affiliates may sell any products or services under trademarks other than the Marks within the Territory. Franchisee is prohibited from selling or offering for sale party supplies, related seasonal merchandise, greeting cards, balloons and paper products through the internet or other on-line communication without the prior written consent of Franchisor.

1.3 PERSONAL RIGHTS. Franchisee may not franchise, subfranchise, license or sublicense other persons or entities under this Agreement and Franchisee may open, own and operate PARTY AMERICA Businesses only in the Territory. The rights, privileges and franchise granted and conveyed to Franchisee in this Agreement will be exclusively for the Territory and may not be assigned, sold or transferred by Franchisee, except as specifically provided for in this Agreement.

2. TERM; RIGHT OF FIRST REFUSAL

2.1 TERM. This Agreement will be for a term of ____ years, commencing on the date set forth on Page 1 of this Agreement. This Agreement will not be considered executed and will not be enforceable until it has been signed by Franchisor and Franchisee, and, if Franchisee is a corporation or partnership, the Personal Guarantors.

2.2 RIGHT OF FIRST REFUSAL. At the end of the term of this Agreement, Franchisee's development rights with respect to the Territory will automatically terminate, and Franchisee will not have the right to renew or extend the term of this Agreement. Following the end of the term of this Agreement, Franchisor will have the right to reevaluate the prospects for the establishment of PARTY AMERICA Businesses in the Territory, and Franchisor may determine that the Territory will be further developed by opening additional PARTY AMERICA Businesses in the Territory. In the event Franchisor determines that the Territory will be further developed, Franchisee will have a right of first refusal to own and operate any PARTY AMERICA Businesses proposed for the Territory by Franchisor. Consequently, if Franchisor proposes to develop (either by owning, franchising or subfranchising) any further PARTY AMERICA Businesses in the Territory after the term of this Agreement has expired, then Franchisor will give Franchisee written notice of its proposal to develop additional PARTY AMERICA Businesses in the Territory and Franchisee will have 30 days to accept in writing Franchisor's proposal to own and operate further PARTY AMERICA Businesses in the Territory. Franchisee will have the right to own and operate PARTY AMERICA Businesses in the Territory according to the terms and conditions set forth in Franchisor's written proposal, which may vary in form and substance from the terms, conditions and economics set forth in this Agreement. If Franchisee fails to accept in writing Franchisor's written proposal within 30 days from the date the written notice of Franchisor's proposal is given to Franchisee, then Franchisor will have the absolute and unrestricted right, under any terms, conditions and economics Franchisor may deem appropriate in its judgment, to open and develop PARTY AMERICA Businesses in the Territory after the term of this Agreement has expired.

3. TERRITORY FEE; INITIAL FEES; DEVELOPMENT SCHEDULE

3.1 TERRITORY FEE. On the date this Agreement is executed by Franchisee, Franchisee must pay Franchisor a nonrefundable territory fee in the amount of \$_____ (the "Territory Fee").

3.2 INITIAL FEES. In addition to the Territory Fee, Franchisee must pay Franchisor an Initial Fee, as defined in Franchisor's then-current standard Franchise Agreement, for each PARTY AMERICA Business owned and operated by Franchisee in the Territory pursuant to the development schedule contained in this Agreement, as follows:

(A) If the total number of PARTY AMERICA Businesses to be developed pursuant to this Agreement is 2 Stores, then the amount of the Initial Fee Franchisee must pay Franchisor is \$25,000 for the first PARTY AMERICA Business to be developed and \$20,000 for the second PARTY AMERICA Business to be developed.

(B) If the total number of PARTY AMERICA Businesses to be developed pursuant to this Agreement is 3 or more, then the amount of the Initial Fee Franchisee must pay Franchisor is \$10,000 for the third PARTY AMERICA Business to be developed and for all PARTY AMERICA Businesses developed thereafter.

The amount of each Initial Fee payable to Franchisor for each PARTY AMERICA Business opened in the Territory in accordance with the development schedule will be the amount as set forth in this Section 3.2, even if the then-current standard Franchise Agreement signed by Franchisee specifies an Initial Fee that is greater than or different from the Initial Fee specified above. Each such Initial Fee will be payable to Franchisor pursuant to the terms of this Agreement.

3.3 PAYMENT OF INITIAL FEES. Franchisee must pay Franchisor the lesser of (A) \$5,000 of the Initial Fee set forth in Section 3.2 of this Agreement, or (B) the entire Initial Fee set forth in Section 3.2 above, payable on or before the date Franchisee executes the then-current standard Franchise Agreement for such Business, for each PARTY AMERICA Business owned and operated in the Territory pursuant to this Agreement. The balance, if any, of such Initial Fee shall be due and payable in accordance with the terms of the Franchise Agreement executed by Franchisor for such Store.

3.4 DEVELOPMENT SCHEDULE. Franchisee acknowledges and agrees that a material provision of this Agreement is that the following number of PARTY AMERICA Businesses must be opened and continuously operating in the Territory during the term of this Agreement in accordance with the following development schedule:

Number: _____

Period	Number of PARTY AMERICA Businesses Required to be Opened and Continuously Operating for Business in the Territory During the Period	Cumulative Number of PARTY AMERICA Businesses Required to be Open and Continuously Operating for Business in the Territory at the end of the Period
Year 1 -first half:		
-second half:		
Year 2 -first half:		
-second half:		
Year 3 -first half:		
-second half:		
Year 4 -first half:		
-second half:		
Year 5 -first half:		
-second half:		
Year 6 -first half:		
-second half:		
Year 7 -first half:		
-second half:		
Year 8 -first half:		
-second half:		

The half-year periods set forth above will be determined from the date of this Agreement, so that the first half-year period of the development schedule set forth above will end 6 months from the date of this Agreement. For purposes of determining compliance with the development schedule set forth in this Section 3.4, only Franchisee's PARTY AMERICA Businesses actually open and continuously operating for business in the Territory as of the end of a given half-year period will be counted toward the number of PARTY AMERICA Businesses required to be open and continuously operating for business.

3.5 REASONABLENESS OF DEVELOPMENT SCHEDULE. Franchisee represents that it has conducted its own independent investigation and analysis of the prospects for the establishment of PARTY AMERICA Businesses within the Territory, approves of the foregoing development schedule as being reasonable and viable, and recognizes that failure to achieve the results described in the foregoing development schedule will constitute a material breach of this Agreement.

3.6 FAILURE TO COMPLY WITH DEVELOPMENT SCHEDULE. Franchisee's failure to comply with the above development schedule will, among other defaults hereunder, constitute a material

breach of this Agreement by Franchisee and, in that event, Franchisor will have the right to terminate this Agreement.

3.7 TIME PERIOD FOR RELOCATION OR REPLACEMENT OF CLOSED STORES. Notwithstanding any language to the contrary contained in Section 3.4 above, Franchisee shall have a period of 6 months from the date a PARTY AMERICA Business ceases for any reason to be open for business to the public on a regular basis to open a replacement Store and, during such 6 month period and until Franchisee opens and designates another Store as the replacement Store for such closed Store, such closed Store shall be deemed to be open for the sole purpose of determining compliance with the development schedule set forth in Section 3.4 above.

3.8 COMPLIANCE WITH FRANCHISE AGREEMENTS. Each PARTY AMERICA Business to be developed pursuant to this Agreement shall be governed by the terms of the applicable Franchise Agreement executed between Franchisor and Franchisee with respect to such Business, including but not limited to the requirement that the Business be located at a site within the Territory which has been evaluated and accepted by Franchisor. Franchisee shall not undertake any development activity for any PARTY AMERICA Business at any site which Franchisor has not accepted and for which no PARTY AMERICA Franchise Agreement has been executed between Franchisor and Franchisee. Franchisee is solely responsible for locating and securing acceptable sites.

4. OTHER OBLIGATIONS OF FRANCHISEE

4.1 COMPLIANCE WITH APPLICABLE LAWS. Franchisee agrees to and will, at its expense, comply with all federal, state, city, municipal and local laws, ordinances, rules and regulations in the Territory pertaining to the operation of its PARTY AMERICA Businesses, including all laws relating to employees and all applicable federal and state environmental laws. Franchisee must, at its expense, be absolutely and exclusively responsible for determining all licenses and permits required by law for Franchisee's PARTY AMERICA Businesses, for qualifying for and obtaining all such licenses and permits, and for maintaining all such licenses and permits in full force and effect.

4.2 SUPERVISORS. Franchisee must designate one full-time senior executive to be responsible for all day-to-day business activities of Franchisee under this Agreement and to manage all of Franchisee's supervisors. In addition, Franchisee must employ at least one full-time supervisor for each 7 PARTY AMERICA Businesses opened and operated in the Territory pursuant to this Agreement to supervise Franchisee's PARTY AMERICA Businesses in the Territory. Each supervisor will be responsible for the operation and administration of up to 7 PARTY AMERICA Businesses under his or her supervision and control in the Territory, including supervision of the managers and assistant managers of such Stores. Franchisee's designated senior executive and Franchisee's supervisors must devote their full time and attention to administering and overseeing the operations of Franchisee's PARTY AMERICA Businesses in the Territory. Franchisee's first 3 stores managers, all of Franchisee's supervisors and Franchisee's senior executive (as well as any replacement for such senior executive) designated under the previous sentence must attend and successfully complete the training program required by Franchisor, and be certified and approved by Franchisor in writing. All of Franchisee's store managers after the first 3 may be trained by Franchisee if Franchisee's training program has been certified and approved by Franchisor in writing. In the event Franchisee does not develop a training program certified and approved by Franchisor in writing, then all of Franchisee's store managers must attend and successfully complete Franchisor's training program, and be certified and approved by Franchisor in writing. The training by Franchisor of Franchisee's first 3 store managers, first supervisor and first senior executive shall be free of charge by Franchisor. Franchisee shall pay Franchisor the then-standard training fee charged by

Franchisor for each additional person that attends Franchisor's training program on behalf of Franchisee. None of the Franchisee's managers, supervisors and senior executive shall commence performing his or her management or supervisory responsibilities until he or she has successfully completed the Franchisor's training program or, in the case of the store managers, a training program approved by Franchisor in writing.

4.3 EXECUTION OF FRANCHISE AGREEMENTS. For each PARTY AMERICA Business opened, owned and operated for business by Franchisee in the Territory, Franchisee (and, if applicable, Franchisee's owners and Personal Guarantors) must execute Franchisor's then-current standard Franchise Agreement (the "Franchise Agreement"). If Franchisee fails to provide Franchisor with an executed Franchise Agreement on the earlier of: (A) at least 10 business days prior to the date Franchisee commences construction of leasehold improvements for the applicable PARTY AMERICA Business; or (B) on the date any portion of Franchisee's furniture, fixtures, equipment or inventory is shipped by Franchisor or any affiliate of Franchisor to Franchisee for such Business, as required by the terms of this Agreement, it, among others, will be deemed a material breach of this Agreement and Franchisor will have the right to terminate this Agreement as provided herein.

4.4 CONTINUING FEES. During the term of each Franchise Agreement signed by Franchisee pursuant to this Agreement, Franchisee will pay to Franchisor monthly Continuing Fees, as defined in the Franchise Agreement, equal to a percentage of the weekly Gross Sales, as defined in the Franchise Agreement, which are received, billed or generated by or from such Business. Upon the opening of each of its PARTY AMERICA Businesses, Franchisee must pay Franchisor a monthly Continuing Fee equal to 4% of Franchisee's weekly Gross Sales. Subsequently, for purposes of calculating Gross Sales, the "twelve-month period" will begin each February and run through the following January. If Franchisee reaches \$2,000,000 in Gross Sales within the twelve-month period, Franchisee must pay a Continuing Fee of 2% of Gross Sales over \$2,000,000 for the remainder of the twelve-month period. Beginning each February, Franchisee will resume paying a Continuing Fee of 4% of Gross Sales until and unless Franchisee reaches \$2,000,000 within the twelve-month period. Franchisee must pay Continuing Fees to Franchisor at the rate stated in the preceding sentence, even if the Franchise Agreements signed by Franchisee specify Continuing Fees that are greater than or different from the Continuing Fees specified herein. Except for the percentage of Gross Sales payable to Franchisor as Continuing Fees (which will be governed by and set forth in the foregoing provisions of this Section 4.4), the Continuing Fees for each of Franchisee's PARTY AMERICA Businesses will be payable by Franchisee according to the terms of the applicable Franchise Agreement signed by Franchisee pursuant to this Agreement.

4.5 ADVERTISING FEES. Franchisor reserves the right to require, during the term of each Franchise Agreement signed by Franchisee pursuant to this Agreement, that Franchisee pay to Franchisor weekly Advertising Fees (as defined in the Franchise Agreement) equal to a percentage of the weekly Gross Sales (as defined in the Franchise Agreement) that are received, billed or generated by or from Franchisee's PARTY AMERICA Businesses in the Territory. If Franchisor exercises such right and requires Franchisee to pay Advertising Fees, then for each of its PARTY AMERICA Businesses, Franchisee must pay a weekly Advertising Fee according to the terms of the applicable Franchise Agreement signed by Franchisee pursuant to this Agreement.

4.6 LOCAL ADVERTISING; OTHER PAYMENTS. During the term of each Franchise Agreement signed by Franchisee pursuant to this Agreement, Franchisee will be required to spend monies for items such as grand opening advertising and promotion, local media advertising and promotion, local group advertising and promotion, and other expenses. Franchisee must pay all such

required advertising and promotional fees and expenses at the rates established in, and in accordance with the terms and conditions of, the applicable Franchise Agreement for each of Franchisee's PARTY AMERICA Businesses opened and operated by Franchisee pursuant to this Agreement.

4.7 MODIFICATIONS TO FRANCHISE AGREEMENT. Franchisee acknowledges that Franchisor's then-current standard Franchise Agreement may be modified from time to time by Franchisor and that such modifications and amendments to the standard Franchise Agreement will not alter Franchisee's obligations under this Agreement.

4.8 STORE SET-UP FEE. Franchisor will provide Store set-up services to Franchisee free of charge for the first 3 PARTY AMERICA Businesses opened in the Territory under this Agreement. Thereafter, Franchisor will provide such services to Franchisee upon request. If Franchisee so requests such services, Franchisee shall pay Franchisor the then-current fees being charged by Franchisor for such services.

5. CONFIDENTIAL OPERATIONS MANUALS AND OTHER INFORMATION

5.1 COMPLIANCE WITH MANUALS. In order to protect the reputation and goodwill of Franchisor and to maintain uniform operating standards under the Marks and the Business System, Franchisee will, at all times during the term of this Agreement and the terms of the PARTY AMERICA Franchise Agreements signed by Franchisee, conduct its PARTY AMERICA Businesses in accordance with Franchisor's confidential operations manuals and vendor book (collectively, the "Manuals"). Franchisee acknowledges having received as a loan one copy of the Manuals from Franchisor for each PARTY AMERICA Business opened under this Agreement.

5.2 CONFIDENTIALITY OF MANUALS. Franchisee must, at all times during the term of this Agreement and thereafter, treat the Manuals, any other manuals created for or approved for use in the operation of Franchisee's PARTY AMERICA Businesses, and the information contained therein as secret and confidential, and Franchisee must use all reasonable means to keep such information secret and confidential. Neither Franchisee nor its employees may make any copy, duplication, record or reproduction of the Manuals (or any portion thereof) available to any unauthorized person.

5.3 REVISIONS TO MANUALS. The Manuals, at all times during the term of this Agreement and thereafter, remain the sole and absolute property of Franchisor. Franchisor may from time to time revise the Manuals and Franchisee expressly agrees to operate its PARTY AMERICA Businesses in accordance with all such revisions. Franchisee must at all times keep its copy of the Manuals current and up-to-date, and in the event of any dispute, the terms of the master copy of the Manuals maintained by Franchisor will be controlling in all respects.

5.4 OTHER CONFIDENTIAL INFORMATION. Franchisee expressly acknowledges and agrees that Franchisor will be disclosing and providing to Franchisee certain confidential and proprietary information concerning the Business System and the procedures, technology, operations and data used in connection with the Business System. Accordingly, Franchisee may not, during the term of this Agreement or thereafter, communicate, divulge or use for the benefit of any other person or entity any confidential information, knowledge or know-how concerning the methods of operation of the PARTY AMERICA Businesses which may be communicated to Franchisee, or of which Franchisee may be apprised, by virtue of this Agreement. Franchisee may divulge such confidential information only to its employees that must have access to it in order to operate Franchisee's PARTY AMERICA Businesses. Any and all information, knowledge and know-how including, without limitation, drawings, materials,

equipment, technology, methods, procedures, specifications, techniques, computer programs, systems and other data which Franchisor designates as confidential or proprietary will be deemed confidential and proprietary for the purposes of this Agreement.

5.5 CONFIDENTIALITY AGREEMENTS WITH EMPLOYEES. Franchisee must require all of Franchisee's employees who have access to the Manuals or other confidential information to execute an agreement, in a form approved by Franchisor in writing, where the employees agree to maintain the confidentiality, during the course of their employment and thereafter, of all information designated by Franchisor as confidential. Franchisee must submit copies of all executed agreements to Franchisor upon request. If any employee of Franchisee violates his or her confidentiality agreement executed pursuant to this Section 5.5, then Franchisor will have the right to: (A) terminate this Agreement (as provided for herein); (B) seek injunctive relief from a Court of competent jurisdiction; (C) commence an action or lawsuit against Franchisee for damages; and (D) enforce all other remedies against Franchisee that are available to Franchisor under common law, in equity, or pursuant to any federal and state statutes in an action or lawsuit against Franchisee.

6. FRANCHISOR'S RIGHT OF TERMINATION

6.1 GROUND'S FOR TERMINATION. In addition to the other rights of termination contained in this Agreement, Franchisor has the right to terminate this Agreement if: (A) Franchisee violates any material provision, term or condition of this Agreement or of any Franchise Agreement executed by Franchisee; (B) Franchisee fails to conform to the Business System, the standards of uniformity and quality for the goods and services or the policies and procedures promulgated by Franchisor in connection with the Business System, or is involved in any act or conduct which materially impairs the goodwill associated with the Marks or the Business System; (C) Franchisee fails to pay when due any of its uncontested obligations or liabilities due and owing Franchisor, suppliers, banks, purveyors, other creditors or any federal, state and municipal government (including, if applicable, federal and state taxes); (D) Franchisee is determined to be insolvent within the meaning of any state or federal law or becomes a party to any bankruptcy proceedings, files for bankruptcy, or its adjudicated a bankrupt under any state or federal law; (E) Franchisee makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors; (F) any check issued by Franchisee is dishonored because of insufficient funds (except where the check is dishonored because of a bookkeeping or accounting error) or closed accounts; (G) any Franchise Agreement executed by Franchisee is (1) terminated by Franchisor or (2) wrongfully terminated by Franchisee; (H) Franchisee fails to make, when due, any payment pursuant to any Franchise Agreement, promissory note, other contract or other obligation payable by Franchisee to Franchisor; (I) Franchisee voluntarily or otherwise abandons, as defined herein, the Territory; (J) Franchisee or any of its supervisors, managers, partners, directors, officers or majority stockholders is convicted of, or pleads guilty or no contest to, (i) a charge of violating any law relating to Franchisee's PARTY AMERICA Businesses, or (ii) any felony; (K) Franchisee willfully and repeatedly deceives customers relative to the source, nature or quality of goods sold, or (L) Franchisee willfully and materially falsifies any report, statement or other written data furnished to Franchisor.

6.2 NOTICE OF BREACH. Except as provided for in Section 6.5 and Section 6.6 of this Agreement, Franchisor will not have the right to terminate this Agreement unless and until written notice setting forth the alleged breach has been given to Franchisee by Franchisor and after having been given such written notice of breach Franchisee fails to correct the alleged breach within the period of time specified by applicable law. If applicable law does not specify a time period to correct an alleged breach, then Franchisee will have 30 days after having been given such written notice to correct the alleged

breach. If Franchisee fails to correct an alleged breach set forth in the written notice as provided herein within the applicable period of time, then this Agreement may be terminated by Franchisor as provided in this Agreement. For the purposes of this Agreement, an alleged breach of this Agreement by Franchisee will be deemed to be "corrected" if both Franchisor and Franchisee agree in writing that the alleged breach has been corrected.

6.3 NOTICE OF TERMINATION. If Franchisor has complied with the notice provisions of this Section and Franchisee has not corrected the alleged breach set forth in the written notice within the time period specified in this Section, then Franchisor will have the absolute right to terminate this Agreement by giving Franchisee written notice stating that this Agreement is terminated, and in that event, unless applicable law provides to the contrary, the effective date of termination of this Agreement will be the day the written notice of termination is given to Franchisee.

6.4 GROUND FOR IMMEDIATE TERMINATION. Franchisor will have the absolute right, unless prohibited by applicable law, to immediately terminate this Agreement if: (A) Franchisee or any of its supervisors, managers, partners, directors, officers or majority stockholders is convicted of, or pleads guilty or no contest to, (i) a charge of violating any law relating to Franchisee's PARTY AMERICA Businesses, or (ii) any felony; (B) Franchisee voluntarily or otherwise abandons, as defined herein, the Territory; (C) Franchisee is involved in any act or conduct which materially impairs the goodwill associated with Franchisor's Marks or Business System and Franchisee fails to correct such act or conduct within 24 hours of receipt of written notice from Franchisor; (D) Franchisee fails to comply with one or more requirements of this Agreement three times in any one 18-month period; (E) the nature of Franchisee's breach makes it not curable; (F) Franchisee willfully and repeatedly deceives customers relative to the source, nature or quality of goods sold, or (G) Franchisee willfully and materially falsifies any report, statement or other written data furnished to Franchisor.

6.5 NOTICE OF IMMEDIATE TERMINATION. If this Agreement is terminated by Franchisor pursuant to Section 6.4 above, Franchisor will give Franchisee written notice that this Agreement is terminated, and in that event, unless applicable law provides to the contrary, the effective date of termination of this Agreement will be the day the written notice of termination is given to Franchisee.

6.6 DAMAGES. In the event this Agreement is terminated by Franchisor pursuant to this Section, or if Franchisee breaches this Agreement by a wrongful termination of this Agreement, then Franchisor will be entitled to seek recovery from Franchisee for all of the damages that Franchisor has sustained and will sustain in the future as a result of Franchisee's breach of this Agreement, which will include damages based upon the Initial Fees, Continuing Fees, Advertising Fees and other fees that would have been payable by Franchisee pursuant to this Agreement.

6.7 OTHER REMEDIES. Nothing in this Section or this Agreement will preclude Franchisor from seeking other damages or remedies under common law, state or federal laws or this Agreement against Franchisee including, but not limited to, attorneys' fees, punitive damages and injunctive relief.

7. FRANCHISEE'S RIGHTS AND OBLIGATIONS UPON TERMINATION

7.1 OBLIGATIONS UPON TERMINATION. In the event this Agreement is terminated for any reason, then Franchisee must: (A) within 5 days after termination, pay all amounts due and owing to Franchisor under this Agreement or any other contract, promissory note or other obligation payable by

Franchisee to Franchisor; and (B) comply with all other applicable provisions of this Agreement, including those provisions with obligations that continue beyond the termination of this Agreement.

7.2 REVERSION OF RIGHTS. Upon termination of this Agreement for any reason, all rights to open and operate additional PARTY AMERICA Businesses in the Territory and all other rights granted to Franchisee pursuant to this Agreement will automatically terminate as to Franchisee and revert to Franchisor, Franchisee will have no further rights to open and operate additional PARTY AMERICA Businesses in the Territory and Franchisor will have the absolute and unrestricted right to develop the Territory or to contract with another franchisee(s) for the future development of the Territory.

7.3 FRANCHISE AGREEMENTS NOT AFFECTED. Upon termination of this Agreement for any reason, Franchisee must continue to pay all required fees and to operate the PARTY AMERICA Businesses owned and operated by Franchisee in the Territory pursuant to the terms of the applicable Franchise Agreements signed by Franchisee and Franchisor prior to the termination of this Agreement, and the rights and obligations of Franchisee and Franchisor with respect to Franchisee's PARTY AMERICA Businesses in the Territory will be governed by the terms of the applicable Franchise Agreements.

8. FRANCHISEE'S COVENANTS NOT TO COMPETE

8.1 CONSIDERATION. Franchisee, Franchisee's owners and the Personal Guarantors acknowledge that Franchisee, its partners or officers and its employees will receive specialized training, current and future marketing and advertising plans and strategies, business plans and strategies, business information and procedures, research and development information, operations information, and trade and business secrets from Franchisor pertaining to the Business System and the operation of a PARTY AMERICA Business. In consideration for the use and license of such valuable and confidential information, Franchisee, Franchisee's owners and the Personal Guarantors will comply in all respects with the provisions of this Section. Franchisor has advised Franchisee that this Section is a material provision of this Agreement, and that Franchisor will not sell a PARTY AMERICA franchise to any person or entity that owns or intends to own, operate or be involved in any business that competes directly or indirectly with a PARTY AMERICA Business.

8.2 IN-TERM COVENANT NOT TO COMPETE. Franchisee, Franchisee's owners and the Personal Guarantors will not, during the term of this Agreement, on their own account or as an employee, agent, consultant, partner, officer, director or owner of any other person, firm, entity, partnership or corporation: (A) seek to employ any person who is at that time employed by Franchisor or by any other PARTY AMERICA franchisee, or induce any such employee to terminate his or her employment; or (B) own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in, or assist any person or entity engaged in any paper or party products business or any other business that is in any way competitive with or similar to the PARTY AMERICA Businesses conducted by Franchisor or Franchisor's franchisees (including, but not limited to, selling paper or party products through the internet or other on-line communication), except with the prior written consent of Franchisor.

8.3 POST-TERM COVENANT NOT TO COMPETE. Franchisee, Franchisee's owners and the Personal Guarantors will not, for a period of 2 years after the termination or expiration of this Agreement, on their own account or as an employee, agent, consultant, partner, officer, director or owner of any other person, firm, entity, partnership or corporation: (A) seek to employ any person who is at that time employed by Franchisor or by any other PARTY AMERICA franchisee, or induce any such employee to terminate his or her employment; or (B) own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in or assist any person or entity engaged in any paper or party

products business or any other business that is in any way competitive with or similar to the PARTY AMERICA Businesses conducted by Franchisor or Franchisor's franchisees (i) which is located either within the Territory or within 10 miles of any PARTY AMERICA Business operated by Franchisor or any of Franchisor's franchisees; (ii) which is located within any development area granted by Franchisor or any affiliate of Franchisor pursuant to any franchise, development, license or other territorial agreement; or (iii) through the internet or other on-line communication. Franchisee, Franchisee's owners and the Personal Guarantors expressly agree that the 2 year period, the Territory, the 10 mile limit and the development area limitation are the reasonable and necessary time and geographical limitations required to protect Franchisor and Franchisor's franchisees if this Agreement expires or is terminated for any reason, and that this covenant not to compete is necessary to permit Franchisor the opportunity to further develop new PARTY AMERICA Businesses in the Territory.

8.4 INJUNCTIVE RELIEF NECESSARY. Franchisee, Franchisee's owners and the Personal Guarantors agree that the provisions of this Section are necessary to protect the legitimate business interests of Franchisor and Franchisor's franchisees including, without limitation, preventing damage to and/or loss of goodwill associated with the Marks, preventing the unauthorized dissemination of marketing, promotional and other confidential information to competitors of Franchisor and Franchisor's franchisees, protection of Franchisor's trade secrets and the Business System, and preventing duplication of the Business System. Franchisee, Franchisee's owners and the Personal Guarantors also agree that damages alone cannot adequately compensate Franchisor if there is a violation of this Section by Franchisee and that injunctive relief against Franchisee is essential for the protection of Franchisor and Franchisor's franchisees. Franchisee, Franchisee's owners and the Personal Guarantors agree therefore, that if Franchisor alleges that Franchisee, Franchisee's owners or the Personal Guarantors have breached or violated this Section, then Franchisor will have the right to petition a court of competent jurisdiction for injunctive relief against Franchisee, Franchisee's owners or the Personal Guarantors, in addition to all other remedies that may be available to Franchisor at law or in equity. Unless provided to the contrary by applicable law, Franchisor will not be required to post a bond or other security in any action where Franchisor is seeking to enjoin Franchisee, Franchisee's owners or the Personal Guarantors from violating this Section. In cases where Franchisor is granted ex parte injunctive relief against Franchisee, Franchisee's owners or the Personal Guarantors, then Franchisee, Franchisee's owners or the Personal Guarantors will have the right to petition the court for a hearing on the merits at the earliest time convenient to the Court.

9. INDEPENDENT CONTRACTORS; INDEMNIFICATION

9.1 INDEPENDENT CONTRACTORS. Franchisor and Franchisee are each independent contractors and, as a consequence, there is no employer-employee or principal-agent relationship between Franchisor and Franchisee. Franchisee does not have the right to and may not make any agreements, representations or warranties in the name of or on behalf of Franchisor or represent that their relationship is other than that of franchisor and franchisee. Neither Franchisor nor Franchisee will be obligated by or have any liability to the other under any agreements or representations made by the other to any third parties.

9.2 INDEMNIFICATION. Franchisor will not be obligated to any person for any damages arising out of, from, in connection with, or as a result of Franchisee's negligence or the operation of Franchisee's PARTY AMERICA Businesses that are conducted by Franchisee pursuant to this Agreement. Franchisee must indemnify and hold harmless Franchisor against all claims, lawsuits, damages, obligations, liability, actions and judgments alleged or obtained by any person or entity against Franchisor arising out of, from, as a result of, or in connection with Franchisee's negligence or the

operation of Franchisee's PARTY AMERICA Businesses that are conducted by Franchisee pursuant to this Agreement, including, without limitation, any claims arising from or relating to: (A) any personal injury, property damage, commercial loss or environmental contamination resulting from any act or omission of Franchisee or any of its employees, agents or representatives; (B) any failure on the part of Franchisee to comply with any requirement of any governmental authority; (C) any failure of Franchisee to pay any of its obligations; or (D) any failure of Franchisee to comply with any requirement or condition of this Agreement or any other agreement with Franchisor or any affiliate of Franchisor. Further, Franchisee must indemnify and reimburse Franchisor for all such obligations and damages for which Franchisor is held liable and for all costs reasonably incurred by Franchisor in the defense of any such claims brought against it or in any action arising out of the operation of Franchisee's PARTY AMERICA Businesses in which it is named as a party including, without limitation, costs for attorneys' fees actually incurred, investigation expenses, court costs, deposition expenses and travel and living expenses. Franchisor will have the absolute right to defend any claim made against it that results from Franchisee's PARTY AMERICA Businesses.

9.3 PAYMENT OF COSTS AND EXPENSES. Franchisee must pay all costs and expenses, including actual attorneys' fees, incurred by Franchisor in enforcing any term, condition or provision of this Agreement or in seeking to enjoin any violation of this Agreement by Franchisee.

9.4 CONTINUATION OF OBLIGATIONS. The indemnification and other obligations contained in this Section will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

10. ASSIGNMENT

10.1 ASSIGNMENT BY FRANCHISOR. This Agreement may be unilaterally assigned and transferred by Franchisor without Franchisee's approval or consent, and will inure to the benefit of Franchisor's successors and assigns. Franchisor will provide Franchisee with written notice of any such assignment or transfer, and the assignee will be required to fulfill Franchisor's obligations under this Agreement.

10.2 ASSIGNMENT BY FRANCHISEE TO CONTROLLED ENTITY. If Franchisee is an individual or a partnership, this Agreement may be transferred or assigned by Franchisee to a corporation or other similar legal entity which is owned or controlled (ownership of at least 51% of the ownership interests) by Franchisee, provided that: (A) Franchisee and all of the owners of the assignee entity sign the attached personal guaranty and agreement to be bound by the terms and conditions of this Agreement; (B) Franchisee furnishes prior written proof to Franchisor substantiating that the entity will be financially able to perform all of the terms and conditions of this Agreement; and (C) none of the owners owns, operates, franchises, develops, manages or controls any paper or party products business or any other business that is in any way competitive with or similar to a PARTY AMERICA Business. Franchisee must give Franchisor 15 days written notice prior to the proposed date of assignment or transfer of this Agreement to an owned or controlled entity of Franchisee; however, the transfer or assignment of this Agreement will not be valid or effective until Franchisor has received the documents which its legal counsel deems necessary to properly and legally document the transfer or assignment of this Agreement to the entity as provided herein.

10.3 ASSIGNMENT UPON DEATH OR DISABILITY OF FRANCHISEE. If Franchisee is an individual, then this Agreement may be assigned, transferred or bequeathed by Franchisee to any designated person or beneficiary upon his or her death or permanent disability. However, the assignment

of this Agreement to the transferee, assignee or beneficiary of Franchisee will not be valid or effective until (A) Franchisor has received the properly executed documents which its legal counsel deems necessary to properly and legally document the transfer, assignment or bequest of this Agreement, (B) the transferee, assignee or beneficiary agrees to be unconditionally bound by the terms and conditions of this Agreement and to personally guarantee the performance of Franchisee's obligations under this Agreement, and (C) the transferee, assignee or beneficiary satisfies each of the conditions set forth in Sections 10.4(A), (B), (C), (D), (E) and (F) below.

10.4 APPROVAL OF TRANSFER; CONDITIONS FOR APPROVAL. Except as otherwise expressly provided to the contrary in this Agreement, this Agreement may be assigned or transferred by Franchisee only with the prior written approval of Franchisor. Franchisor will not unreasonably withhold its consent to any transfer of this Agreement, provided that Franchisee and the transferee Franchisee comply with the following conditions: (A) all of Franchisee's monetary obligations due to Franchisor have been paid in full, and Franchisee is not otherwise in default under this Agreement; (B) Franchisee has executed a written agreement in a form satisfactory to Franchisor in which Franchisee agrees to observe all applicable post-term obligations and covenants contained in this Agreement; (C) the transferee franchisee and its owners agree to be personally liable to discharge all of Franchisee's obligations under this Agreement and will enter into a written agreement in a form satisfactory to Franchisor assuming and agreeing to discharge all of Franchisee's obligations and covenants under this Agreement; (D) the transferee Franchisee will have demonstrated to Franchisor's satisfaction that he, she or it meets Franchisor's managerial, financial and business standards for new area franchisees, possesses a good business reputation and credit rating, and possesses the aptitude and ability to conduct the Business (as may be evidenced by prior related business experience or otherwise); (E) Franchisee has paid the transfer fee required under Section 10.6; (F) the transferee Franchisee does not own, operate, franchise, develop, manage or control any paper or party products business or any other business that is in any way competitive with or similar to a PARTY AMERICA Business; (G) if the transferee Franchisee does not meet Franchisor's net worth requirements for operation of the PARTY AMERICA Businesses, then Franchisee and/or its owners and the Personal Guarantors will execute a written agreement in a form satisfactory to Franchisor agreeing to remain liable to Franchisor for the obligations of the PARTY AMERICA Businesses; and (H) Franchisee, Franchisee's owners and the Personal Guarantors have executed a general release, in a form approved by Franchisor, of all claims, known or unknown, against Franchisor and its owners, officers, directors, agents, attorneys, accountants, employees, affiliates, successors and assigns, excepting only (if required by applicable law) those claims solely related to the offer and sale of this PARTY AMERICA franchise.

10.5 ACKNOWLEDGMENT OF RESTRICTIONS. Franchisee acknowledges and agrees that the restrictions on transfer detailed above are reasonable and are necessary to protect the PARTY AMERICA Business System and the Marks, as well as Franchisor's reputation and image, and are for the protection of Franchisor, Franchisee and all other franchisees who own and operate PARTY AMERICA Businesses. Any assignment or transfer permitted by this Section 10 will not be effective until Franchisor receives a completely executed copy of all transfer documents and Franchisor consents to the transfer in writing, and any attempted assignment or transfer made without complying with the requirements of this Section 10 will be void.

10.6 TRANSFER FEE. If, pursuant to the terms of this Section, this Agreement is assigned, transferred or bequeathed to another person or entity, or if Franchisee's owners transfer 50% or more of their ownership interests to another person or entity, then Franchisee will pay Franchisor a transfer fee equal to the lesser of \$5,000 or the actual costs incurred by Franchisor in the transfer, including

attorneys' fees, accountants' fees, out-of-pocket expenses, long distance telephone calls, administrative expenses and the time of its employees and officers.

10.7 SECURITIES OFFERING. If securities in Franchisee are offered to the public, by private offering or otherwise, all materials required for such offering by federal or state law shall be submitted to Franchisor for review prior to their use or filing with any governmental agency, and any materials to be used in any offering exempt from federal or state securities laws shall be submitted to Franchisor for review prior to their use. No such offering shall imply (by use of the Marks or otherwise) that Franchisor is participating in underwriting, issuing or offering securities of Franchisee or Franchisor. Review by Franchisor of any offering shall be limited solely to the subject of the relationship between Franchisee and Franchisor. Franchisee and other participants in the offering shall fully indemnify Franchisor in writing in connection with the offering. For each proposed offering, Franchisee shall pay Franchisor a nonrefundable fee not to exceed the greater of (A) \$10,000 or (B) an amount equal to Franchisor's costs and expenses (including without limitation legal and accounting fees) associated with reviewing the proposed offering, to compensate Franchisor for such costs and expenses. Franchisee shall give Franchisor written notice at least 10 business days prior to the date of commencement of any offering or other transaction subject to this Section 10.7.

10.8 FRANCHISOR'S RIGHT OF FIRST REFUSAL TO PURCHASE. Franchisee and its owners, if any, will not sell, assign, trade, transfer, lease, sublease or otherwise dispose of any interest in or any part of (A) Franchisee's PARTY AMERICA area development business, (B) any PARTY AMERICA Business, (C) Franchisee or (D) this Agreement without first offering the same to Franchisor in writing, at a stated price and on stated terms. Franchisee's written offer to Franchisor must contain all material terms and conditions of the sale or transfer. Upon receipt by Franchisor of written notice specifying the proposed price and terms of such proposed sale or transfer, Franchisor will give Franchisee written notice within 15 business days thereafter which will either waive its right of first refusal to purchase or will state an interest in negotiating to consummate such sale or transfer according to the proposed terms. If Franchisor commences negotiations to consummate such sale or transfer as set forth herein, Franchisee may not consummate such sale or transfer to a third party for at least 60 days or until Franchisor and Franchisee agree in writing that the negotiations have terminated, whichever comes first. If Franchisor waives its right of first refusal to purchase, Franchisee shall have the right to complete such sale or transfer according to the terms set forth in the written notice to Franchisor; however, any such sale, transfer or assignment to a third party is expressly subject to the other terms and conditions set forth in this Section 10. Any variation in price or terms negotiated with such third party shall constitute a new proposed sale or transfer which must be first offered to Franchisor in accordance with this Section 10.8 before it can be consummated with any such third party. Notwithstanding the terms of this Section 10.8, upon the death or permanent disability of any owner or other holder of an interest in Franchisee, the interest in Franchisee of such deceased or disabled person may, after written notice of such proposed transfer is given to Franchisor, be transferred to other holders of similar interests in Franchisee without first offering it to Franchisor pursuant to this Section 10.8. All certificates or other instruments representing an interest in Franchisee must bear the following legend placed in a conspicuous place on such certificate or instrument:

The interests represented by this certificate or instrument are subject to a written Area Development Agreement that grants Party America Franchising, Inc. a right of first refusal to purchase the interests represented by this certificate or instrument.

11. DISPUTE RESOLUTION

11.1 DISPUTES SUBJECT TO ARBITRATION. Except as expressly provided in Section 11.4, all disputes and controversies between Franchisor and Franchisee and their officers, directors and owners or partners and the Personal Guarantors, including allegations of fraud, misrepresentation or violation of any state or federal laws or regulations, arising under, as a result of, or in connection with this Agreement, the Territory or Franchisee's PARTY AMERICA Businesses will be submitted to binding arbitration under the authority of the Federal Arbitration Act and will be arbitrated in accordance with the then-current Commercial Rules and Regulations of the American Arbitration Association. All arbitration hearings will take place exclusively in Alameda, California.

11.2 POWERS OF ARBITRATOR. The authority of the arbitrator(s) will be limited to making a finding, judgment, decision and award relating to the interpretation of or adherence to the written provisions of this Agreement. The arbitrator(s) will not have the authority or right to add to, delete, amend or modify in any manner the terms, conditions and provisions of this Agreement. All findings, judgments, decisions and awards of the arbitrator(s) will be limited to the dispute set forth in the written demand for arbitration, and the arbitrator(s) will not have the authority to decide any other issues. The arbitrator(s) will not have the right or authority to (A) stay the effectiveness of any pending termination of this Agreement; (B) make any award which extends, modifies or suspends any lawful term of this Agreement; or (C) award punitive damages to Franchisor or Franchisee or their officers, directors, owners or partners and the Personal Guarantors, and Franchisor and Franchisee and their officers, directors, owners or partners, and the Personal Guarantors expressly waive their rights to plead or seek punitive damages. All findings, judgments, decisions and awards by the arbitrator(s) will be in writing and will be final and binding on Franchisor and Franchisee. The written decision of the arbitrator(s) will be deemed to be an order, judgment and decree and may be entered as such in any court of competent jurisdiction by either party.

11.3 NO COLLATERAL ESTOPPEL OR CLASS ACTIONS. All arbitration findings, conclusions, orders and awards made by the arbitrator will be final and binding on Franchisor and Franchisee and their officers, directors, owners or partners, and the Personal Guarantors; however, such arbitration findings, conclusions, orders and awards may not be used to collaterally estop either party from raising any like or similar issues, claims or defenses in any other or subsequent arbitration, litigation, court hearing or other proceeding involving third parties or other franchisees. No party except Franchisor, Franchisee, and their officers, directors, owners or partners, and the Personal Guarantors will have the right to join in any arbitration proceeding arising under this Agreement, and, therefore, the arbitrator will not be authorized to permit or approve class actions or to permit any person or entity that is not a party to this Agreement to be involved in or to participate in any arbitration hearings conducted pursuant to this Agreement.

11.4 INJUNCTIVE AND OTHER RELIEF. Notwithstanding Section 11.1, Franchisee recognizes that the Businesses operated by Franchisee are among a large number of stores identified by the Marks and similarly situated and selling to the public similar products, and hence the failure on the part of a single franchisee to comply with the terms of its agreement could cause irreparable damage to Franchisor and/or to some or all other franchisees of Franchisor. Therefore, it is mutually agreed that in the event of a breach or threatened breach of any of the terms of this Agreement by Franchisee, Franchisor shall forthwith be entitled to an injunction restraining such breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators. Similarly, it is mutually agreed that in the event of a breach or threatened breach of any of

INITIALS:

Franchisee: _____ Franchisor: _____

the terms of this Agreement by Franchisor, Franchisee shall forthwith be entitled to an injunction restraining such breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators. The foregoing equitable remedies shall be in addition to, and not in lieu of, all other remedies or rights which the parties might otherwise have by virtue of any breach of this Agreement by the other party. Finally, Franchisor and its affiliates reserve the right to commence a civil action against Franchisee or take other appropriate action for the following reasons: to collect sums of money due to Franchisor; to compel Franchisee's compliance with trademark standards and requirements to protect the goodwill of the Marks; to compel Franchisee to compile and submit required reports to Franchisor; or to permit evaluations or audits authorized by this Agreement.

11.5 PAYMENT OF COSTS AND EXPENSES. The non-prevailing party will pay all costs and expenses, including attorneys' fees, deposition costs, expert witness fees, investigation costs, accounting fees, filing fees and travel expenses actually incurred by the prevailing party any arbitration or court proceeding arising under, out of, in connection with, or in relation to this Agreement or the Businesses conducted hereunder.

12. GENERAL PROVISIONS

12.1 APPLICABLE LAW; VENUE AND JURISDICTION. This Agreement and the relationship between the parties shall be governed by and interpreted in accordance with the laws (statutory or otherwise) of the state in which the Territory is located. Franchisee waives, to the fullest extent permitted by law, the rights and protections that may be provided through the franchise or business opportunity laws of any state other than the state in which the Territory is located. This Agreement shall be deemed to be amended from time to time as may be necessary to bring any of its provisions into conformity with valid applicable laws or regulations. Any cause of action, claim, suit or demand allegedly arising from or related to the terms of this Agreement or the relationship of the parties that is not subject to arbitration under Section 11 hereof, shall be brought shall be brought in the Federal District Court for the Northern District of California or in the Superior Court of California, County of Alameda. Both parties hereto irrevocably submit themselves to, and consent to, the jurisdiction of said courts. The provisions of this Section 12.1 shall survive the termination of this Agreement. Franchisee is aware of the business purposes and needs underlying the language of this Section 12.1, and with a complete understanding thereof, agrees to be bound in the manner set forth.

12.2 SEVERABILITY. All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and enforceable provisions will be enforced to the extent valid and enforceable. If any applicable law or rule of any jurisdiction requires a greater prior notice of the termination of or refusal to renew this Agreement than is required hereunder or the taking of some other action not required hereunder, or if under any applicable and binding law of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by Franchisor is invalid or unenforceable, the prior notice or other action required by such law or rule will be substituted for the notice requirements hereof, or such invalid or unenforceable provision, specification, standard or operating procedure will be modified to the extent required to be valid and enforceable. Such modifications to this Agreement will be effective only in such jurisdiction and will be enforced as originally made and entered into in all other jurisdictions.

12.3 WAIVER. Franchisor and Franchisee may, by written instrument signed by Franchisor and Franchisee, waive any obligation of or restriction upon the other under this Agreement. Acceptance by Franchisor of any payment by Franchisee and the failure, refusal or neglect of Franchisor to exercise any right under this Agreement or to insist upon full compliance by Franchisee of its obligations hereunder including, without limitation, any mandatory specification, standard or operating procedure, will not constitute a waiver by Franchisor of any provision of this Agreement. Franchisor will have the right to waive obligations or restrictions for other franchisees under their Franchise Agreements without waiving those obligations or restrictions for Franchisee and, except to the extent provided by law, Franchisor will have the right to negotiate terms and conditions, grant concessions and waive obligations for other franchisees of Franchisor without granting those same rights to Franchisee and without incurring any liability to Franchisee whatsoever.

12.4 NO RIGHT TO OFFSET. Franchisee may not, on grounds of the alleged nonperformance by Franchisor of any of its obligations under this Agreement, any other contract between Franchisor and Franchisee or for any other reason, withhold payment of any amounts due Franchisor under this Agreement or any other contract, promissory note or other obligation payable by Franchisee to Franchisor. Franchisee may not "offset" any liquidated or unliquidated amounts allegedly due to Franchisee from Franchisor against any payments due to Franchisor under this Agreement or any other contract, promissory note or other obligation payable by Franchisee to Franchisor.

12.5 FRANCHISOR'S RIGHTS CUMULATIVE. The rights of Franchisor hereunder are cumulative and no exercise or enforcement by Franchisor of any right or remedy hereunder will preclude the exercise or enforcement by Franchisor of any other right or remedy hereunder or that Franchisor is entitled by law to enforce.

12.6 AGREEMENT BINDING ON HEIRS AND ASSIGNS. This Agreement is binding upon the parties hereto and their respective executors, administrators, heirs, assigns and successors in interest.

12.7 JOINT AND SEVERAL LIABILITY. If Franchisee consists of more than one person, their liability under this Agreement will be joint and several.

12.8 ENTIRE AGREEMENT. This Agreement supersedes and terminates all prior agreements relating to the rights granted herein, either oral or in writing, between the parties and therefore, any representations, inducements, promises or agreements between the parties not contained in this Agreement or not in writing signed by Franchisee and the President or a Vice President of Franchisor will not be enforceable. This Agreement will not supersede or terminate any written development agreement relating to another territory or Franchise Agreement(s) executed prior to the date of this Agreement relating to other PARTY AMERICA franchises operated by Franchisee that are or will be owned and operated by Franchisee. The preambles are a part of this Agreement, which constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between Franchisor and Franchisee relating to the subject matter of this Agreement.

12.9 CONTROLLING AGREEMENT. The rights and obligations of Franchisee and Franchisor with respect to the operation of each PARTY AMERICA Business opened in the Territory by Franchisee will be governed by the terms and conditions of the applicable Franchise Agreement executed by Franchisee. In the event there is a conflict between the terms of this Agreement and the terms of any Franchise Agreement executed by Franchisee, then the terms of this Agreement will control.

12.10 HEADINGS; TERMS. The headings of the Sections and the provisions thereof are for convenience only and do not define, limit or construe the contents of such Sections. The term "Franchisee" as used herein is applicable to one or more individuals, a corporation or a partnership, as the case may be. References to "Franchisee" which are applicable to an individual or individuals will mean both the principal owner or owners (A) of the equity and (B) of the operating control of Franchisee if Franchisee is a corporation or partnership. If Franchisee consists of more than one individual, then all individuals will be bound jointly and severally by the terms and conditions of this Agreement.

12.11 NO ORAL MODIFICATION. No modification, change, addition, rescission, release, amendment or waiver of, and no approval, consent or authorization required by any provision of this Agreement may be made or effective except by a written agreement subscribed to by Franchisee and the President or a Vice President of Franchisor. Franchisor and Franchisee will not have the right to amend or modify this Agreement orally, and any attempt to do so will be void in all respects.

13. NOTICES

All notices to Franchisor must be in writing and will be made by personal service upon an officer or director of Franchisor or sent by prepaid registered or certified United States mail addressed to Franchisor at 980 Atlantic Avenue, Suite 103, Alameda, California 94501 with a copy to Gray, Plant, Mooty, Mooty & Bennett, P.A., 3400 City Center, 33 South Sixth Street, Minneapolis, Minnesota 55402-3796. All notices to Franchisee will be by personal service upon Franchisee, its senior executive designated under Section 4.2 above or a supervisor, manager or assistant manager (or, if applicable, an officer or director) of Franchisee, or sent by prepaid registered or certified United States mail addressed to Franchisee at the first PARTY AMERICA Business opened by Franchisee in the Territory or such other address as Franchisee may designate in writing, or by delivery to any employee of Franchisee by a reputable overnight delivery service (such as, but not limited to, Federal Express or UPS) which requires a written receipt of delivery from the addressee. Notice by mail is effective upon depositing the same in the mail in the manner provided above, notice by personal service is effective upon obtaining service and notice by overnight delivery service is effective upon delivery by such overnight delivery service.

14. ACKNOWLEDGMENTS

14.1 BUSINESS RISKS; NO FINANCIAL PROJECTIONS. Franchisee acknowledges that it has conducted an independent investigation of the prospects for the establishment of PARTY AMERICA Businesses within the Territory, and recognizes that the business venture contemplated by this Agreement involves business and economic risks and that its financial and business success will be primarily dependent upon the personal efforts of Franchisee, its management and employees. Franchisor expressly disclaims the making of, and Franchisee acknowledges that it has not received, any estimates, projections, warranties or guaranties, express or implied, regarding potential Gross Sales, profits, earnings or the financial success of Franchisee's PARTY AMERICA Businesses, except as expressly set forth in writing in Franchisor's Uniform Franchise Offering Circular, receipt of which is hereby acknowledged by Franchisee.

14.2 NO INCOME OR REFUND WARRANTIES. Franchisee acknowledges that Franchisor does not warrant or guarantee to Franchisee that Franchisee will derive income or profit from Franchisee's PARTY AMERICA Businesses or that Franchisor will refund all or part of the Territory Fee or the price paid for Franchisee's PARTY AMERICA Businesses or repurchase any of the products, merchandise, furniture, fixtures, equipment, supplies or chattels supplied by Franchisor, any affiliate of Franchisor or an approved supplier if Franchisee is unsatisfied with its PARTY AMERICA Businesses.

14.3 TERMS OF OTHER DEVELOPMENT AGREEMENTS MAY DIFFER. Franchisee acknowledges that other area franchisees of Franchisor have or will be granted area development agreements at different times and in different situations, and further acknowledges that the terms and conditions of such area development agreements may vary substantially in form and substance from those contained in this Agreement.

14.4 RECEIPT OF UNIFORM FRANCHISE OFFERING CIRCULAR. Franchisee acknowledges that it received a copy of this Agreement with all material blanks fully completed at least 5 business days prior to the date that this Agreement was executed. Franchisee further acknowledges that it received a PARTY AMERICA Uniform Franchise Offering Circular at least 10 business days prior to the date on which this Agreement was executed.

14.5 POTENTIAL INCREASES IN INVESTMENT REQUIREMENTS. Franchisee recognizes and acknowledges that this Agreement requires it to open additional PARTY AMERICA Businesses in the future pursuant to the development schedule set forth in Section 3. Franchisee further acknowledges that the estimated expenses and investment requirements set forth in Items 6 and 7 of Franchisor's Uniform Franchise Offering Circular are subject to increase over time, and that future PARTY AMERICA Businesses opened and operated by Franchisee may involve greater initial investment and operating capital requirements than those stated in the Uniform Franchise Offering Circular provided to Franchisee prior to the execution of this Agreement.

15. LEGAL REPRESENTATION

Franchisee acknowledges that this Agreement constitutes a legal document which grants certain rights to and imposes certain obligations upon Franchisee. Franchisee was advised by Franchisor to consult an attorney or other advisor prior to the execution of this Agreement to review Franchisor's Uniform Franchise Offering Circular, to review this Agreement in detail, to review the economics, operations and other business aspects of the PARTY AMERICA Businesses, to determine compliance with franchising and other applicable laws, to advise Franchisee about all federal, state and local laws, rules, ordinances, special regulations and statutes that apply to Franchisee's PARTY AMERICA Businesses and to advise Franchisee about the economic risks, liabilities, obligations and rights under this Agreement. The name of Franchisee's attorney or other advisor is:

Name: _____

Name of Firm: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: () _____

Fax Number: () _____

16. GOVERNING LAW

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051 et seq.), this Agreement and the relationship between Franchisor and Franchisee will be

governed by the laws of the state in which the Territory is located. If the Territory contains more than one state, then the laws of the state in which Franchisee's principal place of business is located will govern. The provisions of this Agreement which conflict with or are inconsistent with applicable governing law will be superseded and/or modified by such applicable law only to the extent such provisions are inconsistent. All other provisions of this Agreement will be enforceable as originally made and entered into upon the execution of this Agreement by Franchisee and Franchisor.

17. DEFINITIONS

17.1 ABANDON. "Abandon" as used in this Agreement will mean the conduct of Franchisee, including acts of omission as well as commission, indicating the willingness, desire or intent of Franchisee to discontinue the opening and operating of PARTY AMERICA Businesses in the Territory in accordance with the terms of this Agreement.

17.2 TERMS DEFINED IN FRANCHISE AGREEMENT. Capitalized terms used but not defined in this Agreement will, if defined in the Franchise Agreement, have the meanings ascribed to such terms in the Franchise Agreement.

IN WITNESS WHEREOF, Franchisor, Franchisee and the owners of Franchisee have executed this Agreement effective as of the day and year first above written.

FRANCHISOR

In the Presence of:

PARTY AMERICA FRANCHISING, INC.

By _____
Its _____

In the Presence of:

FRANCHISEE

Number: _____

The undersigned individual owners of Franchisee hereby agree to be bound by the terms and conditions of this Agreement.

In the Presence of:	Owners	Percentage of Ownership
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

The undersigned spouse(s) of the individual Franchisee(s) hereby agree to be bound by the terms and conditions of this Agreement regarding confidentiality of information and covenants not to compete.

Print Name

Print Name

INITIALS:

Franchisee: _____ Franchisor: _____

Number: _____

PERSONAL GUARANTY AND AGREEMENT TO BE BOUND
PERSONALLY BY THE TERMS AND CONDITIONS
OF THE AREA DEVELOPMENT AGREEMENT

In consideration of the execution of this Agreement by Franchisor, and for other good and valuable consideration, the undersigned, for themselves, their heirs, successors, and assigns, do jointly, individually and severally hereby become surety and guaranty for the payment of all amounts and the performance of the covenants, terms and conditions in this Agreement, to be paid, kept and performed by Franchisee.

Further, the undersigned, individually and jointly, hereby agree to be personally bound by each and every condition and term contained in this Agreement and agree that this PERSONAL GUARANTY will be construed as though the undersigned and each of them executed an Agreement containing the identical terms and conditions of this Agreement.

If Franchisee breaches the terms and conditions of this Agreement, then the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay to Franchisor all monies due and payable to Franchisor under the terms and conditions of this Agreement.

In addition, if Franchisee fails to comply with any other terms and conditions of this Agreement, then the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to comply with the terms and conditions of this Agreement for and on behalf of Franchisee.

In addition, should Franchisee at any time be in default on any obligation to pay monies to Franchisor or any subsidiary or affiliate of Franchisor, whether for merchandise, products, supplies, furniture, fixtures, equipment or other goods purchased by Franchisee from Franchisor or any subsidiary or affiliate of Franchisor or for any other indebtedness of Franchisee to Franchisor or any subsidiary or affiliate of Franchisor, then the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay all such monies due and payable from Franchisee to Franchisor or any subsidiary or affiliate of Franchisor.

It is further understood and agreed by the undersigned that the provisions, covenants and conditions of this GUARANTY will inure to the benefit of the successors and assigns of Franchisor. Each of the undersigned hereby submits to personal jurisdiction in the state or federal courts of California with respect to any litigation pertaining to this GUARANTY, and agrees that all litigation pertaining to this GUARANTY will and must be venued exclusively in Alameda County, California.

INITIALS:

Franchisee: _____ Franchisor: _____

PERSONAL GUARANTORS

Number: _____

Individually

Address

City State Zip Code

Telephone

Individually

Address

City State Zip Code

Telephone

Individually

Address

City State Zip Code

Telephone

Individually

Address

City State Zip Code

Telephone

Individually

Address

City State Zip Code

Telephone

Individually

Address

City State Zip Code

Telephone

**ACKNOWLEDGMENT ADDENDUM TO
PARTY AMERICA® AREA DEVELOPMENT AGREEMENT**

As you know, you and we are entering into an Area Development Agreement. The purpose of this Acknowledgment Addendum is to determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading, and to be certain that you understand the limitations on claims that may be made by you by reason of the offer and sale of the franchise and operation of your business. Please review each of the following questions carefully and provide honest responses to each question.

Acknowledgments and Representations*

1. Did you receive a copy of our Offering Circular (and all exhibits and attachments) at least 10 business days prior to signing the Area Development Agreement? Check one: ☐ Yes ☐ No. If no, please comment:

- 1A. For Illinois residents or those wishing to locate their franchise in Illinois, did you receive a copy of our Offering Circular (and all exhibits and attachments) at least 14 calendar days prior to signing the Area Development Agreement? Check one: ☐ Yes ☐ No. If no, please comment: _____

2. Have you studied and reviewed carefully our Offering Circular and Area Development Agreement? Check one: ☐ Yes ☐ No. If no, please comment: _____

3. Did you receive a copy of the Area Development Agreement at least five business days prior to the date on which the Area Development Agreement was executed? Check one: ☐ No ☐ Yes. If no, please comment: _____

4. Did you understand all the information contained in both the Offering Circular and Area Development Agreement? Check one ☐ Yes ☐ No. If no, please comment: _____

5. Was any oral, written or visual claim or representation made to you which contradicted the disclosures in the Offering Circular? Check one: ☐ No ☐ Yes. If yes, please state in detail the oral, written or visual claim or representation: _____

6. Except as stated in Item 19 of our Offering Circular, did any employee or other person speaking on behalf of Party America Franchising make any oral, written or visual claim, statement, promise or representation to you that stated, suggested, predicted or projected sales, revenues, expenses, earnings, income or profit levels at any PARTY AMERICA® location or business, or the likelihood of success at your franchised business? Check one: ☐ No ☐ Yes. If yes, please state in detail the oral, written or visual claim or representation: _____

7. Except as stated in Item 19 of our Offering Circular, did any employee or other person speaking on behalf of Party America Franchising make any statement or promise regarding the costs involved in operating a franchise that is not contained in the Offering Circular or that is contrary to, or different from, the information contained in the Offering Circular? Check one: ☐ Yes ☐ No. If yes, please comment: _____

8. Do you understand that the franchise granted is for the right to develop and operate your Stores in the Territory only and includes no exclusive area or protected territory outside the Territory, and that we and our affiliates have the right to pursue other business interests within and outside the Territory as set forth in Paragraph 1.2 of the Area Development Agreement? Check one: ☐ Yes ☐ No. If no, please comment:

9. Do you understand that the Area Development Agreement contains the entire agreement between you and Party America Franchising concerning the Area Development rights, meaning that any prior oral or written statements not set out in the Area Development Agreement will not be binding? Check one: ☐ Yes ☐ No. If no, please comment: _____

10. Do you understand that the success or failure of the development and operation of your Stores will depend in large part upon your skills and experience, your business acumen, your location, the local market for products under the PARTY AMERICA® trademarks, interest rates, the economy, inflation, the number of employees you hire and their compensation, competition and other economic and business factors? Further, do you understand that the economic and business factors that exist at the time you begin to develop and operate your Stores may change? Check one ☐ Yes ☐ No. If no, please comment: _____

YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS ADDENDUM, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS. IF MORE SPACE IS NEEDED FOR ANY ANSWER, CONTINUE ON A SEPARATE SHEET AND ATTACH.

NOTE: IF THE RECIPIENT IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY, EACH OF ITS PRINCIPAL OWNERS MUST EXECUTE THIS ACKNOWLEDGMENT.

Signed: _____

Print Name: _____

Date: _____

Signed: _____

Print Name: _____

Date: _____

APPROVED ON BEHALF OF
PARTY AMERICA FRANCHISING, INC.

Signed _____

Print Name: _____

Date: _____

By: _____

Title: _____

Date: _____

*Such representations are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law.