EXHIBIT 10.9  
  
 GREAT EARTH INTERNATIONAL FRANCHISING CORP.  
 FRANCHISE AGREEMENT  
  
THIS FRANCHISE AGREEMENT ("Agreement") is made this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_, 2000,  
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by and between Great Earth International Franchising Corp., a Delaware  
corporation, with its principal place of business located at 000 Xxxxxx Xxxx,  
Xxxxxxxxxx, Xxx Xxxx 00000 ("Franchisor"), and XXXX & XXXX XXXX having a place  
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of business located at XXXXXXXXXXXXXXXXX, XXXXXX, XX XXXXX ("Franchisee").  
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 W I T N E S S E T H:  
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 Whereas, Franchisor has the rights to certain techniques, processes, plans,  
methods and systems from Great Earth Companies, Inc. and its subsidiaries  
(collectively, "GEC") for the distribution, marketing and sale of vitamins,  
minerals, nutritional supplements, food products, cosmetics, skin care products,  
bath products, and related products ("Great Earth Products"), having certain  
standards of quality and marketed under the "Great Earth" label and other  
trademarks of GEC and the right to license others to distribute, market and sell  
Great Earth Products in independent retail outlets with unique decor, design,  
and operational characteristics ("Retail Outlet");  
  
 Whereas, Franchisor may from time to time approve other brands of vitamins,  
minerals, nutritional supplements, food products, cosmetics, skin care products,  
bath products, related products, and other products or merchandise in addition  
to Great Earth Products for sale in the Retail Outlet and may have the right at  
this or some future time to license the marketing and/or sale of certain  
products, including but not limited to, novelties, clothing, toys, posters,  
games, fixtures, equipment and all other merchandise and products sold at retail  
stores ("Other Products"), together with Great Earth Products (collectively,  
"Products"); and  
  
 Whereas, GEC is the owner of certain proprietary marks registered with the  
United States Patent and Trademark Office, and common law trademarks and  
service marks, trade names, logo types, insignias, designs and other commercial  
symbols which Franchisor now or hereafter is authorized to use and does use or  
authorizes others to use to identify the Great Earth Products and the business  
conducted at and in the Retail Outlet (the "Marks"), and GEC has developed and  
licensed to Franchisor certain uniform standards of distribution, and/or display  
and sale of the prepared, packaged, distributed, and/or displayed and sold in  
the manner developed and established by GEC and licensed to Franchisor (the  
"Great Earth System" or the "System"); and  
  
 Whereas, Franchisor may seek to obtain licenses for additional products and  
services which it can add to the Great Earth System; and  
  
 Whereas, Franchisee desires to obtain from Franchisor the right, privilege,  
franchise and license to use the Great Earth System to sell Products through one  
Retain Outlet located within a specified geographical area; and  
  
 Whereas, Franchisor desires to grant such right, privilege, franchise and  
license to Franchisee only under certain conditions that will protect the Great  
Earth System;  
  
 NOW, THEREFORE, in consideration thereof and of the mutual covenants,  
conditions and agreements hereinafter set forth, each of which constitutes a  
material consideration of this Agreement, the Parties hereby covenant and agree  
as follows:  
  
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 ARTICLE 1  
 GRANT OF LICENSE; TRADE MARKS  
  
  
 1.1 Grant of Right. Upon the terms and conditions set forth herein and  
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except as otherwise provided in Section 2.2 (b) hereof, Franchisor hereby grants  
to Franchisee the personal right, privilege, and license to operate and maintain  
one Retail Outlet within the geographic area specified on Exhibit A attached  
hereto (the "Franchise Area") for the retail sale of the Products to be  
displayed and sold in accordance with the Great Earth System (the "Franchised  
Business").  
  
 1.2 Exclusivity of Right. So long as Franchisee complies with each and  
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every covenant, term and condition of this Agreement, Franchisor shall not,  
during the term of this Agreement, establish or license another person or entity  
to establish a Franchised Business in the Franchise Area. Except as specifically  
provided in this Section 1.2, the rights and franchise granted to Franchisee are  
nonexclusive. Franchisor reserves the right to establish and operate Retail  
Outlets and/or use the Great Earth System, the service xxxx "Great Earth" and  
the service marks incorporating the Great Earth logo (collectively, the "Name")  
and the Marks outside the Franchise Area on such terms and conditions as  
Franchisor deems appropriate and to use or license others to use any or all of  
the Name, the Marks, the System and the Proprietary Information (defined in  
Section 12.2 of this Agreement) for that purpose. Franchisee specifically  
acknowledges that Franchisor operates a mail order business and, without  
limiting the provisions of this Section 1.2, Franchisor reserves to itself, its  
parent, subsidiaries, affiliates or designees, the right to sell Products  
through mail order in the Franchise Area in an effort to promote the Name and  
Marks (in this regard, it is not the intention of Franchisor to diminish the  
market share of Franchisee with respect to Great Earth Products).  
  
 1.3 Restricted and Required Use.  
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 (a) During the term of this Agreement, Franchisee shall use in  
connection with the operation of the Franchised Business the Name and such Marks  
as are set forth in the Operations Manual or as Franchisor may from time to time  
otherwise designate. Franchisee shall conduct the Franchised Business at the  
Retail Outlet only under the Name, such other derivatives thereof as Franchisor  
may designate from time to time, and the Marks. Franchisee shall not use the  
Name, the Marks or any part thereof in or as its corporate name.  
  
 (b) Whenever Franchisee uses the Name or Marks, Franchisee shall  
identify itself as a Great Earth franchise, including, without limitations on  
invoices, order forms, receipts, and contracts as well as at such conspicuous  
places on the Retail Outlet as specified in the Operations Manual or as  
Franchisor may from time to time otherwise designate.  
  
 (c) Franchisor shall have the right to require Franchisee to  
modify or discontinue use of the Name, or any of the Marks, and/or use one or  
more additional names or substitute names or marks if Franchisor deems  
modification, substitution or discontinuance necessary or desirable.  
  
 1.4 Protection of Trade Name, Marks, Trade Secrets.  
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 (a) Franchisee shall do all things necessary to prevent the  
authorized use by Franchisee of the Name and Marks from diminishing the legal  
protection granted to the Name and Marks. Franchisee shall affix service xxxx  
or trademark notices and indications of service xxxx or trademark registrations  
in the form of the registered trademark designation for registered service marks  
or trademarks and the symbol "TM" for unregistered service marks or trademarks  
whenever it uses any such service xxxx or trademark in accordance with the terms  
of the Agreement, and shall add notices of any new service marks incorporating  
the service xxxx "Great Earth" owned by Franchisor as they are adopted and as  
registrations issue from time to time during the term of this  
  
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Agreement. Franchisor will provide timely notice to Franchisee of the adoption  
and registration of any such new service marks or trademarks. If required by  
law, Franchisee shall file and keep in full force a Fictitious Business Name  
Statement indicating that Franchisee is doing business under the fictitious name  
"Great Earth" or any of its derivatives, or under the Marks, with the County  
Clerk of the county in which the Retail Outlet is located, or such other  
governmental department, agency, or office as required by law. Franchisee shall  
furnish a conformed copy of each such Statement to Franchisor. Upon termination  
or expiration of this Agreement, Franchisee shall file and publish a Statement  
of Abandonment of such Fictitious Name. Franchisee hereby appoints and  
authorizes Franchisor as Franchisee's attorney-in-fact to execute, file and  
publish a Statement of Abandonment in the event Franchisee fails to do so.  
  
 (b) Franchisee shall immediately notify Franchisor of any infringement  
of, challenge to, or unauthorized use of the Name or Marks, or any claim, demand  
or suit against Franchisee based upon, or arising in connection with, any  
attempt by any other person or entity to use the Name, the Marks or any  
colorable variation thereof. Provided it receives such notice thereof, and if  
Franchisor in its sole discretion elects to proceed with litigation, such  
defense or prosecution will be at Franchisor's cost and expense. Franchisee  
shall have no responsibility for the costs of any litigation undertaken by  
Franchisor to protect or defend the Name or Marks unless such litigation arises  
out of or results from Franchisee's use of the Name or Marks in a manner not  
specifically authorized by this Agreement or other breach of this Agreement by  
Franchisee. Franchisee shall cooperate with Franchisor in all aspects of the  
defense or prosecution thereof.  
  
 (c) Upon the expiration or termination of this Agreement, Franchisee  
shall immediately cease and desist from all use of the Name and the Marks in any  
way and will deliver up to Franchisor, or its duly authorized representative,  
all materials and papers upon which the Name and/or Marks appear and Franchisee  
will not at any time adopt or use any word or xxxx which is similar to or likely  
to be confused with the Name and Marks without Franchisor's prior written  
consent.  
  
 (d) Franchisee understands and agrees that its license under said Name  
and Marks, if any, is non-exclusive, and that Franchisor, in its sole  
discretion, has the right itself to operate businesses under the Marks, and to  
grant other licenses in, to and under such Name and Marks on any terms and  
conditions Franchisor deems fit.  
  
 (e) Franchisee understands that other persons may have claims of prior  
use of the Name, the Marks or other trademarks, trade names or service marks  
which are confusingly similar to the Name. Franchisor makes no representation or  
warranty that claims of prior use may not be asserted. A claim of prior use may  
result in Franchisee being prohibited from using the Name and/or Marks in all or  
part of the Franchise Area.  
  
 1.5 Ownership of Trade Name, Marks, Trade Secrets. Franchisee  
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acknowledges Franchisor's exclusive right, title and interest in and to the  
Name, Marks and registrations thereof, and the goodwill of the business  
symbolized thereby and will not, at any time during or after the term of this  
Agreement, do or cause to be done any act or thing contesting or in any way  
impairing or tending to impair any part of such right, title and interest.  
Franchisee shall not, in any manner, represent that it has any ownership in the  
Name or the Marks, and acknowledges that its use of the Name or the Marks shall  
not create in its favor any right, title or interest in or to the Name or the  
Marks, but that all uses of the Name or the Marks by Franchisee shall inure to  
the benefit of Franchisor.  
  
 ARTICLE 2  
 TERM AND RENEWAL  
  
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 2.1 Initial Term. The franchise shall be for an initial term of ten years  
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from and after the date of this Agreement ("Initial Term"), unless sooner  
terminated in accordance with the provisions hereof.  
  
 2.2 Renewal; Renewal Fee.  
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 (a) Franchisee shall have the right to renew the franchise  
granted by this Agreement for two (2) consecutive terms of five years each (the  
"Renewal Term(s)"). Franchisee may renew for each five year Renewal Term by: (i)  
giving Franchisor written notice of its intention to renew not less than six  
months prior to the scheduled expiration date of the term then in effect; (ii)  
executing the form of franchise agreement then being offered by Franchisor to  
prospective franchisees in the state where the Retail Outlet is located,  
amended to delete the provisions relating to initial franchise fee, store  
opening fee, and to provide for a term of five years and such remaining renewal  
rights as Franchisee may then have; (iii) delivering to Franchisor evidence that  
Franchisee has the right to possession of the Retail Outlet for the duration of  
the Renewal Term; (iv) upgrading and refurbishing the Retail Outlet as required  
by Franchisor to bring the Retail Outlet into compliance with Franchisor's then  
current standards and specifications including, without limitation, new  
fixtures, equipment, signs, carpeting, and decor; (v) delivering to Franchisor a  
general release of any and all claims against Franchisor and its affiliates, and  
their respective officers, directors, agents and employees in the form provided  
by Franchisor; and (vi) by paying the Franchisor no later than 30 days prior to  
the expiration of the then current term, a fee (in lieu of an initial franchise  
fee) for the five year Renewal Term in the amount of $2,500 (the "Renewal Fee").  
  
 (b) Franchisee may not renew the franchise granted by this  
Agreement and Franchisee's notice of renewal shall be void and of no effect if  
at the time of either notice or renewal, (i) Franchisee (or any member of its  
family or any person with an equity interest in Franchisee, or any partnership,  
corporation or business in which Franchisee has an ownership interest or  
control) has breached and not cured or is in default under any provision of this  
Agreement or any other agreement between Franchisor (its parent, any subsidiary  
or affiliate of Franchisor) and Franchisee, or (ii) if Franchisee has received  
three or more notices of default in any 12 month period during the term of the  
Agreement or any previous Renewal Term thereof, regardless of whether those  
defaults were cured.  
  
 (c) Should any valid applicable law, rule or regulation limit  
Franchisor's termination rights or require that Franchisor give notice prior to  
the expiration of the term and if that notice is not given within the required  
time period, this Agreement will remain in effect until Franchisor has complied  
with the applicable notice requirements.  
  
 ARTICLE 3  
 SITE SELECTION, CONSTRUCTION, RELOCATION  
  
  
 3.1 Site Selection; Relocation.  
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 (a) Concurrently with the execution of this Agreement, Franchisor  
shall apprise Franchisee of and consult with Franchisee regarding its then  
current site selection criteria and guidelines as set forth in the Operations  
Manual or otherwise formulated by Franchisor. Within 30 days from the date of  
execution of this Agreement or such other longer period of time as Franchisor  
may in its sole discretion determine, Franchisee shall submit to Franchisor for  
approval all relevant information regarding at least one potential location  
within the Franchise Area for the Retail Outlet, the proposed business terms of  
the lease or other arrangement for each potential Retail Outlet location, and  
such other information relating to a potential site for the Retail Outlet as  
Franchisor may reasonably request. Franchisor shall approve or disapprove the  
potential location(s) and proposed business terms of the lease(s) or other  
arrangement(s) therefore within ten business days of Franchisor's receipt  
thereof from Franchisee.  
  
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 (b) Franchisee shall, at its sole cost and expense, lease or otherwise  
acquire space suitable for use of one Retail Outlet, with such location and the  
lease or other arrangement therefor to be subject to the approval of Franchisor.  
As a condition of Franchisor's approval thereof but not by way of limitation,  
Franchisee shall have the Franchisor's then current standard Addendum to Lease  
incorporated into the lease by reference or obtain provisions in the lease  
satisfactory to Franchisor providing for essentially equivalent rights and  
benefits as those contained in Franchisor's then current Addendum to Lease (or  
that similar provisions providing Franchisor with essentially equivalent rights  
and benefits be included in the documentation if the arrangement with respect to  
the property in question is by purchase or otherwise than by lease).  
  
 Within 60 days of the date of execution of this Agreement or such other  
longer period of time as Franchisor may in its sole discretion determine,  
Franchisee shall deliver to Franchisor a proposed lease or other agreement for  
an approved location for the Retail Outlet. Franchisor shall review the lease or  
other arrangement to insure that Franchisee has complied with this Section 3.1  
and Franchisor shall notify Franchisee of its approval of the proposed lease or  
other agreement, or its disapproval and the reasons therefore within 15 days of  
receipt of the proposed lease from Franchisee. Franchisee may resubmit revised  
lease(s) or other agreement(s) for the proposed location(s) of the Retail Outlet  
until a lease or other agreement for an approved location is approved. Within 90  
days after the execution of this Agreement, Franchisee shall deliver to  
Franchisor an executed copy of a lease or other agreement for an approved  
location for the Retail Outlet in a form approved by Franchisor and such lease  
or other agreement shall be attached hereto as Exhibit B.  
  
 (c) If, through no fault of Franchisee, the Retail Outlet is destroyed  
by fire or other casualty or Franchisee loses the right to occupy the location  
of the Retail Outlet at any time during the term of this Agreement, Franchisee  
shall have the right to reopen or relocate the Retail Outlet to another approved  
location in the Franchise Area provided (i) Franchisee notifies Franchisor in  
writing of its intention to reopen or relocate within ten days after the Retail  
Outlet is destroyed or Franchisee learns that its right to occupy the location  
of the Retail Outlet will be terminated; (ii) Franchisee diligently pursues the  
reconstruction of the damaged or destroyed Retail Outlet or the selection and  
approval, construction and preparation of an alternate site for the Retail  
Outlet in accordance with the provisions of this Article III (except as to  
time); and (iii) within 120 days (or such other period of time as Franchisor may  
in its sole discretion determine) after the Retail Outlet is destroyed or  
Franchisee learns that the right to occupy the Retail Outlet will be terminated,  
Franchisee reopens the Retail Outlet for business or relocates the Retail Outlet  
to an approved alternate location and commences business at that location in  
full compliance with this Article III.  
  
 (d) Franchisor may from time to time provide site selection services  
as hereinafter provided in this Section 3.1(d). At Franchisee's request and upon  
payment of a fee as then required by Franchisor, but not to exceed one-half of  
the Opening Fee specified in Section 5.3 of this Agreement ("Real Estate  
Services Fee"), Franchisor or, at Franchisor's option, an independent outside  
consultant recommended by Franchisor, will assist Franchisee to research the  
Franchise Area, locate at least one potential location for a Retail Outlet and  
negotiate the business terms of a lease for one of those approved locations if  
selected by Franchisee. Franchisee understands and agrees that Franchisee must  
comply with the time periods set forth in this Article III notwithstanding any  
assistance provided pursuant to this Section 3.1(d). The Real Estate Services  
Fee paid by Franchisee pursuant to this Section 3.1(d), reduced by the amount of  
any refund received by Franchisee, shall be credited toward the Opening Fee  
specified in Section 5.3 of this Agreement if such Opening Fee is payable by  
Franchisee.  
  
 (e) Franchisee understands and agrees that Franchisor's assistance (or  
the assistance of an outside independent consultant recommended by Franchisor)  
in connection with obtaining the right to occupy a particular location for the  
Retail Outlet and/or approval of any particular potential site, location, lease  
or other agreement for the Retail Outlet is not a warranty of the suitability,  
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tion, viability, success, or any other characteristic or matter pertaining to  
that lease, location or site. Franchisee shall be solely and completely  
responsible for selecting appropriate locations, obtaining approval of them as  
required by this Agreement, consulting with its accountants, attorneys, and  
other professional advisors as Franchisee deems necessary, and negotiating the  
terms of a lease or other agreement or arrangement for the right to establish a  
Retail Outlet in a particular location.  
  
 3.2 Construction.  
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 (a) (i) Franchisor shall, at no charge to Franchisee, provide  
Franchisee with Franchisor's current standard Retail Outlet design package,  
including a sample layout for the interior of a typical Retail Outlet and a set  
of standard preliminary plans and decor specifications. Franchisee shall, at its  
sole cost and expense, employ architects, designers, engineers and/or others as  
may be necessary to complete, adapt, modify or substitute the standard plans and  
specifications for the Retail Outlet and, within 120 days of the execution of  
this Agreement or such other longer period of time as Franchisor may in its sole  
discretion determine, shall construct to completion a Retail Outlet in  
compliance with Franchisor's specifications and open the Retail Outlet for  
business to the public. Franchisee shall submit to Franchisor a complete set of  
final plans and specifications prior to commencing construction of the Retail  
Outlet. Franchisor shall review such plans and specifications promptly and  
approve, disapprove or provide comments on the plans and specifications.  
Franchisee shall not commence construction of the Retail Outlet until Franchisor  
approves the final plans and specifications, which approval shall not be  
unreasonably withheld. Unless Franchisor expressly disapproves such plans and  
specifications within 20 days from the date of their submission to Franchisor,  
they shall be deemed accepted. Franchisor may as it deems necessary, in its sole  
discretion, consult with Franchisee on the construction and equipping of the  
Retail Outlet, but it shall be and remain the sole responsibility of Franchisee  
to diligently design, construct, equip and otherwise complete and open the  
Retail Outlet in full compliance with Franchisor's standards and specifications  
and the provisions of this Agreement. All approved plans and specifications  
shall be attached hereto as Exhibit C and their terms incorporated herein by  
reference.  
  
 (ii) Franchisee shall use a licensed contractor to perform any  
and all construction work at the Retail Outlet, which contractor shall be  
required to provide and maintain adequate insurance covering worker's  
compensation, personal injury and property damage. All such insurance shall have  
Franchisee and Franchisor as additional insureds without cost to them.  
Franchisor shall not be responsible for delays in the construction, equipping or  
decoration of the Retail Outlet or for any loss, injury or damage to Franchisee  
or any third party resulting from the design, equipping or construction of such  
Retail Outlet. Franchisee must obtain Franchisor's written approval of any and  
all modifications or changes in the plans for the Retail Outlet prior to  
construction of the Retail Outlet or the implementation of such modifications or  
changes. If such modifications or changes are not expressly rejected by  
Franchisor within ten days from the date of their submission to Franchisor, they  
shall be deemed to be accepted.  
  
 Franchisor shall have access to the Retail Outlet site while work is in  
progress and may require such reasonable alterations or modifications of the  
construction of the Retail Outlet as it deems necessary. Franchisee's failure to  
commence the design, construction, equipping and opening of the Retail Outlet  
and pursue same to completion with due diligence shall entitle Franchisor to  
terminate this Agreement. Franchisee shall give Franchisor written notice of  
completion of the construction, decoration and installation of the Retail Outlet  
prior to commencing business operations at the Retail Outlet. Franchisor shall  
be entitled to make a final inspection of the completed Retail Outlet and may  
require such corrections and modifications as it deems reasonably necessary to  
bring the Retail Outlet into compliance with approved plans and Franchisor's  
specifications. The Retail Outlet will not be allowed to open if it does not  
conform to the plans and specifications approved by Franchisor, including any  
modifications or changes to such plans and specifications approved by  
Franchisor. Failure to promptly correct any unauthorized variance from the  
approved plans and specifications will entitle Franchisor to terminate this  
Agreement. In addi-  
  
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tion, in the event Franchisee's Retail Outlet is, at any time, to be altered or  
remodeled, or additional decorations, fixtures, furniture or equipment are to be  
installed or substituted, or signs are to be erected or altered, all such work  
shall be subject to the prior written approval of Franchisor and, when  
completed, shall conform to plans and specifications approved by Franchisor.  
Although it is not obligated to do so, Franchisor may inspect such work at any  
time before or after completion to determine whether the work is being or has  
been done in accordance with plans and specifications previously approved by  
Franchisor.  
  
 (b) All real property, improvements, equipment, fixtures, designs,  
plans, structures, construction or decorations used, and quality of work done,  
whether prior to the opening of a Retail Outlet or thereafter, shall be approved  
by Franchisor in writing. Franchisee shall not make, attempt to make, permit or  
suffer any changes in the terms and conditions of its lease or purchase  
arrangements, or both, without the prior written approval of Franchisor.  
  
 (c) Franchisor shall not have any liability or obligation whatsoever  
to Franchisee with regard to any real property or the construction, alteration,  
improvement, fixturization, or equipping of the Retail Outlet and Franchisee  
waives any and all claims it might have against Franchisor, its subsidiaries and  
affiliates, pertaining to any real property or the construction, alteration,  
improvement, fixturization, equipping or condition of the Retail Outlet.  
  
 ARTICLE 4  
 FIXTURES, EQUIPMENT; SIGNS; PRODUCTS AND SUPPLIES  
  
 4.1 Fixtures and Equipment.  
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 Franchisor shall provide Franchisee with its current standard  
specifications for fixtures, furniture, equipment and decor, and Franchisee, at  
its sole cost and expense, shall obtain, acquire, construct, equip, install  
and/or otherwise provide for the Retail Outlet such fixtures, furniture,  
equipment and decor as may be required to complete the Retail Outlet in  
compliance with Franchisor's specifications. Franchisor may suggest certain  
manufacturers or suppliers to Franchisee, but if Franchisor does so, it is only  
as an accommodation to Franchisee. Franchisor shall have the right to suggest  
the purchase of any item from businesses with which Franchisor is affiliated or  
has common ownership. Franchisee shall have the right to substitute  
manufacturers and/or suppliers and shall have the right to purchase the required  
fixtures, furniture and equipment from any source, provided that the items to be  
purchased are in strict compliance with the specifications and quality standards  
of Franchisor. If Franchisee intends to utilize any used fixtures, furniture or  
equipment in its Retail Outlet, Franchisee shall notify Franchisor and  
Franchisor shall have the right, but not the obligation, to inspect and approve  
or disapprove Franchisee's use of such fixtures, furniture or equipment prior to  
the installation of such items in the Retail Outlet.  
  
 4.2 Signs. Franchisee shall install and display, at its sole cost and  
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expense, all signs to be used in connection with the Retail Outlet, both  
exterior and interior, which signs must conform to Franchisor's sign criteria as  
to type, color, size, design and location as set forth in the Operations Manual  
or otherwise specified in writing by Franchisor. All signs must be approved in  
writing by Franchisor prior to purchase, installation or display.  
  
 4.3 Approval to Open Retail Outlet. Franchisee shall not open the Retail  
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Outlet to the public until Franchisor acknowledges in writing that the Retail  
Outlet, Franchised Business, Franchisee and Franchisee's employees are in  
compliance with Franchisor's requirements and the terms and provisions of this  
Agreement.  
  
 4.4 Security. Franchisee herby grants to Franchisor a lien and security  
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interest in all of the assets of the Franchised Business and/or the Retail  
Outlet for the payment of all monies payable to Franchisor or for which  
Franchisee and/or Franchisor is liable either directly or indirectly as a result  
  
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of any action or inaction on the part of Franchisee. The assets covered by this  
agreement include, but are not limited to, all present and future real property,  
physical assets, inventory, equipment, fixtures, leases, accounts receivable,  
loans receivable, all other receivables, intangible assets and every other type  
of assets which Franchisee directly or indirectly owns, leases, rents, controls  
or has the ability to do so. Franchisee agrees to execute Franchisor's then  
current form of Collateral Assignment of Lease for the Retail Outlet and to  
execute, file and pay the filing and other fees for all Uniform Commerical Code  
("UCC"), local, state and federal documents necessary to effectuate the  
provisions of the Section 4.4. Should Franchisee obtain assets in the future,  
Franchisee agrees to take all steps to include these assets by preparing, filing  
and paying for the filing of the appropriate documents. Franchisee also grants  
to Franchisor a Power of Attorney at this and all future times to execute such  
documents in the name of Franchisee.  
  
 4.5 Opening Inventory. Prior to the opening of the Retail Outlet,  
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Franchisee shall cause the Retail Outlet to be stocked with the Great Earth  
Products described in the Opening Inventory List set forth in the Operations  
Manual or otherwise provided by Franchisor in such mix and quantities as  
Franchisor may determine and prescribe based on the size and regional  
characteristics of the Retail Outlet. Franchisor shall provide Franchisee with  
its current Approved Product List. In addition to Great Earth Products,  
Franchisee shall be permitted to sell any items listed on the Approval Product  
List.  
  
 4.6 Products and Other Merchandise.  
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 (a) Throughout the Term, Franchisee shall offer for sale at the  
Retail Outlet the Products, and only those Products, from time to time  
designated on the Approval Product List set forth in the Operations Manual or  
otherwise provided by Franchisor. The inventory in the Retail Outlet shall at  
all times consists of such minimum percentage of Great Earth Products as  
specified from time to time in the Operations Manual or otherwise by Franchisor.  
Franchisee shall at all time maintain total inventory levels of Products of not  
less than 90% of the levels reasonably prescribed by Franchisor for Opening  
Inventory. Franchisor may change this amount from time to time to take into  
account business conditions, regional characteristics of the Retail Outlet and  
the amount of business being done by Franchisee. Franchisor shall have the right  
to change, add, eliminate, or prohibit Products that may be offered for sale in  
the Retail Outlet at any time.  
  
 (b) Franchisee shall at all times maintain in the Retail Outlet  
an amount and mix of Products sufficient to meet reasonably anticipated  
customer demand.  
  
 (c) Notwithstanding any provision of this Agreement or any other  
agreement, Franchisee shall immediately remove from sale, xxxx as an item not  
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to be sold, and store in a place where the item can not be accidentally placed  
back on a shelf for sale, any Product with an expired use date, which is not  
safe and/or effective, or for which Franchisor, any supplier, industry  
organization or governmental agency issues any recalls, warnings or adverse  
notices of any kind whatsoever.  
  
 (d) Franchisee shall use its best efforts to fully meet and  
continually increase demand for the Products within the Franchise Area.  
  
 (e) Franchisee shall not make or permit to be made, any product  
claims which are untrue, unsubstantiated or not allowed by law or rule,  
regulation, or order of any governmental agency or authority, nor shall  
Franchisee advertise any product for which the manufacturer or distributor of  
same makes any such claims.  
  
 (f) Franchisor shall use its best efforts to make available to  
Franchisee approved Great Earth Products to permit Franchisee to operate the  
Retail Outlet.  
  
 4.7 Suppliers and Supplies.  
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 (a) In order to assure the quality and uniformity of the Products sold  
by Franchisee, all Products purchased by Franchisee for sale in the Retail  
Outlet and all goods, supplies and other merchandise shall be of brands  
designated or approved in writing by Franchisor from time to time, shall be  
acquired from suppliers designated or approved by Franchisor from time to time  
(unless Franchisor has not designated or approved any particular supplier), and  
shall meet all quality requirements established by Franchisor. If at any time  
Franchisor develops and/or distributes Products, goods, supplies or merchandise  
based upon secret or proprietary information or formulae belonging to or  
developed for Franchisor, GEC, its subsidiaries or affiliates, Franchisee shall  
acquire those items only from Franchisor or any supplier or producer designated  
by Franchisor. Franchisor may disseminate as part of the Operations Manual or  
otherwise, a List of Approved Product Distributors, a List of Prohibited  
Products, and/or a List of Approved Products as Franchisor may determine, to or  
from which Franchisor may from time to time add or delete brands, Products  
and/or suppliers, including without limitation brands, Products or suppliers  
added pursuant to Section 4.7(b). Franchisor does not guarantee or otherwise  
assure that Franchisee will be able to obtain or purchase any or all Products or  
other items.  
  
 (b) Franchisee is not required to purchase Products or other items  
from Franchisor or any designated sources except Great Earth Products, provided  
that all Products or other items used or sold by Franchisee shall be approved by  
Franchisor pursuant to this Section 4.7 or as set forth from time to time in the  
Operations Manual. All labels, boxes, paper goods, publications, stationary,  
invoices, billheads, business cards and other similar items that bear the Name  
or the Marks ("Paper Goods") that have not been obtained from Franchisor or from  
Franchisor's designated sources shall conform to specifications and quality  
standards established by Franchisor from time to time and must be approved in  
writing by Franchisor in accordance with this Section 4.7 so that consistency  
and uniformity can be preserved. At Frachisor's request, Franchisee shall  
furnish Franchisor with samples of all Paper Goods. Franchisee may at any time  
request in writing that Franchisor approve a particular product. Franchisor may  
then require that Franchisee deliver to Franchisor or cause to be delivered, a  
sample of the product and appropriate information regarding its producer,  
suppliers, and availability. Franchisor shall test or have the product tested,  
examine the history, label and advertising claims made regarding the product,  
and conduct such investigation of the producer and suppliers as Franchisor deems  
necessary. If, in Franchisor's judgement the suggested product and supplier (i)  
is comparable or superior in quality, grade, performance, appearance, labeling,  
advertising claims, and reputation to the suppliers and products then approved  
by Franchisor, (ii) the producer and/or supplier of the product carries product  
liability insurance in accordance with Franchisor's then current specifications,  
will add Franchisor, its affiliates and franchisees as additional insureds under  
such policies and submit certificates of insurance evidencing such coverage to  
Franchisor, (iii) supplies a Continuing Guaranty of all products shipped to  
Franchisor, its subsidiaries or affiliates, or any franchisee in form acceptable  
to Franchisor, and (iv) is capable of supplying products in the quantities and  
at the times it is likely to be required by the System's franchisees, the  
suggested product and its supplier shall be approved by Franchisor and added to  
Franchisor's List of Approved Products set forth in the Operations Manual or  
otherwise provided by Franchisor. If Franchisor disapproves of a suggested  
supplier and/or product, Franchisor shall notify Franchisee of its decision and  
the reason therefore. Franchisor may require Franchisee to reimburse Franchisor  
for the reasonable cost of any inspection, examination, investigation and  
testing provided for in this Section 4.7(b). It is expressly understood that  
neither Franchisor nor any of its subsidiaries or affiliates are under any  
obligation or duty whatsoever to provide Franchisee or any supplier with any of  
the materials necessary to print the Name or Marks an any pre-approved Paper  
Goods or any right to use the Name or Marks in connection with the manufacture  
or distribution of any product, or any trade secrets, proprietary and/or  
confidential formulae or other information of a confidential nature relating to  
Products.  
  
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 (c) Franchisor, from time to time, may request Franchisee to submit a  
list of all Other Products and non-Great Earth Products which Franchisee offers  
for sale at the Retail Outlet and Franchisee shall provide Franchisor with such  
a list within ten days of Franchisor's request therefor.  
  
 (d) If Franchisee shall sell any products or other merchandise which  
have not been approved by Franchisor, in addition to Franchisor's other rights  
and remedies under this Agreement, Franchisee shall promptly pay to Franchisor  
an amount equivalent to the gross profit (i.e., selling price less cost of goods  
sold) earned by Franchisee as a result of all such sales.  
  
 (e) Franchisee hereby authorizes Franchisor to contact all suppliers  
of Products, goods and services to Franchisee. Franchisee directs such supplier  
to provide to Franchisor all information in whatever detail, type of media and  
format requested by Franchisor.  
  
 4.8 No Trans-shipments. Without the prior written consent of Franchisor.  
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Franchisee shall not supply, ship, or cause to be shipped or otherwise assign  
or transfer, any Products to any person, entity, or other Great Earth Vitamin  
Store. Franchisee's sales shall be made at the Retail Outlet to retail customers  
of the Retail Outlet only. Franchisee may, on a non-exclusive basis, make mail  
order sales to retail customers of the Retail Outlet but may not solicit mail  
order sales outside the Franchise Area.  
  
 ARTICLE 5  
 FEES  
  
 5.1 Fees for Franchise. Franchisee hereby agrees to pay a Franchisor  
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(except if this Agreement is being executed as a renewal of a franchise) a  
non-refundable Franchise Fee of $20,000, payable by Franchisee by cashier's  
check to the order of Franchisor upon execution of this Agreement.  
  
 5.2 Creditworthy Franchisees. At the sole option, discretion and exclusive  
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decision of Franchisor, the following terms may be offered to Franchisee for  
payment of the Franchise Fee specified in Section 5.1 of this Agreement:  
  
 (a) a down payment of the non-refundable $20,000 Franchise Fee in an  
amount determined by Franchisor in its sole discretion is payable by Franchisee  
by cashier's check upon execution of this Agreement and the balance shall be  
paid in the form of a promissory note as prescribed by Franchisor, executed by  
Franchisee and delivered to Franchisor upon execution of this Agreement. The  
promissory note shall be secured by a security interest in all such collateral  
as the Franchisor, in its sole discretion, deems necessary substantially in the  
form of a security agreement as prescribed by Franchisor and shall be executed  
by Franchisee and delivered to Franchisor upon execution of this Agreement,  
and, at Franchisor's option, may also consist of a collateral assignment of any  
lease entered into by the Franchisee for the Retail Outlet, substantially in the  
form prescribed by Franchisor and/or a lien on real estate owned by Franchisee.  
In addition, Franchisor may require a guaranty of payment of the promissory  
note. In connection with the security agreement and other collateral furnished  
by Franchisee to secure the promissory note, Franchisee agrees to execute one or  
more Financing Statements under the UCC and authorizes Franchisor to execute the  
same on behalf of Franchisee in connection therewith. Franchisee hereby agrees  
to pay for any UCC search and the filing and recording fees and costs necessary  
to perfect any security liens required by Franchisor.  
  
 5.3 Opening Fee. Franchisee shall also pay to Franchisor a non-refundable  
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Opening Fee in the amount of $10,000, payable by cashier's check to the order of  
Franchisor no later than five days prior to the opening of the Retail Outlet.  
If Franchisee, with the prior written approval of Franchisor, relocates the  
Retail Outlet during the term of this Agreement in accordance with the  
provisions of Section 3.1 (c), no additional Opening Fee shall be payable to  
Franchisor.  
  
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 5.4 Continuing Fee.  
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 (a) Franchisee shall pay to Franchisor a non-refundable  
Continuing Fee in an amount equal to 6% of Franchisee's monthly Gross Receipts  
as hereinafter defined in Section 5.5, except that during the first calendar  
month or portion thereof and each of the next five calendar months following the  
date of the initial opening of a Retail Outlet in the Franchise Area, Franchisee  
shall pay a Continuing Fee for that period only of 3% of Franchisee's Gross  
Receipts.  
  
 (b) The reduced Continuing Fee exceptions set forth in Section  
5.4(a) shall only apply to the initial six calendar months of operation of the  
Retail Outlet first established in the Franchise Area. In the case of a sale,  
resale, assignment, transfer, relocation or other reopening of a Retail Outlet,  
the non-refundable Continuing Fee shall in all cases be 6% of Franchisee's  
monthly Gross Receipts.  
  
 (c) The Continuing Fee shall be paid by Franchisee on a monthly  
basis. Payments shall be made on the tenth day of each month based upon  
Franchisee's Gross Receipts during the previous month. Franchisee shall,  
concurrently with each Continuing Fee payment, submit to Franchisor a statement  
of Gross Receipts for the reporting period in such form as Franchisor may  
specify or as set forth in the Operations Manual and certified as true and  
correct by Franchisee.  
  
 (d) For any time period during which the Retail Outlet is not  
opened for business, Franchisee shall pay to Franchisor in accordance with  
Section 5.4 (c) above, the greater of (A) the Continuing Fee as set forth in  
Sections 5.4 (a) and 5.4 (b) above, or (B) an amount equal to the mean  
Continuing Fee payable to Franchisor for the preceding twelve month period (or  
portion thereof if the initial Retail Outlet in the Franchise Area has been  
opened for less than twelve months) during which the Retail Outlet was  
continuously opened for business.  
  
 5.5 Gross Receipts. The Term "Gross Receipts" as used in this Agreement  
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shall include all of Franchisee's revenues and all monies due Franchisee from  
sales of Products and merchandise whether for cash or credit and regardless of  
collection (in the case of credit), and shall include all payments to Franchisee  
under any business interruption insurance policy or similar insurance policy and  
income of every kind and nature whatsoever related to the Retail Outlet or the  
Franchised Business; provided that Gross Receipts shall not include sales taxes  
or other taxes collected from customers for remittance to the appropriate taxing  
authorities and bona fide cash and cash equivalent check and credit card refunds  
made to customers to the extent that those amounts have previously been included  
in Gross Receipts.  
  
 5.6 Additional Funds and Commitments of Franchise. In addition to other  
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payments to be made and covenants to be kept or performed by Franchisee  
hereunder, Franchisee shall provide funds for the following, as necessary:  
  
 (a) Working capital for the operation of the Retail Outlet, including  
 start-up inventory costs;  
  
 (b) Rent (including advance minimum rent and any necessary security  
 deposits) for the Retail Outlet; and  
  
 (c) Other necessary and appropriate expenses, as they may occur.  
  
 5.7 Late Payments. If any payment owned by Franchisee or Franchisor or the  
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Program (as hereinafter defined in Section 6.4(a)) is received by Franchisor  
more than three days after the date due, in addition to any other remedy  
available to Franchisor (a) Franchisee shall pay to Franchisor or the Growth  
Enhancement Program described in Section 6.4, as the case may be, an additional  
sum  
  
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equal to the greater of $50 for each month such payments are past due or  
interest at the highest interest rate then permitted by law for commercial  
transactions, and (b) to the extent permitted by law, any affiliate, Approved  
Product Distributor or other supplier of Franchisor who supplies Products to  
Franchisee, may, upon request of Franchisor, withhold delivery of Products until  
all amounts owed by Franchisee to Franchisor and the Program are paid in full.  
  
 ARTICLE 6  
 ADVERTISING AND PROMOTION  
  
 6.1 Definition. For purposes of this Agreement, the term "advertising  
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material" shall mean all printed, audio, visual, or other materials and items  
prepared for the purpose of increasing, encouraging, or promoting patronage of  
Retail Outlets in general, and shall include, without limitation, signs, radio  
spots, television advertisements, newspaper, magazine or other printed media  
advertisements, slogans, jingles, contests, posters, displays, flyers, leaflets,  
brochures, handbills, educational literature, product information, direct mail  
presentations, advertising specialty items and give-aways.  
  
 6.2 Approval of Advertising Materials. Franchisee shall not use, display,  
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disseminate, or publish any advertising materials not furnished by Franchisor  
without the prior written approval of Franchisor. If Franchisor does not  
disapprove within ten days after receipt of any proposed advertising materials  
submitted by Franchisee, they shall be deemed to be approved, but Franchisor  
reserves the right to withdraw its approval and Franchisee shall cease using  
such advertising or promotional materials immediately upon written notice from  
Franchisor. Franchisor may require any advertising material used by Franchisee  
in connection with the Franchised Business to bear such Marks in form, color,  
location and manner as prescribed by Franchisor. If Franchisee fails to  
immediately remove any unapproved advertising material displayed by it,  
Franchisor may enter the Retail Outlet and remove and destroy such materials  
without being guilty of trespass, conversion or any other tort. Franchisee shall  
adhere to all retail prices (including without limitation, all special offers  
and sale prices) advertised by it, all refund policies, and shall not advertise  
in a false, misleading or deceptive manner.  
  
 6.3 Required Use and Participation. Franchisee shall display at the Retail  
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Outlet for the period specified from time to time by Franchisor all advertising  
materials specified by Franchisor in the Operations Manual or furnished to  
Franchisee by Franchisor and shall join and participate in all advertising  
campaigns and programs, contests, drawings and similar promotional events or  
activities sponsored by Franchisor, so long as no statute, law, ordinance, rule  
or regulation prohibits Franchisee's required participation.  
  
 6.4 Growth Enhancement Program.  
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 (a) Franchisee, recognizing the value of product development,  
advertising and the importance of the standardization of advertising and  
promotion to the goodwill and public image of the Great Earth System, shall pay  
to the Great Earth Growth Enhancement Program ("Program"), to be administered by  
Franchisor, on or before the tenth day of each month a recurring, non-refundable  
contribution for the Retail Outlet of $150 ("Program Contribution"). Franchisor  
may, in its sole discretion, reduce the Program Contribution for the benefit of  
certain franchisees. If Franchisor does so, such reduction shall be made  
available on the same terms, conditions and qualifications to all similarly  
situated franchisees and Franchisor shall retain the right, in its sole  
discretion, to partially or totally restore the Program Contribution upon ten  
days prior written notice to the amounts set forth herein.  
  
 (b) Franchisor shall spend the aggregate Program Contributions  
collected from its Franchisees for purposes of product development, point of  
purchase materials, national, regional or  
  
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local advertising, market research, public relations, and promotional campaigns  
designed to promote and enhance the value of the Marks and the System and public  
recognition thereof and such other additional purposes as Franchisor and a  
majority of its franchisees may from time to time determine, less (i) actual  
administrative expenses with respect to product development, advertising, market  
research, public relations, and promotional materials and campaigns, which  
aggregate expenses shall not exceed 15% of the annual aggregate Program  
contributions received or receivable by Franchisor, (ii) the reasonable  
personnel costs incurred in managing the Program and (iii) Franchisor's actual  
product development, point of purchase, advertising and promotional production  
costs.  
  
 (c) No interest on unexpended Program Contributions shall be  
imputed for the benefit of, or payable to, Franchisee.  
  
 (d) Franchisor shall determine, in its sole discretion, the cost,  
form of media, content, format, production, timing (including regional or local  
concentration and seasonal exposure), location, and all other matters relating  
to advertising, public relations, promotional campaigns and any other matter in  
connection with expenditures of Program Contributions.  
  
 (e) Franchisee understands that such product development,  
advertising and promotional activities are intended to maximize the public's  
awareness of the franchises and the System, and that Franchisor accordingly  
undertakes no obligation to insure that any individual franchisee benefits  
directly or on a pro rata basis from the placement, if any, of such advertising  
in its local market.  
  
 (f) Franchisor reserves the right, in its sole discretion, to  
terminate the Program at any time provided Franchisor expends all remaining  
funds in the Program for product development, point of purchase materials,  
advertising and/or promotional or such other purposes as set forth in this  
Section 6.4. If Program Contributions are collected by Franchisor after  
termination of the Program, such Program Contributions will be expended by  
Franchisor for Program purposes or refunded on a pro rata basis to those  
franchisees whose Program Contributions were current at the time of termination  
of the Program.  
  
 (g) Franchisor and/or some of Franchisor's Approved Product  
Distributors or other suppliers may make contributions to the Program.  
  
 (h) On or before April 15 and October 15 of each year during the  
Term of this Agreement, Franchisor shall deliver to Franchisee a statement of  
receipts and expenditures of aggregate Program Contributions for the preceding  
six full calendar months of Franchisor's fiscal year;  
  
 6.5 Local Advertising.  
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 (a) Franchisee shall, at its sole cost and expense, conduct local  
advertising (or other advertising in lieu of local advertising acceptable to  
Franchisor) which may include advertising published in local newspapers and  
promotional merchandise distributed to the community in the Franchise Area. Such  
local advertising must include a listing of Franchisee's Retail Outlet in the  
white pages and yellow pages of the local telephone service provider's  
directories distributed throughout the Franchise Area. All such advertising  
shall be conducted in a dignified manner and conform to the standards and  
requirements prescribed by Franchisor from time to time and to the highest  
ethical standards of advertising.  
  
 (b) The amount spent by Franchisee annually upon such local  
advertising (or other advertising in lieu thereof acceptable to Franchisor)  
shall not be less than an amount equal to $1,000 per month. On June 30 and  
December 31 of each year, or at such other time or times as set forth in the  
Operations Manual or as Franchisor may otherwise require, Franchisee shall  
provide Franchisor  
  
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with copies of all statements, invoices and canceled checks pertaining to the  
six month period preceding such date, evidencing the expenditures for local or  
other advertising or such other time period as Franchisor may direct.  
  
 (c) On or before January 31 of each year, Franchisee shall pay to  
the Program an amount equal to the difference between (A) the amount Franchisee  
was required to spend during the preceding calendar year on local advertising  
(or other advertising in lieu of local advertising acceptable to Franchisor)  
pursuant to this Section 6.5 and (B) the amount actually expended by Franchisee  
for same. In addition, if Franchisee fails to conduct such local advertising  
(or other advertising in lieu of local advertising acceptable to Franchisor),  
Franchisor may, at its election, (i) obtain such local advertising for the  
benefit of Franchisee in the amounts specified in Section 6.5(b) above and  
Franchisee shall reimburse Franchisor for the costs thereof upon demand, and/or  
(ii) require that Franchisee make its monthly advertising expenditure directly  
to Franchisor, who shall expend such monies on approved local advertising.  
  
 ARTICLE 7  
 TRAINING  
  
 7.1 Initial Training. Prior to the opening of the Retail Outlet, Franchisor  
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shall provide initial training classes in the operation of the Retail Outlet to  
Franchisee (or if Franchise is a corporation or a partnership, a principal  
thereof), an individual selected in accordance with the Operations Manual and  
approved by Franchisor who will be a full-time employee of Franchisee  
responsible for the day-to-day operation of the Retail Outlet (the "Designated  
Manager"), and, at Franchisee's option, one additional person employed by  
Franchisee at the Retail Outlet. Such initial training classes shall be  
conducted at Franchisor's corporate headquarters or such other training facility  
specified by Franchisor or by such other means or format as Franchisor may  
determine, for a period of up to four weeks or as otherwise set forth from time  
to time in the Operations Manual or otherwise deemed appropriate by Franchisor.  
Franchisor shall bear the cost of such initial training classes. Any and all  
costs and expenses attributable to attendance at initial training classes,  
including without limitation, transportation, room and board, wages, meals, and  
other personal expenses of such individuals attending initial training classes  
shall be the sole cost and expense of Franchisee ("Training Expenses").  
Franchisee and each of its personnel who will participate in Franchisor's  
initial training classes shall complete Franchisor's Basic Training Manual and  
satisfactorily pass Franchisor's written examination thereon as a prerequisite  
to attending initial training classes. Each such trainee shall pursue such  
training program diligently and must complete it to Franchisor's satisfaction.  
Successful completion of initial training classes by Franchisee and its  
Designated Manager and successful completion of such other training as  
Franchisor may require for Franchisee's other employees is a condition to the  
opening of the Retail Outlet to the public. Failure of any such person to  
complete such initial training classes or other training program in a manner  
satisfactory to Franchisor shall be a material breach of this Agreement for  
which Franchisor may terminate this Agreement in accordance with the provisions  
of Article 14.  
  
 7.2 Additional Training. If, at any time after the opening of the Retail  
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Outlet, Franchisor determines that Franchisee or any of Franchisee's employees  
requires additional training, Franchisor may require that Franchisee or any  
employee of Franchisee satisfactorily complete such training as Franchisor may  
be require. If Franchisee hires additional or replacement personnel, each  
Designated Manager shall successfully complete initial training classes and  
every other hiree shall successfully complete such training program as  
Franchisor may from time to time require prior to working in the Retail Outlet.  
Franchisee or its Designated Manager may re-attend Franchisor's initial training  
classes as a refresher course or Franchisee may cause any of its employees to  
attend those training classes deemed appropriate by Franchisor at any time,  
subject to availability of openings in a particular training class. Franchisee  
shall pay all Training Expenses in connection with the attendance by Franchisee  
or any of its employees at any training classes or training program provided by  
Franchisor.  
  
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Successful completion of Franchisor's training program by every one of  
Franchisee's employees is a condition to the opening of the Retail Outlet to the  
public. Franchisee's employment in the Retail Outlet of any person who has  
failed to complete Franchisor's training program in a manner satisfactory to  
Franchisor shall be a material breach of this Agreement for which Franchisor may  
terminate this Agreement in accordance with the provisions of Article 14.  
  
 7.3 On Site Assistance.  
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 (a) If deemed necessary by Franchisor, Franchisor may provide, at  
Franchisor's cost and expense, an operational supervisor to assist at the  
premises with the initial opening of the Retail Outlet in the Franchise Area and  
to provide such other assistance to Franchisee as Franchisor deems necessary in  
order to assist Franchisee in opening its Retail Outlet.  
  
 (b) Franchisee may, at any time during the term of this Franchise  
Agreement and provided Franchisee is not then in default hereunder, request that  
Franchisor provide an operational supervisor to temporarily assist Franchisee  
and its employees at the Retail Outlet. Subject to the availability of  
Franchisor's personnel and other commitments of Franchisor at the time of  
Franchisee's request, Franchisor may provide such on-site assistance to  
Franchisee. Franchisee shall reimburse Franchisor upon demand for all costs and  
expenses incurred by Franchisor in providing such assistance including, without  
limitation, the traveling expenses, meals, lodging and salary for Franchisor's  
operational supervisor.  
  
 7.4 Meetings. Franchisor may hold at least one meeting annually to review  
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with its franchisees the System, new products developed, advertising and  
promotional concepts and other matters relating to the operation and management  
of the Retail Outlet ("Annual Meeting"). If such meeting is held by Franchisor,  
Franchisee or Franchisee's Designated Manager and such other employees of  
Franchisee as Franchisee may designate shall attend the Annual Meeting.  
  
 7.5 Regional Meetings and Seminars. Franchisee, Franchisee's Designated  
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Manager or such other employees of Franchisee as Franchisor may designate, shall  
participate in up to two regional training programs or seminars each year as and  
if required by Franchisor. Franchisor may charge a training fee for each  
participant in regional training programs or seminars and Franchisee shall pay  
such charges or fees therefor as may be set forth in the Operations Manual or  
otherwise established by Franchisor from time to time.  
  
 Repeated failures by Franchisee and/or its employees to participate in  
and/or complete initial training classes, training programs, additional  
training, or continuing regional training and/or seminars or to attend meetings  
as provided for in this Article 7 shall constitute a material breach of this  
Agreement for which Franchisor may terminate this Agreement pursuant to Article  
14 hereof.  
  
 ARTICLE 8  
 OPERATIONS MANUAL  
  
 8.1 General. Franchisor shall loan to Franchisee during the term of this  
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Agreement, one copy of the Operations Manual (which may include the Training  
Manual, Fixtures Manual, Products Manual, Employment Manual, Advertising Manual,  
Promotions Manual, Marketing Manual or such other manuals, if any, as Franchisor  
may from time to time develop) detailing the Great Earth System and the  
operation of the Retail Outlet and one copy of all modifications, amendments,  
deletions, and additions. Franchisor shall have the right to modify, amend,  
delete, or add to the rules, regulations, standards, procedures, policies,  
instructions, specifications and other materials in the Operations Manual at any  
time and from time to time as it deems necessary or appropriate, so long as no  
modification materially diminishes Franchisee's rights pursuant to this  
Agreement and all revisions shall be effective as of the effective date  
specified in such revisions. Franchisee shall not reproduce or copy  
  
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such Operations Manual or any part thereof and will not disclose any of the  
contents of such Operations Manual to anyone without the prior written consent  
of Franchisor. Franchisee acknowledges that the Operations Manual is and shall  
at all times remain the property of Franchisor and shall be returned to  
Franchisor upon termination or expiration of this Agreement. If Franchisee  
destroys, loses, or otherwise fails to have in its possession during the term of  
this Franchise Agreement or return its copy of the Operations Manual to  
Franchisor as provided herein, Franchisee shall pay to Franchisor the sum of  
$5,000.  
  
 8.2 Compliance. Franchisee shall abide by, conform to, comply with and  
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operate the Retail Outlet in strict accordance with, all the rules, regulations,  
standards, procedures, policies, instructions and specifications set forth in  
the Operations Manual as modified, amended or supplemented by Franchisor from  
time to time.  
  
 8.3 Revisions; Disputed Contents. Franchisee shall include in its copy of  
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the Operations Manual the most recent revisions issued by Franchisor. In the  
event of a dispute as to the contents of the Operations Manual, the contents of  
the master copies maintained by Franchisor shall be controlling.  
  
 ARTICLE 9  
 RECORD KEEPING; REPORTS; INSPECTIONS; AUDITS  
  
  
 9.1 Accounting Procedures. Franchisee shall comply with and/or use all  
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accounting standards, bookkeeping and record keeping procedures, forms,  
standards and requirements contained in the Operations Manual or otherwise  
furnished by Franchisor to Franchisee. Franchisee may use the current version of  
generally accepted accounting principles for its industry as recognized by the  
appropriate state body, but Franchisor reserves the right to institute  
System-wide standardized accounting procedures at any time upon 30 days prior  
written notice to Franchisee.  
  
 9.2 Accounting Records and Reports. Franchisee shall maintain full,  
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complete and accurate books and records of the Franchised Business and Retail  
Outlet, including, without limitation, books of account, records, ledgers,  
receipts, check records, and all other documentation of the receipts and  
expenses of the Franchised Business, sales tax returns and statements, state and  
federal income tax returns pertaining to the Retail Outlet or Franchised  
Business, payroll records, canceled checks, invoices, bank statements for all  
accounts into which receipts from the Franchised Business are deposited or out  
of which expenses of the Franchised Business are paid, and all other records or  
reports used by Franchisee to record, compile, account for, or report cash flow,  
expenses, gross or net income, gross receipts, or gross or net sales  
(collectively, "Records") in accordance with the standards, specifications and  
requirements of Franchisor as set forth in the Operations Manual or otherwise at  
all times during the term of this Agreement. Franchisee shall retain all such  
Records of the Franchised Business since its inception during the term of this  
Agreement and all Renewal Terms and keep same in Franchisee's possession for at  
least five years thereafter. Franchisee shall submit to Franchisor such  
information, accounting data, and reports on forms approved by Franchisor and at  
such time(s) as designated by Franchisor, including, without limitation, income  
statements showing operations for each month and calendar year-to-date,  
end-of-month balance sheets, copies of those portions of Franchisee's federal  
and state income tax returns related to the Retail Outlet or the Franchised  
Business and certified as accurate and as submitted to taxing authorities, bank  
statements, sales tax returns or other Records as Franchisor may request. At all  
times during the term hereof and for five years after the expiration or  
termination of this Agreement, Franchisor and its representatives shall have the  
right to inspect all of Franchisee's Records.  
  
 9.3 Inspections and Audits; Penalties.  
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 (a) Franchisor and its duly authorized representatives shall have the  
right at all reasonable hours during the term of this Agreement, any Renewal  
Term and for five years after expiration or termination of this Agreement, to  
inspect, copy, examine, and audit the Records and inventories of Franchisee and  
shall have free and full access thereto for the purposes of examination and  
making extracts therefrom. Franchisee shall pay Franchisor on demand any  
deficiency in the amount of any continuing fees or other fees or Program  
Contributions revealed by any audit conducted by Franchisor and its  
representatives, together with interest at the highest rate then legally  
permitted for commercial transactions from the date such amounts were due until  
payment is received by Franchisor. If Franchisee fails to provide the Records or  
other information required by Franchisor or its representatives to conduct an  
examination or audit or in the event of a discrepancy in the report(s) or  
statement(s) of Gross Receipts by Franchisee for any three month period in  
excess of 3% of the actual Gross Receipts as finally determined, in addition to  
immediate payment of any deficiency, Franchisee shall pay all costs and expenses  
incurred by Franchisor in connection with the inspection and audit and  
collection of past due amounts owed to Franchisor, including, without  
limitation, accountants' and attorneys' fees, plus interest at the highest rate  
legally permitted for commercial transactions from the date the expenses were  
incurred to the date reimbursement is received by Franchisor.  
  
 (b) Franchisor shall have the right to have a field auditor or  
auditors at the Retail Outlet at any time to monitor Franchisee's Gross Receipts  
by observing and noting all sales transactions taking place at or from the  
Retail Outlet.  
  
 9.4 Failure to Keep Records or Make Reports. If Franchisee fails to keep  
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Records in accordance with Franchisor's standards and specifications as set  
forth in the Operations Manual or otherwise, or fails to furnish any Record,  
report or statement as required and within the time specified in this Agreement,  
in the Operations Manual, or otherwise, after giving Franchisee five days  
written notice of its intent to do so, Franchisor may appoint a certified public  
accountant to inspect and audit Franchisee's Records, inventories, tax returns  
and all other relevant documents and materials and prepare from them a statement  
of Gross Receipts that will be conclusively binding on Franchisee. Franchisee  
shall pay on demand all continuing and other fees and contributions the audit  
shows to be due and all costs, expenses, and charges incurred by Franchisor in  
connection with the audit, preparation of the statement and collection of past  
due continuing and other fees and contributions, including without limitation,  
accountant's and attorney's fees, plus interest at the highest rate then legally  
permitted for commercial transactions from date the fees were due or the cost,  
expenses or charges incurred until payment is received by Franchisor.  
  
 9.5 Publication of Sales and Profits. Franchisor shall have the right to  
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use Franchisee's Gross Receipts, net sales, earnings, or profit projections,  
forecasts, or reports in any offering circular or earnings projections prepared  
by Franchisor and to identify the Franchised Business as a franchise operation  
on which those projections, forecasts and reports are based.  
  
  
 ARTICLE 10  
 RETAIL OUTLET  
 OPERATION, MANAGEMENT, MAINTENANCE, AND INSPECTION  
  
  
 10.1 Use. Franchisee shall operate the Franchised Business exclusively  
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from the Retail Outlet, and shall make sales only to retail customers.  
Franchisee shall not sell any products or other merchandise or perform any  
services from a Retail Outlet which have not been approved by Franchi-  
  
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sor. Franchisee shall not operate any other business and shall not engage in any  
other activity from the Retail Outlet, either under Franchisor's Marks or under  
any other trade name, trademark or service xxxx without the prior written  
consent of Franchisor, which consent if granted may be subject to various  
conditions, including, but not limited to, requirements designed to apprise the  
public that the products or services offered are not associated with or endorsed  
by Franchisor.  
  
 10.2 Franchisee Personnel.  
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 (a) All personnel utilized by Franchisee at its Retail Outlet  
shall at all times be and remain employees of Franchisee and none shall be  
represented as an employee or agent of Franchisor. Franchisee shall be solely  
responsible for the acts of its employees, agents and representatives and shall  
take all such actions as may be necessary to cause such persons to comply with  
the terms, convenants and conditions of this Agreement.  
  
 (b) Franchisee shall require and cause all of its employees while  
engaged in their duties at the Retail Outlet to present a neat, clean appearance  
and render competent, sober, proper, efficient and courteous services to the  
patrons of the Retail Outlet and shall operate the Retail Outlet and conduct the  
Franchised Business in strict accordance with the provisions of this Agreement  
and the Operations Manual.  
  
 (c) The Retail Outlet shall have a Designated Manager at all  
times. The Designated Manager may be an individual Franchisee or an employee  
designated by Franchisee in accordance with the guidelines set forth in the  
Operations Manual and approved by Franchisor, and who shall have successfully  
completed, to the satisfaction of Franchisor, initial training classes provided  
by Franchisor pursuant to Article 7 of this Agreement.  
  
 (d) Upon the incapacity, resignation or unwillingness of the  
Designated Manager to continue to serve Franchisee in such capacity, Franchisee  
shall notify Franchisor and shall nominate a replacement Designated Manager who  
shall complete, to Franchisor's satisfaction, Franchisor's initial training  
classes in accordance with Article 7 of this Agreement.  
  
 10.3 Business Hours. Franchisor may from time to time designate the  
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minimum business days and hours during which Franchisee shall keep the Retail  
Outlet open for business. During the term hereof, Franchisee shall continuously  
operate the Franchised Business and conduct retail sales of Products at the  
Retail Outlet within the Franchise Area and keep it open for business on all  
business days and during all business hours designated from time to time by  
Franchisor. Franchisee hereby acknowledges and agrees that the business days and  
hours designated by Franchisor may, and in all likelihood shall, include  
holidays and extended business hours for days preceding holidays and may vary  
depending upon the requirements of the various malls and shopping centers where  
the Retail Outlet may be located.  
  
 10.4 Payment of Fees and Taxes. Franchisee shall pay, or cause to  
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be paid, any and all real estate and personal property, sales, use, payroll,  
withholding and excise taxes, license fees, worker's compensation, unemployment  
insurance, disability insurance and all other fees and taxes, regardless of  
source or nature, which may be imposed, levied, assessed or charged on, against,  
or in connection with, the Retail Outlet including the opening, operation and  
maintenance thereof and/or any Product sold or furnished by Franchisee under  
this Agreement, the Franchised Business or otherwise, by any federal, state,  
county, municipal, or other governmental agency or subdivision which may have  
jurisdiction over such Retail Outlet, the Products or the Franchised Business.  
  
 10.5 Compliance With Law.  
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 (a) Franchisee shall strictly comply with all federal, state,  
county, municipal and other governmental agency laws, ordinances and rules and  
regulations pertaining, directly or indirectly, to the Retail Outlet and the  
Franchised Business conducted therein including, but not  
  
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limited to, mislabeling or adulterating any of the Products or Services or  
making false, misleading or improper advertising claims with respect thereto.  
Franchisee shall pay for all licenses, bonds and deposits made to or required by  
any governmental agency or body and/or any utility companies related to such  
Retail Outlet.  
  
 (b) Should Franchisee receive notice from any governmental body or  
agency having jurisdiction alleging a violation or infringement, or requiring  
any corrective action, Franchisee shall: (i) immediately notify Franchisor by  
telecopy or overnight express delivery to be followed by a mailed copy of any  
relevant documentation within 24 hours of the occurrence; and (ii) cure the  
violation or infringement and take all required corrective action within seven  
days of the occurrence or such shorter time as may be specified by the  
appropriate governmental body or agency.  
  
 (c) The provisions of this Section 10.5 will not apply if (i)  
Franchisee is following Franchisor's prior written instructions and (ii)  
Franchisee notifies Franchisor that Franchisor's instructions would cause  
Franchisee's non-compliance with the provisions of this Section 10.5, if  
Franchisee has this information.  
  
 10.6 Coin Devices and Vending Machines. Franchisee will not permit the  
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operation of any music machines, vending machines, or any type of coin-operated  
or gambling devices at the Retail Outlet, except such machines as Franchisor may  
approve from time to time.  
  
 10.7 Maintenance, Repair, and Renovation. Franchisee shall keep the Retail  
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Outlet and all improvements, fixtures, furniture, equipment therein and all  
signs in good condition, repair and proper working order; perform regular  
cleaning, maintenance and upkeep; at all times maintain the interior and  
exterior of the Retail Outlet and the surrounding area in the highest degree of  
cleanliness, orderliness and sanitation; paint, wallpaper, and/or re-carpet as  
necessary in the color scheme designated from time to time in the Operations  
Manual; promptly repair any damage to, deterioration of or wear to such  
improvements, fixtures, furniture, equipment and signs; and promptly make  
replacements as necessary in compliance with Franchisor's then current standards  
and specifications.  
  
 10.8 Inspection; Remedy.  
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 (a) Franchisor shall be entitled to inspect the Retail Outlet from  
time to time to enhance System uniformity, quality control, and insure  
compliance with the provisions of this Agreement. Franchisor's personnel,  
designated agents and/or representatives shall have the right to enter the  
Retail Outlet at any reasonable time and from time to time for the purpose of  
examination, conferences with Franchisee or its employees, inspection of the  
operation and testing of the Products and services and other items sold and  
services provided in the Retail Outlet and for all other purposes in connection  
with a determination that the Retail Outlet is being operated in accordance with  
the terms of this Agreement, the Operations Manual and other applicable  
requirements of Franchisor. Franchisee specifically authorizes Franchisor or its  
designated representatives to make, at any and all reasonable times and without  
prior notice or request, inspections of the premises, fixtures, supplies,  
merchandise and personnel of Franchisee. Franchisee specifically authorizes  
Franchisor to permit Franchisor's personnel, designated agents, and/or  
representatives to monitor the operation of the cash registers and accounting  
records in the Retail Outlet for such periods of time as Franchisor may  
determine necessary. Franchisor shall notify Franchisee in writing of any  
defects, deficiencies or unsatisfactory conditions discovered at the Retail  
Outlet, or any deviation from the plans, methods and systems of Franchisor or  
the design, decor or operational characteristics of the Retail Outlet as  
detailed in the Operations Manual, or any failure to comply with and maintain  
the high standards of Franchisor. Franchisee shall immediately correct or  
repair, or, if correction or repair cannot reasonably be made immediately,  
commence to correct or repair any such conditions upon being advised of same and  
shall thereafter diligently pursue such correction or repair to  
  
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completion. If Franchisee fails to make such repairs or corrections or fails to  
commence to make such repairs or corrections immediately after receipt of  
written notice thereof from Franchisor, Franchisor, in addition to all other  
available rights and remedies including the right to terminate this Agreement,  
may, but shall not be obligated, to make such corrections or repairs and all  
expenses thereof, including without limitation, transportation, lodging, meals  
and wages of Franchisor's personnel shall be paid by Franchisee or Franchisee  
shall reimburse Franchisor therefore upon demand.  
  
 (b) Should any material deficiency or unsatisfactory condition be  
reported more than once within any 30 day period, Franchisor shall have the  
right, in addition to all other available rights and remedies, to place a  
representative in charge of the Retail Outlet for a period of up to 30 days in  
each such instance, and the wages, meals, lodging and transportation for said  
representative, which shall be commensurate with that provided for Designated  
Managers of other Retail Outlets and other retail establishments of System  
Franchisees in the general location of the Franchise Area and shall not exceed  
120% of the typical salary of a person performing equivalent services in the Los  
Angeles, California area, shall promptly be reimbursed by Franchisee to  
Franchisor upon demand.  
  
 10.9 Cooperation. Franchisee shall cooperate with Franchisor in taking any  
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action or refraining from taking any action which, in the judgment of  
Franchisor, is necessary or desirable to protect the Name and the Marks and to  
promote and enhance the Franchised Business and its image in the community.  
  
 10.10 Best Efforts. Franchisee shall use its best efforts to fully meet and  
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increase demand for the Products within the Franchise Area.  
  
 ARTICLE 11  
 INSURANCE  
  
 11.1 Liability. Franchisee shall obtain and maintain throughout the term  
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of this Agreement, at Franchisee's sole cost and expense, public liability,  
property damage and products liability insurance with a single combined  
liability limit of not less than $1,000,000, insuring against all liability of  
Franchisee and its officers, directors, partners, shareholders, agents or  
employees arising out of or related in any manner whatsoever to the Franchised  
Business and the Retail Outlet, and the use of occupancy thereof.  
  
 11.2 Fire, Theft, and Extended Coverage. Franchisee shall obtain and  
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maintain throughout the term of this Agreement, at its sole cost and expense, a  
policy of standard fire and extended coverage insurance, with vandalism and  
malicious mischief endorsements covering merchandise, fixtures, signs,  
improvements and equipment in on or about the Retail Outlet to the extent of  
100% of their actual replacement value. The proceeds of this insurance policy  
shall be used to replace Franchisee's personal property and inventory and/or  
restore the Retail Outlet and the equipment, fixtures, improvements,  
merchandises, signs and improvements in or appurtenant to the Retail Outlet that  
are the subject of any insured loss.  
  
 11.3 Business Interruption. Franchisee shall obtain and maintain  
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throughout this Agreement, at Franchisee's sole cost and expense, business  
interruption insurance in an amount adequate to protect Franchisee upon the  
happening of any insured event and insure that a Continuing Fee shall be paid to  
Franchisor for a period of up to one year if the Retail Outlet is destroyed or  
rendered unfit for the conduct of the Franchised Business.  
  
 11.4 Other Insurance Coverage. Franchisee shall obtain and maintain  
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throughout the term of this Agreement, at its sole cost and expense, Worker's  
Compensation Insurance, disability insurance and all other types of insurance  
required by law or by Franchisor from time to time; deemed necessary and  
appropriate by Franchisee for its employees' and its own protection; such  
  
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additional amounts and types of coverage as required under any lease, sublease  
or other arrangement or agreement for the Retail Outlet; and as otherwise  
specified in the Operations Manual.  
  
 11.5 Additional Insured; Provisions. All policies provided for herein shall  
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be written with reputable companies authorized to engage in the business of  
general liability insurance in the state in which the Retail Outlet is located  
and approved by Franchisor. The policies shall contain an endorsement that they  
may not be canceled or altered without 20 days prior written notice to  
Franchisor. The comprehensive liability policy shall provide that coverage is  
primary, and any coverage maintained by Franchisor is in excess thereto, and  
insures the performance of the indemnity set forth in Section 12.1 of this  
Agreement. Franchisor and GEC shall be named as additional insureds under all  
such policies on a separate endorsement written on the carrier's stationery. The  
exact names of the Great Earth entities to be included as additional insureds  
shall be set forth in the Operations Manual or otherwise provided to Franchisee  
by Franchisor. Certificates of Insurance evidencing the policies provided for  
herein shall be delivered to Franchisor together with evidence that the premiums  
have been paid prior to the commencement of construction of the Retail Outlet  
and at least 20 days prior to the expiration of any policy term. Franchisor  
makes no representation or warranty that the insurance required by this Article  
11 covers all the risks against which Franchisee, the Retail Outlet or the  
Franchised Business should be insured.  
  
 11.6 Remedies. In addition to all the other rights and remedies Franchisor  
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may have under this Agreement or by law, if Franchisee fails to obtain or  
maintain any of the insurance required by this Article 11 within five days of  
Franchisor's demand for compliance, Franchisor shall, have the right, but not  
the obligation, to obtain and maintain coverage for itself, its affiliates and  
Franchisee. Franchisee shall pay Franchisor on demand all charges incurred by  
Franchisor for securing such coverage, plus interest at the highest rate then  
legally permissible for commercial transactions from the date the charges were  
incurred until Franchisor's receipt of payment from Franchisee.  
  
 11.7 Increases. If at any time during the term of this Agreement Franchisor  
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determines that the types or amounts of insurance specified in this Article 11  
are inadequate, Franchisor may, by written notice to Franchisee or an amendment  
or revision to the Operations Manual, increase the amounts and/or types of  
insurance required and Franchisee shall obtain and maintain such increased  
insurance and provide Franchisor with a certificate evidencing such increased  
coverage within 30 days of receipt of notice from Franchisor or the amendment or  
revision to the Operations Manual.  
  
 ARTICLE 12  
 INDEMNITY; TRADE SECRETS; NON-COMPETITION  
  
  
 12.1 Indemnity. Franchisee shall indemnify Franchisor for, and hold  
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Franchisor free and harmless from and against, any and all debts, losses,  
obligations, deficiencies, liabilities, claims, damages, fines, fees, refunds,  
recalls, payments, awards, good faith settlements, and costs and expenses of any  
kind and nature whatsoever (including, without limitation, all attorneys' fees,  
costs and other expenses incurred in connection with the investigation,  
preparation, prosecution, defense, or settlement of any matter indemnified  
pursuant hereto) arising out of, related in any manner whatsoever to, or  
incurred in connection with (a) the Franchised Business or the operation of, or  
the business conducted at, the Retail Outlet; (b) the sale of Products or other  
merchandise; (c) any transaction, agreement, or undertaking entered into between  
Franchisee, its employees or agents, and any third party, or as between or among  
themselves; (d) Franchisee's use of the Name and Marks, except as otherwise  
provided in this Agreement; (e) any unapproved or disapproved advertising,  
marketing or promotional activities used or undertaken by Franchisee; (f) breach  
by Franchisee of any representation, warranty or covenant made by it in this  
Agreement not specifically referred to in this Section 12.1; or (g) any other  
action of any type or nature whatsoever which subjects Franchisor to any losses  
or liabilities of any type or nature.  
  
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 12.2 Proprietary Information.  
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 (a) The System, the information contained in the Operations  
Manual described in Article 8 of this Agreement, and all other proprietary or  
confidential information, formulae, plans, processes, methods, procedures,  
techniques, and materials revealed or provided to Franchisee by Franchisor  
(collectively, "Proprietary Information") constitute trade secrets developed by  
Franchisor which are known only to franchisees and certain authorized employees  
of Franchisor and Franchisee shall do all things necessary to preserve the  
confidentiality of such Proprietary Information. Franchisee agrees that all the  
foregoing and all information Franchisor designates as proprietary information  
shall be presumed to be proprietary information and trade secrets belonging to  
Franchisor, except to the extent that Franchisee proves that any such  
information is in the public domain. In order to prevent the unauthorized use or  
disclosure of the Proprietary Information, and in order to maintain the  
advantages accruing from the continued secrecy thereof, and to prevent others  
from acquiring knowledge of the Proprietary Information, Franchisee agrees that  
neither Franchisee nor its officers, directors, employees, agents, or  
representatives or any person with an equity interest in Franchisee shall,  
during the term hereof, or any time thereafter, directly or indirectly, use for  
its own benefit except in accordance with this Agreement, or use for the benefit  
of any other person or entity, or disclose, divulge, disseminate, display,  
duplicate, reveal, reproduce, publish, sell, show, or communicate the System,  
any of the information contained in the Operations Manual, or any of the  
Proprietary Information (including, without limitation, any information  
regarding the business, operations or secrets of Franchisor, its parent, or any  
of its subsidiaries and affiliates which is secret or confidential in nature) to  
any person or entity.  
  
 (b) Without limiting the generality of the foregoing, Franchisee  
agrees not to disclose the names of any suppliers, manner of operation, plans,  
processes, or any other information about or concerning the business of  
Franchisor, its parent, subsidiaries or affiliates. Without regard to whether  
any of the matters would otherwise be deemed confidential, material or  
important, the parties hereby stipulate that, as between them, such matters are  
confidential, material and important, and gravely affect the effective and  
successful conduct of the business of Franchisor and its goodwill, and that any  
breach of the terms of this Section 12.2(b) by Franchisee, its officers,  
directors, employees or any person with an equity interest in Franchisee will be  
deemed a material breach of this Agreement and that in addition to any other  
remedy for breach which Franchisor may have under this Agreement or under law,  
it shall have the right to terminate the Agreement forthwith; provided, however,  
that no breach by any non-officer employee of Franchisee shall be deemed a  
material breach of this Agreement if such employee is promptly terminated from  
such employment upon discovery of any such disclosure.  
  
 (c) Franchisee agrees that it shall take such action as may be  
required of it in order to assure the safekeeping of the Proprietary  
Information, which shall, at minimum include, but not be limited to all of the  
following.  
  
 (i) Franchisee shall not make or permit any other person to make  
any copies of any written Proprietary Information, nor divulge any Proprietary  
Information to Franchisee's employees (except as provided in this Section  
12.2(c)(ii) below) or agents, nor reproduce any information relating to the  
techniques, plans, methods or operating systems and shall keep all items of  
written information in a safe place.  
  
 (ii) Franchisee may divulge Proprietary Information to  
Franchisee's employees, provided that the Proprietary Information disclosed to  
any single employee shall be limited to that which is necessary for such  
employee to properly perform its duties. Franchisor may require that Franchisee  
require each such employee, as a condition to commencing and continuing  
employment, to sign a "Non-Disclosure Agreement" or similar agreement.  
Franchisee shall immediately notify Franchisor of any employee who has made any  
unauthorized disclosure of any information in its possession, and shall  
discharge such employee forthwith, unless discharge is waived by Franchisor.  
  
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 (iii) The Proprietary Information, constituting valuable trade  
secrets, shall be disseminated by Franchisor to Franchisee for the sole purpose  
of maintaining and operating the Retail Outlet and for no other reason.  
Franchisee shall not during the term of this Agreement or thereafter, use any  
Proprietary Information to its own benefit other than in the Retail Outlet.  
  
 (The provisions of this Article 12 shall be binding upon  
Franchisee forever, including the time after termination or expiration of the  
Agreement or after any transfer of the Franchised Business and/or the rights  
hereunder in whole or in part.)  
  
 12.3 Competition.  
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 (a) During the term hereof, Franchisee, its agents, officers,  
directors, shareholders and employees shall not, without the express written  
consent of Franchisor which consent Franchisor may withhold in its sole and  
absolute discretion, engage, anywhere in the world, directly or indirectly, by  
way of ownership, partnership, shareholdings, employment, consultation or any  
other way, in any other business or occupation relating primarily or  
substantially to the business, occupation or industry of making, preparing,  
marketing, distributing, displaying, or selling, at wholesale or retail,  
products or services similar in kind to those developed or featured by  
Franchisor or provided, prepared, displayed, marketed, distributed or sold in  
the manner developed by Franchisor; provided, however, nothing shall prevent  
passive ownership of securities of not more than 5% of a company, which  
securities are traded on a national exchange. If any court or other legal body  
determines that this provision is too broad, Franchisee agrees to petition the  
court to substitute a provision acceptable to the court or other legal body.  
  
 (b) For a period of one year following the termination or  
expiration of this Agreement, Franchisee shall not, without the express written  
consent of Franchisor which consent Franchisor may withhold in its sole and  
absolute discretion, directly or indirectly, as a principal, shareholder, agent,  
employee, officer or director of any corporation, or a partner, sole proprietor,  
consultant or in any other way, engage within a radius of 25 miles of the  
designated franchise area of any Great Earth franchisee or Great Earth Vitamin  
Store in any business competitive or substantially competitive with the business  
of the type described under this Agreement, in any other business or occupation  
relating primarily or substantially to the business, occupation or industry of  
making, preparing, marketing, distributing, displaying, or selling, at wholesale  
or retail, products or services similar in kind to those developed or featured  
by Franchisor or provided, prepared, displayed, marketed, distributed or sold in  
the manner developed by Franchisor. If any court or other legal body determines  
that this provision is too broad, Franchisee agrees to petition the court to  
substitute a provision acceptable to the court or other legal body.  
  
 (c) For purposes of clarification, but not of limitation,  
Franchisee hereby acknowledges and agrees that the provisions of Sections  
12.3(a) and 12.3(b) shall serve as a prohibition against Franchisee, during the  
period referred to therein, directly or indirectly, hiring, offering to hire,  
enticing away or in any other manner persuading or attempting to persuade any  
officer, employee, agent, lessor, lessee, licensor, licensee, developer,  
franchisee, customer, supplier, prospective customer or supplier of Franchisor  
to discontinue or alter its relationship with Franchisor.  
  
 (d) It is the intention of Franchisor and Franchisee that the  
covenants in this Section 12.3 shall be enforced to the fullest extent  
permissible under the laws and public policies of each state and jurisdiction in  
which enforcement is sought.  
  
 (e) The parties thereto agree that Franchisor's remedies at law  
for breach of the terms of this Section 12.3 will be in adequate, that  
Franchisor's damages therefrom will be difficult or impossible to ascertain, and  
that the terms of this Section 12.3 shall be specifically enforceable.  
  
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 (f) The parties further agree that in order to enforce this  
Section 12.3, Franchisor shall be entitled to a temporary and a permanent  
injunction by any court of competent jurisdiction against the breach of this  
covenant. In addition to any other remedy provided herein or by law to  
Franchisor upon breach of this covenant by Franchisee (but not by any of  
Franchisee's non-officer employees provided such employee is promptly terminated  
from Franchisee's employ upon Franchisee's discovery of such competitive  
activities), Franchisor shall have the immediate right to terminate this  
Agreement. The parties hereby stipulate that as between them, and without regard  
to whether any breach would otherwise be deemed material or important, any  
breach of this covenant shall constitute a material and important breach of this  
Agreement.  
  
 ARTICLE 13  
 TRANSFER OF INTEREST  
  
 13.1 Consent.  
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 (a) The rights herein granted to Franchisee are personal and a  
material part of the consideration for Franchisor's agreement to enter into this  
Agreement is Franchisor's confidence in the business skills and financial  
capabilities of the principal(s) of Franchisee. In order to assure the  
principal(s) of Franchisee's personal responsibility for the Franchised Business  
and to protect the trade name, the Marks, the System and Franchisor's goodwill  
and reputation, no person or entity shall succeed to any of the rights of  
Franchisee under this Agreement by virtue of any voluntary or involuntary  
proceeding in bankruptcy, receivership, attachment, execution, assignment for  
benefit of creditors, or other legal process and Franchisee shall not offer to  
assign, sell, transfer, mortgage, hypothecate, encumber, use as collateral, or  
otherwise dispose all or any part of this Agreement or any rights arising  
hereunder without the prior written consent of Franchisor, which consent shall  
not be unreasonably withheld but may be conditioned upon the fulfillment of  
certain qualifications, requirements, and conditions, including without  
limitation, those set forth in Sections 13.3, 13.4 and 13.7, and which consent  
may be denied on any reasonable basis including, without limitation, that (i)  
Franchisor deems the proposed transferee to be unqualified to operate the  
Franchised Business based on Franchisor's assessment of the proposed  
transferee's business ability, aptitude, financial capability and stability or  
other relevant qualifications; (ii) Franchisee does not propose to assign, sell,  
transfer, or otherwise dispose of all of Franchisee's interest in this  
Agreement, the Franchised Business and the Retail Outlet including, without  
limitation, its location, improvements, equipment, fixtures and signs; and/or  
(iii) Franchisee is in default of this Agreement. No transfer shall be made  
unless Franchisee assigns to the transferee the lease for the Retail Outlet or,  
if Franchisee owns the location of the Retail Outlet, Franchisee grants the  
transferee the right to occupy the Retail Outlet for the balance of the Term of  
this Agreement. Nothing contained herein shall in any way impair or limit or be  
deemed to impair or limit Franchisor's discretion in approving or disapproving  
any request to transfer or assign any interest under this Agreement.  
  
 (b) With each request for approval, Franchisee shall submit to  
Franchisor the terms and conditions of a proposed sale, assignment, or other  
transfer, and copies of all agreements, leases and other documents to be  
executed or delivered in connection with said proposed transfer, and  
Franchisor's then current Franchise Enrollment Form ("Enrollment Form")  
completed by the proposed transferee, as set forth in the Operations Manual or  
otherwise provided by Franchisor. Each prospective transferee shall additionally  
provide Franchisor with such other personal, financial and credit information  
about itself as Franchisor may reasonably request to determine if transferee  
satisfies Franchisor's requirements. At least 15 prior days to any approved  
transfer, Franchisee shall submit to Franchisor the transfer documents in the  
form in which they will be executed by Franchisee and transferee. If the  
transfer documents to be executed differ materially from those on which  
Franchisor based its approval, Franchisor's approval may be withdrawn. Within  
  
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ten days after the completion of an approved transfer, Franchisee shall deliver  
a copy of the fully executed transfer documents to Franchisor.  
  
 13.2 Deemed Transfers. The following events, among others, shall be deemed  
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a transfer or assignment for which Franchisor's consent is required: (a) any  
transfer to a corporation or partnership; (b) if Franchisee is a corporation,  
any dissolution, merger, consolidation, or other reorganization, or a sale or  
transfer in the aggregate of more than 40% of its issued and outstanding capital  
stock, or more than 50% of its assets including, without limitation, any public  
offering of its capital stock pursuant to any federal or state statute, rule,  
regulation, or code pertaining to the offer, sale, or issuance of securities to  
the public, or is acquired by or merged with a company whose shares of stock are  
publicly held or traded; (c) if Franchisee is a partnership, the withdrawal of a  
partner, dissolution of the partnership, or a transfer of a partner's interest  
in the partnership or other ownership or management rights; or (d) any change in  
actual control (via corporate office or otherwise) of any Franchisee entity. The  
consent of Franchisor shall not be required for transfers between parties who  
have executed this Agreement, or adult members of their immediate family, or  
transfers to a trust in which all trustees and beneficiaries are members of the  
immediate family of Franchisee, provided Franchisor is given 30 days prior  
written notice of any such transfer and such transfer complies with all other  
provisions of this Article 13 and other applicable provisions of this Agreement.  
  
 13.3 Transfer to Corporation or Partnership.  
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 (a) In addition to the conditions set forth in Sections 13.1 and 13.4  
 hereof, and any other reasonable conditions Franchisor may impose,  
 Franchisor's consent to an assignment, sale, transfer or other  
 disposition of Franchisee's interest in this Agreement or the  
 Franchised Business to a corporation may be subject to any or all  
 of the following conditions: (i) the corporation is newly  
 organized and its activities confined solely to the operation of  
 the Franchised Business; (ii) the principal(s) of Franchisee owns  
 all the shares of stock of the corporation or, with the consent of  
 Franchisor to the transfer of a portion of the shares to others in  
 compliance with this Article 13, the principal(s) of Franchisee  
 agree in writing to own a majority of the shares of the  
 corporation at all times during the term of this Agreement; (iii)  
 the corporation maintains "stop transfer" instructions against the  
 transfer, on its records, of any securities with voting rights  
 subject to the restrictions of this Article 13 and issues no such  
 securities unless the following printed legend appears legibly and  
 conspicuously on the face thereof: "The transfer of this stock is  
 subject to the terms and conditions of a Franchise Agreement with  
 Great Earth International Franchising Corp.,  
 (b) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_."; (iv) a principal of Franchisee  
 agrees to serve as Chief Executive Officer of the corporation at  
 all times during the term of this Agreement; and (v) each  
 shareholder of Franchisee executes a personal guarantee of the  
 corporation's obligations to Franchisor.  
  
 (b) In addition to the conditions set forth in Sections 13.1 and 13.4  
hereof, and any other reasonable conditions Franchisor may impose, Franchisor's  
consent to an assignment, sale, transfer or other disposition of the Franchise  
or other rights, duties and obligations under this Agreement to a partnership  
may be subject to any or all of the following conditions: (i) Franchisor  
approves each of the proposed partners in accordance with Section 13.1(a); (ii)  
the partners execute a partnership agreement that provides that no interest in  
the partnership may be transferred or changed without the prior written consent  
and approval of Franchisor; and (iii) the partnership is a general partnership.  
  
 13.4 Additional Conditions; Transfer Fee. No transferee may succeed to  
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Franchisee's interest in this Agreement or operate the Franchised Business in  
place of Franchisee unless and until: (a)  
  
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all of Franchisee's accrued monetary obligations to Franchisor, its subsidiaries  
or affiliates have been paid, all other outstanding debts and obligations  
related to the Retail Outlet or the Franchised Business have been satisfied, and  
any breach of Franchisee's contractual obligations to Franchisor has been cured;  
(b) Franchisee has executed a general release in favor of Franchisor, in form  
satisfactory to Franchisor, of any and all claims against the Franchisor and its  
officers, directors, shareholders, attorneys and employees or agents, in their  
corporate and individual capacities; (c) the transferee, an equity owner of  
transferee, and/or a Designated Manager has satisfactorily completed the initial  
training provided for in Article 7 prior to the transfer except as otherwise  
permitted by Franchisor in its sole discretion; (d) the transferee has agreed in  
writing to be bound by the Franchise Agreement and, if Franchisor in its sole  
discretion requires, has executed Franchisor's then current form of Great Earth  
Franchise Agreement being offerred to prospective System franchisees with  
provisions relating to Initial Franchise Fee and Opening Fee deleted and the  
provision relating to the term approximately revised; (e) the transferee has the  
right to occupy the Retail Outlet for the balance of the term of the Agreement;  
(f) Franchisee has delivered to Franchisor a copy of the final signed agreements  
between Franchisee and the transferee; (g) Franchisee agrees that the covenants  
of Article 12 shall survive the transfer of the Agreement and/or Retail Outlet;  
and (h) either Franchisee or the transferee, as they may decide between them,  
pays to Franchisor a transfer fee of $7,500 ("Transfer Fee") plus all of the  
Franchisor's out-of-pocket costs (in the maximum amount of $2,000) incurred in  
connection with the transfer, including the costs of investigating and approving  
the transferee, training and qualifying the transferee/and or its designee, and  
all legal costs incurred by Franchisor. The Transfer Fee plus Franchisor's  
out-of-pocket costs as specified above are payable with respect to each separate  
transaction.  
  
 13.5 Effect; Information. Any attempt to assign, sell, transfer, encumber,  
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or otherwise dispose of any interest in this Agreement or the Franchised  
Business except in strict compliance with the provisions of this Agreement shall  
be null and void. Franchisor's consent to one assignment, sale, transfer,  
encumbrance or other disposition shall not be deemed a waiver of this provision  
or a consent to a subsequent assignment, sale, transfer, encumbrance or other  
disposition. Franchisor's approval of any proposed transfer shall not be  
construed as a warranty or representation by Franchisor that the terms and  
conditions of the proposed transfer are economically sound or that the proposed  
transferee will be capable of successfully conducting the Franchised Business.  
  
 13.6 Transfer by Franchisor. Franchisor shall have the right to sell,  
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assign, or encumber all or any portion of its interest in this Agreement at any  
time so long as the person or entity that will become responsible for the  
performance of the obligations of Franchisor hereunder shall be financially  
responsible and economically capable of performing those obligations and shall  
expressly assume those obligations in writing at the time of transfer.  
  
 13.7 Right of First Refusal. Franchisee shall give Franchisor written  
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notice of its intention to assign, sell, transfer, encumber or otherwise dispose  
of all or any portion of its interest in this Agreement or the Franchised  
Business, with or without consideration, or to list it with a broker prior to  
placing any advertisement, execute a listing agreement, or otherwise offer any  
interest in this Agreement or the Franchised Business for assignment, sale,  
transfer, encumbrance or other disposition. Franchisor or its nominee shall have  
the right of first refusal on any such assignment, sale, transfer, encumbrance,  
or other disposition and no offer to sell, transfer, assign, encumber or  
otherwise dispose of any interest in this Agreement or the Franchised Business  
may be made without a prior offer to Franchisor. The proposed offer shall be  
submitted by Franchisee to Franchisor in writing and shall set forth the exact  
terms and conditions of the proposed sale, including any brokerage commissions  
payable in connection with such sale, and Franchisee shall provide Franchisor  
with such additional information regarding the proposal as Franchisor may  
reasonably request. Franchisor shall have 30 days within which to accept the  
offer in writing. Failure of Franchisor to accept within 30 days shall  
constitute rejection. If rejected, Franchisee shall have one month to complete  
the  
  
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transaction proposed upon the same terms and conditions as contained in the  
offer to Franchisor. Franchisee shall not assign, sell, transfer, encumber, or  
otherwise dispose of any interest in the Agreement or the Franchised Business  
upon terms and conditions less favorable than those offered to Franchisor and  
any material changes in the terms of any offer prior to closing shall constitute  
a new offer subject to the same rights of first refusal by Franchisor or its  
nominee as in the case of an original offer. Transfers between persons who have  
executed this Agreement and adult members of their immediate family shall not be  
subject to a right of first refusal by Franchisor.  
  
 13.8 Transfers Upon Death; Incapacity. Notwithstanding any of the  
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foregoing, in the event of death or legal incapacity of Franchisee or a person  
with an equity interest in Franchisee, such person's interest in this Agreement  
and the Franchised Business will transfer according to that person's will or the  
laws of intestacy, as the case may be, provided that adequate provision is made  
for the management of the Franchised Business, the transferee complies with the  
training requirements of Article 7 within 90 days of the death or incapacity of  
Franchisee or a person with an equity interest in Franchisee, and the transferee  
is one or more of the decedent's immediate family or a trust in which all of the  
trustees and beneficiaries are members of the decedent's immediate family. A  
transfer pursuant to this Section 13.8 shall be free of Franchisor's right of  
first refusal pursuant to Section 13.7 and the Transfer Fee specified in Section  
13.4 provided the other provisions of this Article 13 are complied with and the  
transferee complies with the provisions of Article 7 as set forth above.  
Franchisor shall be reimbursed for its out-of-pocket costs incurred in  
connection with a transfer pursuant to this Section 13.8 as provided in Section  
13.4 of this Agreement.  
  
  
 ARTICLE 14  
 DEFAULT AND TERMINATION  
  
  
 14.1 Cause Required. Franchisor may unilaterally terminate this Agreement  
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only if there has been a material violation of it or any other contract, lease,  
or undertaking to which Franchisee or any person with an equity interest in  
Franchisee and Franchisor, its parent, or any of its subsidiaries or affiliates  
are parties. A material violation shall include any failure by Franchisee to  
comply substantially with any obligation, duty, covenant, promise, or agreement  
contained in this Agreement, including without limitation, those acts or  
omissions specified in this Article 14.  
  
 14.2 Termination Without Prior Notice. Franchisor shall have the right to  
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terminate this Agreement immediately and without prior notice to Franchisee upon  
the occurrence of any or all of the following events, each of which shall be  
deemed an incurable breach of this Agreement:  
  
 (a) To the extent permitted by law, if Franchisee, a person with an  
equity interest in Franchisee, any entity controlling, controlled by, or under  
common control with Franchisee, or any person or entity which guarantees the  
obligations of Franchisee pursuant to the terms of this Agreement or any other  
agreement between Franchisee and Franchisor, its parent or any of its  
subsidiaries or affiliates (any such person may be hereinafter referred to as  
the "Related Person"), or the Franchised Business shall become insolvent, be  
declared bankrupt or make an assignment of all or a substantial part of its  
assets to or for the benefit of any creditor, or admit its inability to pay its  
debts as they come due or if a receiver, temporary or permanent, of the property  
of Franchisee or a Related Person shall be appointed by a court of competent  
jurisdiction; if the Franchised Business or Retail Outlet is seized, taken over  
or foreclosed by a government official in the exercise of its duties, or seized,  
taken over, or foreclosed by a creditor, lienholder or lessor, provided that a  
final judgment against Franchisee remains unsatisfied for 30 days (unless a  
supersedeas or other appeal bond has been filed); or if a levy of execution has  
been made upon the Agreement, the Franchised Business, or upon any property used  
in the Franchised Business, and it is not discharged within five days of such  
levy; or  
  
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 (b) If Franchisee abandons the Retail Outlet and Franchised Business  
by failing to operate the Franchised Business or keep the Retail Outlet open  
during normal business hours for five consecutive days during which Franchisee  
is required to operate the business under the terms of this Agreement, or any  
shorter period after which it is not unreasonable under the facts and  
circumstances for Franchisor to conclude that Franchisee does not intend to  
continue to operate the Retail Outlet and Franchised Business, unless such  
failure to operate is due to fire, flood, earthquake or other similar causes  
beyond Franchisee's control or Franchisor approves Franchisee's action in  
writing; or  
  
 (c) If Franchisee or any person with an equity interest in Franchisee  
makes any material misrepresentations to Franchisor or causes or authorizes any  
act or omission or engages in any conduct which reflects materially and  
unfavorably upon or impairs, endangers or damages the operation and reputation  
of the Franchised Business, the System, the Name, the Marks or the goodwill  
associated with any of them, and such violation was make knowingly, and  
Frachisee failed to cure same promptly in accordance with this Agreement, or a  
violation of this Section 14.2(c) occurred once previously during the preceding  
12 months; or  
  
 (d) If any permit, license, or governmental approval required for the  
operation of the Franchised Business or the Retail Outlet expires or is  
suspended or revoked and has not been reinstated within ten days of expiration,  
suspension, or revocation or if Franchisee otherwise fails for a period of ten  
days after notification of noncompliance from Franchisor or any governmental  
agency or authority, to comply with any federal, state or local law or  
regulation applicable to the Retail Outlet or the operation of the Franchised  
Business; or  
  
 (e) If Franchisee fails to fully and timely perform any material  
covenant or obligation for which Franchisee has received a notice of default or  
demand for cure from Franchisor on two or more occasions within the preceding 12  
months; or  
  
 (f) If Franchisee or any person with an equity interest in Franchisee  
is convicted of a felony or any other criminal misconduct which is relevant to  
the operation of the Franchised Business; or  
  
 (g) If Franchisee violates the provisions of Article 13 of this  
Agreement or otherwise attempts to or does assign, sell, transfer, or encumber  
the Name of any of the Marks without Franchisor's prior written consent; or  
  
 (h) If Franchisee fails to immediately and fully comply with any  
Product recall;  
  
 (i) Franchisor makes a determination that continued operation of the  
Franchised Business by Franchisee will result in a material danger to public  
health or safety; or  
  
 (j) If Franchisee has knowingly either inaccurately reported or  
withheld reporting, or any person with an equity interest in Franchisee has  
caused or authorized Franchisee to inaccurately report or withhold reporting any  
gross receipts; or  
  
 (k) If Franchisee does not permit Franchisor or its representatives  
to inspect the Retail Outlet or the Franchised Business or examine or audit the  
books and records of Franchisee or allow a field auditor to monitor Gross  
Receipts; or  
  
 (l) If Franchisee or a person with an equity interest in Franchisee  
discloses, divulges, disseminates, displays, duplicates, reveals, reproduces,  
publishes, sell, shows, or communicates the System, any of the contents of the  
Operations Manual, or any Proprietary information of Frachisor in violation of  
the provisions of this Agreement; or  
  
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 (m) If Franchisee or a person with an equity interest in Franchisee  
defaults in the performance of any of its covenants, duties, or obligations  
pursuant to any other agreement between Franchisee or a person with an equity  
interest in Franchisee and Franchisor, its parent, or any of its subsidiaries or  
affiliates, or any agreement by which Franchisee occupies the Retail Outlet and  
Franchisee fails to cure any such default within the time for cure provided by  
the applicable agreement; or  
  
 (n) If Franchisee or its Designated Manager fails to satisfactorily  
complete Franchisor's initial training classes (or equivalent training approved  
by Franchisor, if any), or if Franchisee employs in the Retail Outlet any  
employee who has not satisfactorily completed such training programs from time  
to time required by Franchisor pursuant to Article 7 of this Agreement; or  
  
 (o) If Franchisee shall fail to comply with any other provision of  
Article 7 of this Agreement on three or more occasions; or  
  
 (p) If Franchisee shall fail to reimburse Franchisor any sums for  
which Franchisee has the obligation to reimburse Franchisor pursuant to this  
Agreement within five days after Franchisor's written demand therefore.  
  
 14.3 Termination With Notice. Franchisor may terminate this Agreement upon  
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the occurrence of any of the following:  
  
 (a) If Franchisee fails to pay any Continuing Fee or other fees,  
Program Contributions, or other amounts due to Franchisor, its parent,  
subsidiaries or affiliates within five days after receipt of written notice that  
such fees are overdue; or  
  
 (b) If any real property, improvements, equipment, fixtures, designs,  
plans, structures, construction or decorations are used, or quality of work is  
done, whether prior to the opening of a Retail Outlet or thereafter, which have  
not been approved by Franchisor in writing pursuant to Article 8 of this  
Agreement, or if Franchisee makes, attempts to make, permits or suffers any  
changes in the terms and conditions of its lease or purchase arrangements, or  
both, without the prior written approval of Franchisor, and Franchisee fails to  
cure such default within 14 days after receipt of Franchisor's written notice of  
default; or  
  
 (c) If Franchisee shall default in any performance or completion of  
any of the terms, conditions, covenants and agreements hereof and fails to cure  
such default within 15 days after receipt of Franchisor's written notice of  
default; or  
  
 (d) If Franchisee fails to obtain a lease for the Retail Outlet  
within 90 days of the execution of this Agreement in accordance with Section  
3.1(b), fails to commence and diligently pursue to completion the design,  
construction, equipping and opening of the Retail Outlet, fail to open the  
Retail Outlet for business to the public within 120 days of the execution of  
this Agreement, or fail to relocate the Retail Outlet within 120 days of  
learning that its right to occupy the Retail Outlet will be terminated, and/or  
fails to cure any of these defaults within 30 days after receipt of Franchisor's  
written notice of default; or  
  
 (e) If Franchisee uses the Name or Marks in any manner not  
permitted in this Agreement or fails to comply with Section 10.1 of this  
Agreement regarding use of the Retail Outlet and fails to cure such default  
within seven days after receipt of Franchisor's written notice of default; or  
  
 (f) If Franchisee sells any Products or other merchandise not  
approved by Franchisor in violation of Section 4.6(a) of this Agreement or uses  
any unapproved or disapproved advertising  
  
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materials in violation of Section 6.2 hereof and fails to cure such default  
within 24 hours after receipt of Franchisor's written notice of default; or  
  
 (g) If Franchisee shall fail to immediately commence to correct or  
repair any deficiency, defect or unsatisfactory condition or diligently pursue  
same to completion pursuant to Section 3.4(a) of this Agreement, and Franchisee  
fails to cure such default within five days after receipt of Franchisor's  
written notice of default; or  
  
 (h) Except as otherwise provided in this Agreement, Franchisor may  
terminate this Agreement if Franchisee fails to cure a breach by Franchisee, any  
person with an equity interest in Franchisee, or any guarantor of Franchisee, of  
this Agreement, any other contract, agreement, or undertaking between  
Franchisee, its affiliates, guarantors or any person with an equity interest in  
Franchisee and Franchisor, its parent, subsidiaries, or affiliates within 30  
days after receipt of written notice from Franchisor describing the breach. If  
the breach cannot reasonably be cured within 30 days, the time for Franchisee  
to effect a cure shall be extended as reasonably necessary, but in no event  
longer than an additional 30 days, provided Franchisee immediately commences a  
cure and diligently pursues it to completion.  
  
 14.4 Statutory Limitations. Notwithstanding any other provision of this  
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Agreement, if any valid, applicable law, rule or regulation limit Franchisor's  
termination rights or require longer notice periods than those set forth in this  
Article 14, this Agreement shall be amended as necessary to conform with the  
requirements of that law, rule or regulation and this Agreement shall remain in  
effect until the required notice period has expired.  
  
 14.5 Prompt Cure. If Franchisee receives written notice from Franchisor to  
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cure a breach or violation (which may include a description of the method of  
cure required), Franchisee shall commence to cure immediately upon receipt of  
such notice and effect a complete cure and remedy all damage caused by that  
breach or violation as completely as possible within the shortest possible time,  
but in no event more than the time period specified in this Article 14, and  
Franchisee shall take any and all action necessary to prevent a recurrence of  
that same breach or violation.  
  
 14.6 Description of Default. The description of a default by Franchisor in  
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any notice to Franchisee shall not in any way preclude Franchisor from  
specifying additional or supplemental defaults in any action, hearing or suit  
related to this Agreement or its termination or expiration.  
  
 14.7 Alternate and Cumulative Remedies. Notwithstanding the termination of  
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this Agreement or any provision herein to the contrary. Franchisor shall have  
the right to exercise any and all remedies available to it at law or in equity,  
including without limitation, specific performance and direct, indirect,  
special, incidental, consequential and any and all other damages to which  
Franchisor may be entitled. All rights and remedies provided herein shall be in  
addition to and not in substitution of all other rights and remedies available  
to a party at law or in equity. Notwithstanding any termination or expiration of  
this Agreement, Franchisor shall retain all rights and remedies given it by this  
Agreement or by law and Franchisee shall remain fully liable for the performance  
of its duties and obligations arising out of this Agreement or the Franchised  
Business, including without limitation, all amounts then due to Franchisor, its  
parent, subsidiaries or affiliates, or to become due as a result of termination  
or expiration, the salaries of Franchisee's employees and all taxes related to  
those salaries, all unpaid sales taxes and all penalties incurred as a result of  
non-payment, and all costs, expenses, and damages incurred and profits lost by  
Franchisor.  
  
 14.8 Rights and Obligations on Termination or Expiration. On termination  
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or expiration of the Agreement for any reason, Franchisee shall:  
  
 (a) Render to Franchisor within ten days of the date of expiration or  
termination, a final accounting for the Franchised Business and pay to  
Franchisor all payments due or to become  
  
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due to Franchisor, its parent, subsidiaries or affiliates pursuant to this  
Agreement, including all Continuing Fees or other payments specified in Section  
5.4 hereof to the end of the then current term of this Franchise Agreement and  
all damages arising out of or related to the termination, which obligation shall  
be a lien in favor of Franchisor on the all assets utilized by Franchisee in the  
operation of the Franchised Business at the Retail Outlet, including, without  
limitation, all improvements, fixtures, furnishings, equipment, personal  
property, supplies, saleable inventories and signs ("Retail Outlet Assets").  
Franchisor shall have the right to audit Franchisee's Records and inventories in  
accordance with Article 9 of this Agreement and Franchisee shall be liable for  
any deficiency and the expenses of the audit as set forth in Article 9 of this  
Agreement.  
  
 (b) Immediately cease to operate the Franchised Business. All rights  
granted to Franchisee pursuant to this Agreement shall immediately cease, and  
Franchisee shall have no further rights to the use of the Name, Marks or System.  
Franchisee shall immediately return to Franchisor all information pertaining to  
the System, Franchisee's copy of the Operations Manual and all amendments, and  
all Proprietary Information. Franchisee shall immediately cease using the Name,  
the Marks and other trade names, trademarks, service marks, symbols, slogans,  
and indicia relating thereto or to Franchisor, its parent, subsidiaries,  
affiliates or licensor. Franchisee shall immediately cease and desist from using  
any of the trade dress, plans, methods, System, Operations Manual and  
Proprietary Information and shall remove all indicia of any nature of its former  
relationship as a Franchisee of Franchisor. Franchisee shall make such  
modifications and alterations as necessary or as Franchisor may reasonably  
request to distinguish the appearance of the Franchisee's retail outlet from  
other Retail Outlets. Franchisee shall not thereafter directly or indirectly  
represent itself as a Franchisee of Franchisor or do business under any name or  
in any manner that might tend to give any member of the public an impression  
that Franchisee is operating a Retail Outlet under the Great Earth System or  
providing or selling any of Franchisor's Products or any items substantially  
similar thereto.  
  
 (c) Without limitation as to any other provisions contained in this  
Agreement, both parties hereby acknowledge and agree that the rights and  
obligations under this Section 14.8 shall survive the termination of this  
Agreement and both parties may specifically enforce the terms thereof.  
  
 14.9 Termination Procedure. Termination of this Agreement shall be  
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effected by Franchisor upon any occurrence by Franchisor giving notice to  
Franchisee, unless such notice would result in Franchisor or any other party  
(with the exception of Franchisee) incurring any additional harm, liability or  
loss or would slow any attempt on the part of Franchisor to correct the breach.  
  
 14.10 Additional Rights of Franchisor Upon Termination. In addition to  
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the other rights granted to Franchisor herein, upon termination or expiration of  
this Franchise, Franchisor may, within 45 days thereafter, at its option:  
  
 (a) Assume Franchisee's status and replace Franchisee as lessee  
under any equipment lease used in connection with Franchisee's business and/or  
any lease for the Retail Outlet, and Franchisee, upon exercise of those rights  
by Franchisor, will be fully released and discharged from future rents, other  
lease charges and other future liabilities under the particular lease by  
Franchisor if specifically permitted under the lease (although not from any  
liability for unpaid amounts or rents or any other liability to the lessor under  
any such lease existing upon said exercise date). If Franchisee owns the  
premises containing the Retail Outlet, Franchisee shall, at Franchisor's  
option, lease the Retail Outlet premises to Franchisor or its designee for a  
term of the same duration as the then remaining term of this Agreement, at the  
same rental charged for comparable locations in the same geographic area.  
Franchisor shall be permitted to deduct and withdraw from the rent to be paid to  
Franchisee, all sums due and owing or to become due and owing Franchisor, its  
parent or its subsidiaries, and all sums owed by Franchisee to third parties in  
connection with the operation of the Franchised Business or Retail Outlet.  
  
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 (b) Purchase all or any portion of the Retail Outlet Assets and any  
other materials and supplies bearing Franchisor's Name or the Marks.  
Franchisor's purchase price for the portion of Franchisee's saleable inventory  
or supplies purchased directly from Franchisor, its parent, subsidiaries or  
affiliates shall be Franchisee's cost. Franchisor's purchase price for all of  
the remaining Retail Outlet Assets utilized by Franchisee in the operation of  
its Retail Outlet shall be the fair wholesale market value thereof ("Value"). In  
addition, Franchisor shall be permitted to deduct and withdraw from the purchase  
price to be paid to Franchisee for any such items, all sums due and owing or to  
become due and owing Franchisor, its parent or its subsidiaries, and all sums  
owed by Franchisee to third parties in connection with the operation of the  
Franchised Business or Retail Outlet. In determining the Value of such items,  
the parties shall exclude any factor or increment for goodwill or going-concern  
value and other intangibles and where applicable will take into consideration  
depreciation in an amount equal to the actual depreciation taken by Franchisee  
on its federal income tax return. Except as provided below, the purchase price  
will be paid by Franchisor's check against delivery of a xxxx of sale at the  
closing of any such purchase, which will occur no later than 30 days from the  
date of the exercise of the option. Franchisor shall not have the right to  
purchase Franchisee's Retail Outlet Assets if the termination of the Agreement  
directly resulted from Franchisor's material breach of the terms, conditions and  
covenants of this Agreement if the parties are unable to reach agreement as to  
the Value of the Retail Outlet Assets of Franchisee's business to be purchased  
by Franchisor, the parties are to appoint an appraiser to make such  
determination whose determination will be binding upon the parties. The fees and  
expenses of such appraisal shall be paid in equal portions by the parties.  
Payment of the purchase price will be paid by Franchisor's check against  
delivery of a xxxx of sale at the closing of any such purchase, which will occur  
at the time and location set by Franchisor.  
  
 ARTICLE 15  
 ARBITRATION, OTHER RELIEF; VENUE; LAW  
  
 15.1 Arbitration. Except as otherwise provided in Section 15.2 of this  
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Agreement, any dispute between Franchisor or any of its Affiliates, on the one  
hand, and Franchisee and/or its Affiliates, on the other hand, arising out of,  
relating to, or referencing this Franchise Agreement or its breach in any way,  
(including, without limitation, any claim sounding in tort arising out of the  
relationship created by this Franchise Agreement and any claim that this  
Franchise Agreement or any part of it is invalid, illegal, or otherwise voidable  
or void) shall be resolved by submission to binding arbitration by the American  
Arbitration Association ("AAA"). Except as specifically modified by this Article  
15, the AAA Commercial Arbitration Rules shall apply to all arbitrations.  
  
 "Affiliates", as used in this Article 15, includes, without limitation, all  
shareholders, partners, owners, direct and indirect parents and subsidiaries,  
all affiliates thereof, and all officers, directors, employees, and agents of  
the foregoing, acting in the course of conducting the business activities  
related to Franchisor or Franchisee, as the case may be.  
  
 15.2 Disputes Not Subject to Arbitration. The following disputes are not  
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subject to arbitration as set forth in this Article 15:  
  
 (a) Any claim by Franchisor for monies due to Franchisor by  
Franchisee;  
  
 (b) Any disputes relating to (i) Franchisee's use of the Name, Marks,  
or any other xxxx in which Franchisor or any of its affiliates has an interest;  
(ii) acts which otherwise violate Franchisee's obligations under Article 1 of  
this Franchise Agreement; or (iii) conduct which is alleged to otherwise  
infringe the intellectual property rights of Franchisor or any of its  
affiliates;  
  
 (c) any dispute relating to the assignment of interests in violation  
of Article 13 of this Agreement;  
  
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 (d) Any dispute for which Franchisor is entitled to terminate this  
Franchise Agreement without prior notice under the provisions of Section 14 of  
this Franchise Agreement;  
  
 (e) Any dispute in any way relating to the scope, application or  
enforceability of this Article 15; and  
  
 (f) Any dispute, other than those enumerated above, in which a temporary  
or preliminary injunctive relief is sought, but only to the extent of  
proceedings for such relief, as further provided in Section 15.6 hereof.  
  
 15.3 Law; Venue. Except as specifically modified by this Article 15, New  
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York law shall be applied to all arbitrated issues. Notwithstanding any  
provision of this Agreement relating to under which state laws this Franchise  
Agreement shall be governed by and construed, all issues relating to  
arbitrability or the enforcement of the agreement to arbitrate contained herein  
shall be governed by the Federal Arbitration Ace (9 U.S.C. Section 1 et. seq.)  
and the federal common law of arbitration. All arbitration hearings and other  
arbitration proceedings shall take place in Nassau County, New York, or if  
Franchisor so elects, in the county where the principal place of business of  
Franchisee is then located.  
  
 15.4 Self-Executing; Severability; Default; Limitation of Damages. The  
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arbitration provisions of this Article 15 shall be deemed to be self-executing  
and shall remain in full force and effect after expiration or termination of  
this Franchise Agreement. Franchisor and Franchisee agree that arbitration  
shall be conducted on an individual, and not a class-wide or multiple plaintiff  
basis. Should either party fail to appear at any properly noticed arbitration  
proceeding, an award may be entered against that party by default or otherwise  
notwithstanding the failure to appear. Judgment upon an arbitration award may be  
entered in any court having competent jurisdiction and shall be binding, final  
and non-appealable. No punitive or exemplary damages shall be awarded against  
either Franchisor, Franchisee, or entities related to either of them in an  
arbitration proceeding or otherwise, and are hereby waived. The provisions of  
this Article 15 shall be construed as independent of any other covenant or  
provision of this Franchise Agreement; provided, however, that if a court of  
competent jurisdiction determines that any of these provisions are unlawful in  
any way, the court shall modify or interpret those provisions to the minimum  
extent necessary to cause them to comply with the law.  
  
 15.5 Time Limitation. Franchisor and Franchisee agree that no action  
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(whether arbitration, or court proceedings seeking damages, injunctive,  
equitable, or other relief, including but not limited to rescission) will be  
maintained by either Franchisor or Franchisee to enforce any liability or  
obligation of the other party, whether arising from this Franchise Agreement or  
otherwise, unless brought before the expiration of the earlier of (a) one year  
after the date of discovery of the facts resulting in the alleged liability or  
obligation; or (b) two years after the date of the first act or omission giving  
rise to the alleged liability or obligation. Should any state or federal law  
mandate or permit, by notice or otherwise, a shorter period for bringing any  
claim or action, that shorter period shall apply. Notwithstanding the  
foregoing, an action to enforce a judgment obtained in any arbitration or other  
permitted proceeding may be brought as permitted by law.  
  
 15.6 Injunctive or Extraordinary Remedies. Notwithstanding the provisions  
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of this Article 15, because the Franchised Business is part of a system of  
commercial establishments having a common appearance and presenting a uniform  
public identity and Franchisee's failure to comply with the terms of this  
Franchise Agreement would cause irreparable damage to Franchisor, other System  
fanchisees, and the Name, the Marks, and the System, should Franchisee fail to  
comply with any of its obligations pursuant to this Franchise Agreement, other  
than its obligations to pay money to Franchisor, Franchisor shall have the right  
to bring an action in any court of competent jurisdiction for injunctive or  
other extraordinary relief, without the necessity of posting any bond (and if  
bond  
  
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shall nevertheless be required by a court of competent jurisdiction, the parties  
agree that the sum of $100 shall be sufficient bond) to obtain a decree of  
specific performance enforcing those obligations and/or an injunction against  
Franchisee's continued conduct in violation of this Franchise Agreement, either  
before or during the pendency of any arbitration or other proceedings. This  
coverant shall be independent, severable, and enforceable notwithstanding any  
other rights or remedies of Franchisor.  
  
 15.7 Venue. The parties acknowledge that Franchisor operates a nationwide  
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franchise system, with franchisees located in numerous different states and in  
numerous counties and cities within such states. Accordingly, the parties hereby  
agree as follows:  
  
 (a) ANY AND ALL COURT PROCEEDINGS ARISING FROM MATTERS DESCRIBED IN  
SECTION 15.2 HEREOF SHALL BE BROUGHT IN, AND ONLY IN, THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK (NEW YORK, NEW YORK). NO INDIVIDUAL  
OR ENTITY (WHETHER NAMED OR OTHERWISE DESIGNATED) SHALL BE JOINED AS A PARTY TO  
SUCH PROCEEDINGS IF SUCH JOINDER HAS THE EFFECT OF DESTROYING FEDERAL COURT  
JURISDICTION UNLESS THAT INDIVIDUAL OR ENTITY IS A NECESSARY PARTY TO THE  
PROCEEDING AS A MATTER OF LAW. WHERE THERE IS NO UNITED STATES DISTRICT COURT  
HAVING JURISDICTION OVER THE DISPUTE, THE PROCEEDING MAY BE INITIATED IN, AND  
ONLY IN, A COURT OF NEW YORK HAVING COMPETENT JURISDICTION IN OR ABOUT NEW YORK  
COUNTY, NEW YORK. FRANCHISOR AND FRANCHISEE HEREBY CONSENT TO THE EXERCISE OF  
JURISDICTION BY SUCH COURTS.  
  
 (b) THE PARTIES AGREE THAT ALL DISPUTES ADMITTED TO THE COURT  
PURSUANT TO SECTION 15.2 SHALL BE TRIED TO THE COURT SITTING WITHOUT A  
JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR  
PROVISIONS.  
  
 (c) NO PUNITIVE OR EXEMPLARY DAMAGES SHALL BE AWARDED AGAINST  
EITHER FRANCHISOR OR FRANCHISEE, OR ANY AFFILIATES OF EITHER OF THEM, IN ANY  
PROCEEDING ARISING UNDER SECTION 15.2 HEREOF AND ALL CLAIMS TO SUCH DAMAGES ARE  
HEREBY WAIVED.  
  
 15.8 Governing Law. This Agreement and the totality of the legal relations  
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among the parties hereto shall be governed by the construed in accordance with  
the laws of the State of New York, except (i) for matters within (A) the purview  
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of the federal Xxxxxx Act or (B) the Federal Arbitration Act, which matters  
shall be construed in accordance with such federal laws, as applicable; and (ii)  
that matters which pertain to (A) the franchise relationship between Franchisor  
and Franchisee, (B) termination or renewal of this Agreement, (C) restrictions  
on the ability of Franchisee to compete with Franchisor or other franchisees of  
Franchisor and/or (D) disclosure requirements regarding the offer or sale of the  
Franchise shall be governed by the statutes or regulations of the state in which  
Franchisee is domiciled on the date of this Franchise Agreement; and (iii) the  
applicable laws, rules, and regulations of the State of New York shall apply to  
court proceedings brought in New York.  
  
 15.9 Remedies Cumulative. The breach, nonperformance, or default by  
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Franchisee shall entitle Franchisor to any and all remedies at law or in equity,  
in addition to any remedies and powers set forth in this Agreement or in any  
other instruments given in connection herewith, and such remedies and powers at  
law, in equity, and/or under this Agreement and such other instruments shall be  
cumulative and not exclusive and may be exercised singularly or cumulatively.  
  
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 ARTICLE 16  
 ATTORNEYS' FEES AND COLLECTION COSTS  
  
 16.1 Attorneys' Fees. Should any action or proceeding be brought to  
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enforce rights pursuant to any portion of this Agreement, the prevailing party  
shall be entitled to recover reasonable attorney's fees as costs of suit (and  
not as damages). For purposes of this Section 16.1, prevailing party shall mean  
the party who is legally entitled to recover costs of suit. A party not entitled  
to recover costs of suit shall not recover attorney's fees pursuant to this  
Section 16.1. Neither the amount of attorney's fees awarded to a party nor the  
portion of an award to a party equal to the amount offered to that party in any  
statutory offer to compromise shall be included in calculating the amount of a  
judgment for purposes of determining whether a party is entitled to recover  
costs or attorney's fees.  
  
 16.2 Collection and Termination Costs. Franchisee shall pay Franchisor on  
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demand all attorneys' fees and other expenses incurred by Franchisor in  
connection with the collection of any sums past due from Franchisee pursuant to  
this Agreement and/or the termination of this Agreement, whether or not a legal  
proceeding is commenced or final judgment is obtained, unless Franchisee is  
awarded attorneys' fees pursuant to Section 16.1 in a lawsuit brought by  
Franchisor to collect those sums or terminate Franchisee's interest.  
  
 ARTICLE 17  
 MISCELLANEOUS  
  
 17.1 Entire Agreement. This Agreement and the documents referred to herein  
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constitute the entire, full and complete agreement between Franchisor and  
Franchisee concerning the subject matter hereof and supersede all prior  
agreements. No other representations have induced Franchisee to execute this  
Agreement. Any and all other undertakings and agreements are merged herein. No  
amendment, change or variance from this Agreement shall be binding on either  
party unless mutually agreed to by the parties and executed by their duly  
authorized officers or agents in writing.  
  
 17.2 Survival of Covenants. The covenants contained in this Agreement  
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which by their terms require performance by the parties after the expiration or  
termination of this Agreement shall be enforceable notwithstanding the  
expiration or other termination of this Agreement for any reason whatsoever.  
  
 17.3 Incorporation of Recitals. The recitals set forth at the head of this  
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Agreement are incorporated herein as if fully set forth.  
  
 17.4 Headings. The article headings are inserted only as a matter of  
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convenience and for reference and in no way define, limit or describe the scope  
or intent of any provision of this Agreement.  
  
 17.5 Definitions. As used in this Agreement:  
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 (a) "Franchisor" shall mean Great Earth International  
Franchising Corp.  
  
 (b) "Franchisee" shall mean the individual, partnership,  
association, company, corporation, or other entity to whom the Franchise has  
been granted.  
  
 (c) "subsidiary" shall mean any entity of which Franchisor or  
Franchisee (as the case may be) owns at least 50.001%.  
  
 (d) "affiliate" shall mean, as to a party, any person or entity  
who controls, is controlled by or is under common control with such party,  
directly or indirectly.  
  
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 (e) "System franchisees" shall mean those persons or other entities,  
including Franchisee, who are parties to an agreement similar (but not  
necessarily identical) to this Agreement with Franchisor pursuant to which  
Franchisor has granted them rights similar to the rights granted Franchisee  
hereunder.  
  
 (f) "Parties" shall mean (except where the context otherwise  
requires) Franchisor and Franchisee; the term "person" includes any natural  
person, firm, association, partnership, corporation, or other entity other than  
the parties; and the words "hereof", "herein", "hereby" and other words of  
similar import refer to this Agreement as a whole and not merely the subdivision  
in which such words appear.  
  
 17.6 Waiver. Each of the parties hereby agrees that the other party shall  
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not by act, delay, omission or otherwise be deemed to have waived any of its  
right or remedies hereunder nor in any other instrument given hereunder, unless  
such waiver is given in writing, and the same shall be binding only to the  
extent therein provided and only upon the parties signing the same. A waiver on  
one occasion shall not be construed as a waiver for any prior or future  
occasion.  
  
 17.7 Payments, Notices and Communications.  
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 (a) From time to time when requested by Franchisor, payments to be  
paid to Franchisor shall be sent by Federal Express (or its successor) or  
Priorty Overnight mail, postage, prepaid, return receipt requested, to Great  
Earth International Franchising Corp., 000 Xxxxxx Xxxx, Xxxxxxxxxx, Xxx Xxxx  
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11801.  
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 (b) Notices and communications required or permitted to be given to  
Franchisee shall be sent to Franchisee by telephone facsimile; United States  
certified mail, postage prepaid; or Federal Express (or any other reputable  
overnight mail service), at such address as may be designated in writing by  
Franchisee. If Franchisee is other than an individual, Franchisee shall  
designate in writing to Franchisor the name and address of its agent to receive  
notice and notice to such agent shall be conclusively presumed to be full and  
adequate notice to Franchisee. Notice served by this method shall be deemed to  
be the equivalent in all respects as if Franchisee was personally served in the  
State of New York. Notice shall be deemed given three business days after  
deposit in the United States mail, the next business day after deposit with  
overnight delivery service, or when actually delivered in person.  
  
 (c) Either party may from time to time change the mailing address or  
telephone facsimile machine for payments, notices or communications by notice in  
writing pursuant to the provisions of this Section 17.7.  
  
 17.8 Amendment of Agreement. As between the parties, no executory  
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agreement shall change, modify or discharge, in whole or in part, the Agreement  
or any other instrument given in connection herewith, unless in writing and  
signed by the party to be charged therewith.  
  
 17.9 Successors and Assigns. This Agreement shall inure to the benefit of,  
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and be binding upon, the parties hereto and the subscribers hereof and their  
heirs, successors, representatives, assigns and transferees, where the same is  
not prohibited by the provisions hereof. This shall only be the case for  
Franchisee if such successor or assign was agreed to in writing by Franchisor.  
  
 17.10 Relationship of the Parties. Franchisee is, in its relationship with  
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Franchisor, an independent contractor. This Agreement shall not make any of the  
parties hereto partners or joint venturers one with the other, or make them  
agents, servant or employee of the other. Franchisee shall not, directly or  
indirectly, hold itself out as an agent, servant or employee of Franchisor and  
  
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shall not have the right or power to bind Franchisor or incur any liabilities on  
Franchisor's behalf. In all public records and in its relationship with other  
parties, on letterheads and business forms, Franchisee shall indicate its  
independent ownership of the Franchised Business and (while this Agreement is in  
effect) that it is only a franchise of Franchisor. Franchisor shall have the  
right to incur liabilities and enter into contracts on behalf of Franchisee  
pursuant to Franchisor's rights to make corrections upon termination of this  
Agreement at the expense of Franchisee as set forth herein.  
  
 17.11 Number and Gender. When required by reason in this Agreement, the  
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singular shall include the plural and the neuter shall include the feminine and  
masculine genders and vice versa.  
  
 17.12 Severability. If any term or provision of this Agreement shall be  
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finally held invalid or unenforceable by a court of competent jurisdiction, the  
same shall not affect the validity of any other term or provision of this  
Agreement, and the remainder hereof shall continue in full force and effect.  
  
 17.13 Counterparts. This Agreement may be executed in counterparts, all of  
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which together shall constitute this Agreement.  
  
 17.14 Compliance With Applicable Law. To the extent that any provisions of  
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this Agreement provide for periods of notice less than those required by  
applicable law, or provide for termination, cancellation, non-renewal or the  
like other than in accordance with applicable law, such provisions shall, to the  
extent such are not in accordance with applicable law, not be effective, and the  
parties shall comply with applicable law in connection with each of these  
matters.  
  
 17.15 Other Franchisees. The parties herby acknowledge and agree that  
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Franchisor has granted other franchisees rights similar to the rights granted  
Franchisee herein and contemplates granting additional franchises; and that  
Franchisor may, in its sole discretion, enter into any other franchise  
agreements concerning, or itself operate any other, Retail Outlet as Franchisor  
may in its sole discretion determine. Under no circumstances shall Franchisee  
grant or attempt to grant any "sub-franchise" or any other kind of license or  
rights hereunder and any such grant shall be void.  
  
 IN WITNESS WHEREOF, the undersigned have executed this Agreement on the  
date first herein above set forth.  
  
FRANCHISEE: FRANCHISOR:  
XXXX & XXXX XXXX GREAT EARTH INTERNATIONAL  
 FRANCHISING CORP.  
  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 XXXX XXXX Xxxx Xxxxx, Vice President  
  
Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 XXXX XXXX  
  
Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
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 List of Exhibits to Franchise Agreement:  
  
  
  
Exhibit A - Description of Geographic Area  
  
Exhibit B - Lease Agreement  
  
Exhibit C - Approved Plans and Specifications for Retail Outlet  
  
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 NONDISCLOSURE, NONCOMPETITION AND NONTRANSFER  
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 COVENANT AND PERSONAL GUARANTEE  
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 (To be executed if Franchisee is not an individual)  
  
 In consideration of the execution by Franchisor of this Franchise  
Agreement, and of other good and valuable consideration, the receipt and  
sufficiency of which are hereby acknowledged, the undersigned, being all of the  
persons and legal entities having a direct or indirect beneficial interest in  
Franchisee, do hereby agree, individually and jointly, to comply with and be  
bound by all provisions of this Franchise Agreement in any way related to  
nondisclosure, noncompetition and nontransfer to the same extent as if each of  
them were the Franchisee, and hereby agree not to engage in any activities not  
permitted to the Franchisee thereunder (whether in their own behalf or in any  
capacity on behalf of any entity).  
  
 Furthermore, the undersigned do hereby agree, individually and jointly, to  
pay to Franchisor all sums which are due Franchisor pursuant to the terms of  
this Franchise Agreement in the event Franchisee shall fail to pay any such sum  
when due.  
  
 This Nondisclosure, Noncompetition and Nontransfer Covenant and Personal  
Guarantee (i) shall be executed by all persons and other legal entities who now  
have and who shall from time to time have a direct or indirect beneficial  
interest in Franchisee, and the execution hereof by all such persons and legal  
entities shall be the responsibility of the undersigned; (ii) shall be governed  
in accordance with the laws of the same state whose laws govern this Agreement  
and (iii) shall be effective despite any renewal, modification, or waiver by  
Franchisor of any of Franchisee's obligations hereunder, and no such  
modification, renewal, or waiver shall operate to defeat those covenants.  
  
Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
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 EXHIBIT A TO THE FRANCHISE AGREEMENT  
  
Geographical boundaries of the Franchisee's Franchise Area are as follows or as  
set forth in a map attached to the Franchise Agreement and initialed by the  
Franchisees and the Franchisor.  
  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.  
  
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