

## FRANCHISE DISCLOSURE DOCUMENT

NYS COLLECTION EYEWEAR, INC.

a Delaware corporation

4 Timber Lane, Suite E,

Marlboro, NJ 07746

Telephone: (732) 429-1500

[www.nyscollection.com](http://www.nyscollection.com)



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Department of  
Business Oversight

This franchise is for the operation of a kiosk, cart or inline store located in a shopping mall that sells a proprietary line of reasonably priced sunglasses, reading glasses, and accessories under the "NYS Collection" name and marks.

The total investment necessary to begin operation of a NYS Collection RMU cart is \$13,320-\$43,180. This includes between \$5,000-\$25,000 that must be paid to the franchisor and/or its affiliate, as appropriate. The total investment necessary to begin operation of a NYS Collection Custom Kiosk is \$53,165-\$93,878. This includes between \$7,500-\$30,000 that must be paid to the franchisor and/or its affiliate, as appropriate. The total investment necessary to begin operation of a NYS Collection Inline Store is \$75,165-\$156,378. This includes between \$7,500-\$30,000 that must be paid to the franchisor and/or its affiliate, as appropriate.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive the disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no government agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Grace Donnelly at 4 Timber Lane, Suite E, Marlboro, NJ 07746 and (732) 429-1500.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "*A Consumer's Guide to Buying a Franchise*," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

**Issuance Date: April 19, 2017**

## STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT.

Call the state franchise administrator listed in Exhibit A for information about the franchisor or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise:

1. THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY MEDIATION AND ARBITRATION ONLY IN NEW JERSEY. OUT OF STATE MEDIATION AND ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO MEDIATE AND ARBITRATE WITH US IN NEW JERSEY THAN IN YOUR OWN STATE.
2. THE FRANCHISE AGREEMENT STATES THAT NEW JERSEY LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
3. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

## STATE EFFECTIVE DATES

The following states require that this Disclosure Document be registered or filed with the state, or that an exemption from registration be filed: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, Wisconsin, Connecticut, Nebraska, Kentucky, Utah, Florida and Texas.

This Disclosure Document is registered, on file or has an exemption from registration on file in the following states having franchise registration and disclosure laws, with the following effective dates:

| State      | Effective Date |
|------------|----------------|
| California | Pending        |
| Hawaii     | Pending        |
| Maryland   | Pending        |
| New York   | Pending        |
| Virginia   | Pending        |
| Washington | Pending        |
| Florida    | Exempt         |
| Texas      | Exempt         |
| Utah       | Exempt         |

In all the other states, this Franchise Disclosure Document has an issuance date of April 19, 2017

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- C – Franchise Agreement
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## **Item 1**

### **THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

#### **The Franchisor**

NYS Collection Eyewear, Inc. (“we”, “us” or “our”) is a Delaware corporation that was formed on December 10, 2010 and has its principal place of business at 4 Timber Lane, Suite E, Marlboro, NJ 07746. We do business under our corporate name and under the name “NYS Collection.” “We will refer to the person or owner, corporation, partnership or other entity who buys this franchise as “you” throughout this Disclosure Document. If you are a legal entity, each of the following individuals must sign our Guaranty: (i) each of your shareholders and their spouses if you are a corporation; (ii) each of your partners and their spouses if you are a general partnership; or (iii) each of your members and managers and each of their spouses if you are a limited liability company. All of the provisions of our Franchise Agreement will apply to you and to each individual who signs the Guaranty. Each individual who signs the Guaranty must also agree to be bound by the confidentiality and non-competition covenants of the Franchise Agreement.

We are offering franchises for the operation of “NYS Collection” carts, kiosks and inline stores (the “Franchised Business”). We do not operate any NYS businesses. We have never offered franchises in any other line of business. We have offered NYS Collection franchises since February, 2011. Our agents for service of process are listed in Exhibit A.

#### **Our Parents, Predecessors and Affiliates**

We have no parent or predecessor, but we have three affiliates. Our first affiliate is NYS Collection LLC, a Delaware limited liability company headquartered at our address (“NYSC”) at 4 Timber Lane, Suite E, Marlboro, NJ 07746. NYSC licenses operators to sell products under the “NYS Collection” name and mark, as described below.

Since 2000, NYSC has established carts and kiosks operating under the name and mark “NYS Collection” and it has also licensed operators to establish NYS Collection carts and kiosks. NYSC does not offer franchises in this or any other line of business. The operations agreements NYSC has entered into are not franchises, since no initial fee was paid, no continuing royalty fee is collected and no substantial assistance has been provided by NYSC to these operators. Under these operations agreements, the operators sublease and pay rent for the kiosk or cart to NYSC. As of December 31, 2016, NYSC has approximately 500 NYS Collection operators in the United States, and approximately 150 NYS Collection operators outside of the United States. In addition, NYSC has sold sunglasses and other eyewear under the “NYS Collection” name and mark to other resellers, who offer NYS Collection products in addition to other products.

Our second affiliate is Marsalle, Inc., a New York corporation headquartered at our address (“Marsalle”) at 4 Timber Lane, Suite E, Marlboro, NJ 07746. Marsalle does not currently operate a Franchised Business and has never offered franchises in this or any other line of business. Marsalle began operations in 1998 and is an approved supplier of products for all Franchised Businesses. Marsalle is also the owner of the proprietary marks (described below and in Item 13), which it has licensed to us so that we may sub-license them to our franchisees. The trademark license agreement between us and Marsalle is dated December 29, 2010.

Our third affiliate is NYS Collection Eyewear International, Inc., a New Jersey corporation headquartered at our address (“NYS International”) at 4 Timber Lane, Suite E, Marlboro, NJ 07746. NYS International has offered NYS Collection franchises and master franchise opportunities outside the

United States since 2013. As of December 31, 2016, NYS International has three franchisees and five master franchisees located in countries outside the United States. NYS International does not currently operate a Franchised Business. NYS International has never offered franchises in any other line of business.

### **The System**

Our system includes distinctively designed NYS Customer Kiosks, Retail Merchandising Unit Carts (“RMU Carts”) and Inline Stores, including décor, color scheme, fixtures and furnishings; specific equipment, materials and supplies; methods, uniform standards, specifications and procedures for operations; procedures for management control; training and assistance; and merchandising, advertising and promotional programs, all of which may be changed, improved and further developed by us (the “System”). Franchised Businesses operating under our System sell a proprietary line of affordably priced fashion sunglasses for adults and children (“Proprietary Products”), reading glasses, specialty products and accessories (collectively, “Products”) at locations in indoor shopping malls. The Proprietary Products have a lifetime warranty against breakage.

The System is identified by certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including the mark “NYS Collection”, as are now designated and may in the future be designated by us in writing for use with the System (the “Proprietary Mark”).

### **The Franchise Offered**

We offer you a franchise agreement (the “Franchise Agreement”), attached as Exhibit C to this Disclosure Document, which gives you the right to establish and operate one Franchised Business at a location mutually approved by you and us (the “Location”). The Franchise Agreement gives you the right to use the Proprietary Mark and the System solely with the operation of the Franchised Business, and solely at the Location. NYS Collection Franchised Businesses will primarily be located in mall locations.

### **Market and Competition**

The market for our Products includes the general public. The market for fashion eyewear is well developed, but we believe that our Proprietary Product designs, System and affordable pricing gives NYS Collection Franchised Businesses a competitive edge.

NYS Collection Franchised Businesses compete with other regional, national and local retail businesses that sell sunglasses and accessories. NYS Collection Franchised Businesses may compete with other retail outlets in the same area in which they are located, which may include existing NYS Collection operators and other franchises.

### **Industry Specific Laws**

There are no laws or regulations that are specific to the operation of this type of business. But you will have to obtain local business permits and occupancy certificates before opening. There may be other local or state laws applicable to your business, so we urge you to make further inquiries.

**Item 2**  
**BUSINESS EXPERIENCE**

**Chief Executive Officer – Marcos Behar**

Mr. Behar has been our Chief Executive Officer since our inception in November 2010. He has also been an owner of our affiliate, NYSC, since its inception in 2000, and owner of our affiliate, Marsalle, since its inception in 1998.

**President – Salvatore Babbino**

Mr. Babbino has been our President since our inception in November 2010. He has also been Owner of our affiliate, NYSC, since its inception in 2000, and Owner of our affiliate, Marsalle, since its inception in 1998.

**Franchise Development Manager – Grace Donnelly**

Ms. Donnelly has been our Franchise Development Representative since June 2016. From April 2015 – June 2016 Ms. Donnelly worked as a Social Media Coordinator for Paint Passion in Red Bank, NJ. Prior to that, from March 2014 – March 2015, Ms. Donnelly worked as a GlaxoSmithKline Retail Sales Merchandiser for Advantage Sales & Marketing in Washington, DC.

**Item 3**  
**LITIGATION**

NYS Collection Eyewear, Inc. v. Vendia Group, LLC and Timothy Snyder (American Arbitration Association) (the “Vendia Arbitration”): On September 27, 2013, we filed a demand for arbitration against The Vendia Group, Inc. (“Vendia”), a former franchisee, and its principal, Timothy Snyder (“Snyder”), to recover past due amounts under the franchisee’s franchise agreement and occupancy agreement.

The Vendia Group, Inc. v. NYS Collection Eyewear, Inc., NYS Collection, LLC, et al (Superior Court of California, County of Los Angeles (EC 061321)) (the “Vendia Action”): On October 8, 2013, the Vendia Group filed an action against us, our affiliate, our owners and certain current and former employees, alleging fraud and violations of California Corporate Code §§31110 (unlawful sale of non registered franchise) and 31201 (violation of California franchise investment law) and seeking a declaratory judgment for rescission of the franchise agreement.

On December 3, 2013, we reached a settlement agreement with Vendia and Snyder concerning the Vendia Arbitration and Vendia Action. In exchange for payment from us in the amount of \$45,000, Vendia and Snyder agreed to surrender all rights to the NYS retail kiosk operated pursuant to Vendia’s franchise agreement with us and dismiss the Vendia Action, with prejudice. We also agreed to dismiss the Vendia Arbitration, with prejudice. Under the terms of the settlement, the parties released each other from any and all claims in existence at the time of the settlement, and we terminated our franchise relationship with Vendia.



Except as set forth above, no litigation is required to be disclosed in this Item.

**Item 4**  
**BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

**Item 5**  
**INITIAL FEES**

**Initial Franchise Fee**

Upon execution of the Franchise Agreement you must pay to us our standard initial franchise fee in a lump sum. The initial franchise fee is \$15,000.00. The initial franchise fee is reduced to \$2,500.00 for each Franchised Business you open beyond your first location. The initial franchisee fee is also reduced to \$2,500.00 if you will be operating a seasonable location that is open eight months or less each calendar year. The initial franchise fee is fully earned upon receipt and not refundable under any circumstances.

If you are a qualified United States veteran, we will not charge you an initial franchise fee for your first start-up unit.

**Initial Purchases**

You must purchase from Marsalle your entire inventory of Products, including Proprietary Products, to be offered from your Franchised Business. We anticipate that the cost of your initial inventory will be between \$7,500 to \$15,000 for a Kiosk or Inline Store and between \$5,000-\$10,000 for a Cart. We will determine the mix of items included in your inventory and the number of units you must purchase. The cost of your initial inventory is not refundable.

There are no other payments to or purchases from us or any affiliate that you must make before your Franchised Business opens.

**(Remainder of Page Intentionally Left Blank)**

**Item 6**  
**OTHER FEES**

| (1)<br>Type of Fee              | (2)<br>Amount                                                                                              | (3)<br>Duc Date                                                                                                                                                                                   | (4)<br>Remarks                                                                                                                                                                                                                                                               |
|---------------------------------|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Royalty<br>(Note 1)             | None                                                                                                       |                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                              |
| Brand<br>Development<br>Fund    | \$1,200 (payable in<br>monthly<br>installments of<br>\$100).                                               | Payable on the 1 <sup>st</sup><br>day of each month<br>following the<br>opening of your<br>Franchised<br>Business, via credit<br>card. The Fund<br>payment is pro-rated<br>for your initial year. |                                                                                                                                                                                                                                                                              |
| Renewal Fee                     | \$2,500                                                                                                    | On renewal of<br>Franchise<br>Agreement                                                                                                                                                           |                                                                                                                                                                                                                                                                              |
| Transfer Fee                    | \$5,000                                                                                                    | Upon transfer                                                                                                                                                                                     | No fee is imposed for a one-time<br>transfer to a corporate entity<br>formed by you for the<br>convenience of ownership                                                                                                                                                      |
| Additional On-<br>Site Training | Our then-current<br>per diem rate per<br>trainer, plus<br>expenses<br><br>Current per diem<br>rate = \$350 | When billed                                                                                                                                                                                       | If you request that we provide<br>additional training at your<br>Franchised Business, you must<br>pay our daily fee for each trainer<br>we send to your Franchised<br>Business, and you must<br>reimburse each trainer's<br>expenses, including travel,<br>lodging and meals |
| Insufficient<br>Funds Fee       | \$100                                                                                                      | If incurred                                                                                                                                                                                       | If any EFT transaction or other<br>payment to us or our affiliate is<br>denied by your bank. If you incur<br>three insufficient funds fees in<br>any 12 month period, we may<br>terminate your Franchise<br>Agreement                                                        |

| (1)<br>Type of Fee                      | (2)<br>Amount                                                                                                                               | (3)<br>Due Date | (4)<br>Remarks                                                                                                                                                                                                                                               |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Interest on Late Payments               | 1.5% per month or the highest rate allowed by applicable law, whichever is less. In California, the highest interest rate is 10% per annum. | On demand       | Payable on all overdue amounts. Interest accrues from the original due date until payment is received in full                                                                                                                                                |
| Prohibited Product or Service Fine      | Our then current fee (currently \$1,000 for the first offense).                                                                             | If incurred     | In addition to other remedies available to us. If this happens a second time, we have the right to terminate your Franchise Agreement without giving you the opportunity to cure the default                                                                 |
| Costs and Attorneys' Fees               | Will vary under circumstances                                                                                                               | As incurred     | If you default under your agreement, you must reimburse us for the expenses we incur (such as attorneys' fees) in enforcing or terminating your agreement                                                                                                    |
| Indemnification                         | Will vary under circumstances                                                                                                               | As incurred     | You must reimburse us for the costs we incur if we are sued or held liable for claims that arise from your operation of the Franchised Business or for costs associated with defending claims that you used the Proprietary Marks in an unauthorized manner. |
| Evaluation of New Products or Suppliers | Reimbursement of our costs, but not more than \$500 per request                                                                             | On demand       | If you request that we evaluate new products or suppliers for the System                                                                                                                                                                                     |
| Management Fee                          | Our then-current per diem fee per representative, plus expenses<br><br>Per diem fee = currently \$350                                       | If incurred     | We have the right to step in and operate your Franchised Business in certain circumstances. If we do this, you must pay our then-current management fee and reimburse our related expenses, including travel, lodging and meals for our representative(s)    |

| (1)<br>Type of Fee                                | (2)<br>Amount                         | (3)<br>Due Date  | (4)<br>Remarks                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------|---------------------------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Insurance                                         | Reimbursement of our costs            | On demand        | If you do not purchase the required insurance coverages we may, but are not required to, purchase insurance coverage on your behalf                                                                                                                                                                                                                                                    |
| Repairs and Maintenance; Remodeling/ Redecorating | Will vary under circumstances         | As incurred      | Payable to approved suppliers. You must regularly clean and maintain your Retail Kiosk/Cart/Store and its equipment. If you own a kiosk or store we may require you to remodel or redecorate to meet our then-current image for all NYS Collection kiosks/stores. We will not require you to remodel or redecorate your kiosk or store more frequently than every five years           |
| Proprietary Product Purchases (note 2)            | Will vary under the circumstances     | As incurred      | You must purchase all Proprietary Products from our affiliate, Marsalle                                                                                                                                                                                                                                                                                                                |
| Proprietary Software                              | To be determined                      | To be determined | We reserve the right to develop proprietary software for all NYS Collection Franchised Businesses to use, or we may have proprietary software developed for us. If we establish proprietary software for the System, you may have to pay an initial license fee (currently anticipated to be up to \$2,500) and annual license fees (current anticipated to be up to \$1,000 per year) |
| Franchisee Meeting                                | Up to \$500 per person, plus expenses | As incurred      | If we hold franchisee meetings, we reserve the right to charge a fee. You must also pay all expenses you and your attendees incur, including travel, lodging, meals and applicable wages                                                                                                                                                                                               |

| (1)<br>Type of Fee              | (2)<br>Amount      | (3)<br>Due Date | (4)<br>Remarks                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------|--------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Failure to Attend Training Fine | \$1,000            | As incurred     | If you fail to attend our initial training program before you open (or, if a session is not offered before you open, the next available training session after you open) we reserve the right to charge you a fine.                                                                                                                                                    |
| Failure to Correct Deficiency   | Our costs incurred | As incurred     | If we have to correct a deficiency you fail to correct.                                                                                                                                                                                                                                                                                                                |
| Taxes                           | Costs incurred     | As incurred     | We have the right to collect from you the cost of all income taxes, sales taxes and other taxes arising as a result of our licensing of intellectual property to you in the state where your Custom Kiosk/RMU Cart/Inline Store is located, and any other income we receive from you. This fee is payable only imposed if a state collects these taxes or assessments. |

All fees are uniformly imposed by and payable to us, except as otherwise noted in the chart above, and are non-refundable.

1. We do not require you to pay to us a separate Royalty Fee.
2. All Proprietary Product purchases must be prepaid via either wire transfer, credit card or via cash on delivery, unless another payment method is specified by us. No payment terms are permitted for Proprietary Product purchases. All other payments, including the initial franchise fee, brand development fee or any other fees owed to us, must be paid via money order, check or any other payment method specified by us.

**(Remainder of Page Intentionally Left Blank)**

**Item 7**  
**ESTIMATED INITIAL INVESTMENT**

| <b>YOUR ESTIMATED INITIAL INVESTMENT<br/>RMU CART</b> |                          |                                      |                                |                                                      |
|-------------------------------------------------------|--------------------------|--------------------------------------|--------------------------------|------------------------------------------------------|
| <b>(1)<br/>Type of<br/>Expenditure</b>                | <b>(2)<br/>Amount</b>    | <b>(3)<br/>Method of<br/>Payment</b> | <b>(4)<br/>When Due</b>        | <b>(5)<br/>To Whom<br/>Payment is to be<br/>Made</b> |
| Initial Franchise Fee (1)                             | \$0-\$15,000             | Lump Sum                             | On signing Franchise Agreement | Us                                                   |
| Security Deposit/Rent– 3 Months (2)                   | \$0                      | As Required                          | As Incurred                    | Landlord                                             |
| Equipment (Cart) (3)                                  | \$2,000 to \$7,000       | As Arranged                          | As Arranged                    | Supplier/Landlord                                    |
| Leasehold Improvements (4)                            | \$0                      | As Arranged                          | As Arranged                    | Supplier                                             |
| Software Fee (5)                                      | \$120-\$180              | As Arranged                          | As Arranged                    | Supplier                                             |
| POS System (5)                                        | \$900                    | As Arranged                          | As Arranged                    | Supplier                                             |
| Business Licenses and Permits (6)                     | \$400 to \$500           | As Required                          | As Required                    | Government Agencies                                  |
| Professional Fees (7)                                 | \$500 to \$3,000         | As Arranged                          | As Arranged                    | Attorney, Accountant                                 |
| Initial Inventory (8)                                 | \$5,000-\$10,000         | As Arranged                          | As Arranged                    | Marsalle                                             |
| Insurance – 3 Months (9)                              | \$375 to \$500           | As Arranged                          | As Arranged                    | Insurance Companies                                  |
| Training Expenses (10)                                | \$1,125 to \$2,700       | As Required                          | As Incurred                    | Airline, Hotel, Restaurant                           |
| Local Marketing – 3 Months(11)                        | \$900                    | As Arranged                          | As Arranged                    | Suppliers                                            |
| Additional Funds – 3 Months (12)                      | \$2,000 to \$2,500       | As Required                          | As Needed                      | You Determine                                        |
| <b>Total (13)</b>                                     | <b>\$13,320-\$43,180</b> |                                      |                                |                                                      |

| YOUR ESTIMATED INITIAL INVESTMENT<br>START-UP CUSTOM KIOSK |                          |                             |                                |                                            |
|------------------------------------------------------------|--------------------------|-----------------------------|--------------------------------|--------------------------------------------|
| (1)<br>Type of<br>Expenditure                              | (2)<br>Amount            | (3)<br>Method of<br>Payment | (4)<br>When Due                | (5)<br>To Whom<br>Payment is to be<br>Made |
| Initial Franchise Fee (1)                                  | \$0-\$15,000             | Lump Sum                    | On signing Franchise Agreement | Us                                         |
| Security Deposit/Rent – 3 Months (2)                       | \$8,000 to \$12,000      | As Required                 | As Incurred                    | Landlord                                   |
| Equipment (Kiosk Unit) (3)                                 | \$18,000-\$27,500        | As Arranged                 | As Arranged                    | Supplier                                   |
| Leasehold Improvements (4)                                 | \$0                      | As Arranged                 | As Arranged                    | Supplier                                   |
| Software Fee (5)                                           | \$120-\$180              | As Arranged                 | As Arranged                    | Supplier                                   |
| POS System (5)                                             | \$900                    | As Arranged                 | As Arranged                    | Supplier                                   |
| Business Licenses and Permits (6)                          | \$400 to \$500           | As Required                 | As Required                    | Government Agencies                        |
| Professional Fees (7)                                      | \$500 to \$3,000         | As Arranged                 | As Arranged                    | Attorney, Accountant                       |
| Initial Inventory (8)                                      | \$7,500 to \$15,000      | As Arranged                 | As Arranged                    | Marsalle                                   |
| Insurance – 3 Months (9)                                   | \$375 to \$500           | As Arranged                 | As Arranged                    | Insurance Companies                        |
| Training Expenses (10)                                     | \$1,125 to \$2,700       | As Required                 | As Incurred                    | Airline, Hotel, Restaurant                 |
| Local Marketing– 3 Months (11)                             | \$900                    | As Arranged                 | As Arranged                    | Suppliers                                  |
| Additional Funds – 3 Months (12)                           | \$15,345 to \$15,698     | As Required                 | As Needed                      | You Determine                              |
| <b>Total (13)</b>                                          | <b>\$53,165-\$93,878</b> |                             |                                |                                            |

| YOUR ESTIMATED INITIAL INVESTMENT<br>INLINE STORE |                           |                             |                                |                                            |
|---------------------------------------------------|---------------------------|-----------------------------|--------------------------------|--------------------------------------------|
| (1)<br>Type of<br>Expenditure                     | (2)<br>Amount             | (3)<br>Method of<br>Payment | (4)<br>When Due                | (5)<br>To Whom<br>Payment is to be<br>Made |
| Initial Franchise Fee (1)                         | \$0-\$15,000              | Lump Sum                    | On signing Franchise Agreement | Us                                         |
| Security Deposit/Rent – 3 Months (2)              | \$8,000 to \$12,000       | As Required                 | As Incurred                    | Landlord                                   |
| Equipment (3)                                     | \$0                       | As Arranged                 | As Arranged                    | Supplier                                   |
| Leasehold Improvements (4)                        | \$40,000 to \$90,000      | As Arranged                 | As Arranged                    | Suppliers                                  |
| Software Fee (5)                                  | \$120-\$180               | As Arranged                 | As Arranged                    | Supplier                                   |
| POS System (5)                                    | \$900                     | As Arranged                 | As Arranged                    | Supplier                                   |
| Business Licenses and Permits (6)                 | \$400 to \$500            | As Required                 | As Required                    | Government Agencies                        |
| Professional Fees (7)                             | \$500 to \$3,000          | As Arranged                 | As Arranged                    | Attorney, Accountant                       |
| Initial Inventory (8)                             | \$7,500 to \$15,000       | As Arranged                 | As Arranged                    | Marsalle                                   |
| Insurance – 3 Months (9)                          | \$375 to \$500            | As Arranged                 | As Arranged                    | Insurance Companies                        |
| Training Expenses (10)                            | \$1,125 to \$2,700        | As Required                 | As Incurred                    | Airline, Hotel, Restaurant                 |
| Initial/Local Marketing– 3 Months (11)            | \$900                     | As Arranged                 | As Arranged                    | Suppliers                                  |
| Additional Funds – 3 Months (12)                  | \$15,345 to \$15,698      | As Required                 | As Needed                      | You Determine                              |
| <b>Total (13)</b>                                 | <b>\$75,165-\$156,378</b> |                             |                                |                                            |

In general, none of the expenses listed in the above chart are refundable, except any security deposits you must make may be refundable. We do not provide financing for any portion of your initial investment, unless otherwise indicated.

- 1 **Initial Franchise Fee.** The initial franchise fee is discussed in Item 5. The low range assumes that the veteran's discount applies.
- 2 **Security Deposit/Rent.** Our estimate includes three months of payments.



The amount per month will be determined by the size of the space and location, and may include add-ons such as insurance, taxes, assessments, HVAC, common area and similar charges, and a landlord may charge additional rent when certain gross sales are achieved. This is commonly referred to as hitting the “breakpoint.” .

- 3 **Equipment.** You must purchase your Custom Kiosk. You must also purchase your RMU Cart unless one is provided to you by the mall where you are located. You must also outfit your Cart. The low end of our estimate for Carts assumes the mall has provided you with a Cart and you are only responsible for outfitting it as appropriate. The high end assumes you are also responsible for purchasing or leasing the Cart. The low end of our estimate for Kiosks assumes that you have purchased a mini-Kiosk and the high end assumes you have purchased a standard Kiosk. One half of the purchase price is payable when the Kiosk unit is ordered, and the balance is payable upon delivery of the Kiosk unit. This line item is inapplicable for Inline Stores.
- 4 **Leasehold Improvements.** This includes your estimated construction and build-out costs for an Inline Store (not including site work, costs of plan, government approvals, permits, consents and other entitlement costs) but will vary depending upon the size of your Inline Store and its geographic location. Your landlord may perform certain improvements or provide you with a tenant improvement allowance which may offset, in whole, or in part, the construction and build-out costs. This line item is inapplicable for Carts and Kiosks.
- 5 **Software Fee.** This is the estimate fee for the required POS software.  
  
**POS System.** You must purchase your point of sale system our approved supplier.
- 6 **Business Licenses and Permits.** You will need to obtain business permits and/or licenses for the operation of your Franchised Business. You must determine what type of permits and/or licenses are necessary.
- 7 **Professional Fees.** We expect that you will retain an attorney and an accountant to assist you with evaluating this franchise offering and with determining the permits and licenses you will need.
- 8 **Initial Inventory.** We will determine your initial inventory, including the mix of styles and number of units you must purchase from Marsalle.
- 9 **Insurance.** The figures in the chart represent three months of premiums. In rare cases, you will have to pay the entire annual premium in a lump sum; generally you pay your premiums monthly, quarterly or semi-annually. Your insurance coverage must conform to your lease or mall insurance requirements.
- 10 **Training Expenses.** We will conduct an initial training program at our headquarters in Aurora, Colorado or at an operating NYS Collection Custom Kiosk, RMU Cart or Inline Store. We do not charge a separate fee for training, but you must pay the expenses you and your trainees incur, including travel, lodging, and meals. The cost will depend on the distance you must travel and the type of accommodations you choose. The above costs assume costs for 2 people.
- 11 **Local Marketing.** Our estimate includes three months of local advertising expenses.
- 12 **Additional Funds.** This is an estimate of the amount of additional operating capital that you may need to operate your Franchised Business during the first three (3) months after commencing

operations. We cannot guarantee that you will not incur additional expenses in starting the business that may exceed this estimate. This estimate also includes such items as initial payroll and payroll taxes, additional advertising, marketing and/or promotional activities, repairs and maintenance, bank charges, miscellaneous supplies and equipment, initial staff recruiting expenses. These items are by no means all inclusive of the extent of the expense categorization. This estimate does not include Brand Development Fees and does not include any revenue that your Franchised Business may earn in the first three months of operation. The expenses you incur during the initial start-up period will depend on factors such as the time of the year that you open, local economic and market conditions, and your business experience.

- 13 **Total.** We relied upon NYSC's experience in establishing and licensing operators to establish kiosks and carts since 2000 when preparing these figures. However, these figures are merely estimates and there is no assurance that additional working capital will not be necessary during this initial phase or after.

## **Item 8**

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

#### **Required Purchases**

We, and our affiliates, have spent considerable time, effort and money to develop the NYS Collection System. Your Franchised Business must conform to our high and uniform standards of quality, safety, cleanliness, minimum inventory levels, product categories, appearance and service. We anticipate that our standards will change over time. You are expected to adhere to these changes.

You must purchase all fixtures, decor, equipment, items and products containing the Proprietary Marks and other specified items exclusively in accordance with our standards and specifications that will be disclosed to you in the Operations Manual or otherwise.

You must purchase these items from us or from suppliers that we designate. Currently, you must purchase your entire inventory of Products and Proprietary Products, including proprietary sunglasses, reading glasses, specialty items, accessories and logoed bags, from our affiliate, Marsalle. You must purchase the NYS Custom Kiosk unit from us or an approved supplier. We have not approved another supplier for any item you must purchase for your Franchised Business. We and Marsalle reserve the right to earn a profit from the sale of any of the items for which we and Marsalle are approved suppliers to you. For the fiscal year ended December 31, 2016, we did not earn any revenue from the sale of products to our franchisees. For the fiscal year ended December 31, 2016, our affiliate, Marsalle, had total revenues of \$9,687,768. Marsalle earned \$3,375,443 from required purchases from our franchisees, which was approximately 34% of its total revenue. For the fiscal year ended December 31, 2016, NYSC earned \$366,743 from occupancy agreement payments from our franchisees, which is approximately 49% of its total revenues. The following officers have an ownership interest in NYSC, Marsalle and us, which are approved suppliers: Marc Behar and Sal Babbino. There are no other approved suppliers in which any of our officers owns an interest.

Those items for which we have neither designated nor approved suppliers must be purchased in accordance with our standards and specifications as described in the Operations Manual or otherwise. We have the right to modify specifications, standards, suppliers and approval criteria by providing you written

notice. There is no limit on our right to do so.

All of your required purchases represent approximately 80% to 90% of your total purchases in connection with the establishment of your Franchised and approximately 95% to 99% of your overall purchases in operating the Franchised Business.

You must at all times maintain an inventory of approved Products in the quantity and variety required by us. We may conduct market research and testing to determine consumer trends and salability of new products, materials and services. You must cooperate by participating in market research programs, test marketing new products and services and providing timely reports and other relevant information regarding marketing research. In connection with any test marketing, you must purchase a reasonable quantity of products to be tested and effectively promote and make a reasonable effort to sell the products, materials and services.

### **Approval of New Suppliers or Items**

If we designate one or more exclusive suppliers for a particular good or service, you may not request to utilize an alternative supplier. However, if an exclusive supplier has not been designated and you desire to purchase any item for which approval is required from a supplier that is not on our approved supplier list, you must request approval of the item or supplier in writing and we will evaluate the supplier and/or item for approval. Although we are not contractually bound to evaluate any supplier or item within a definite time period, we will make a good faith effort to evaluate the supplier or item and to notify you of approval or disapproval within 45 days from the date we receive your written request.

Before approving any supplier, we may take into consideration: a) consistency of products and/or name brands, b) economies of scale achieved by larger volumes, c) delivery frequency and reliability, and d) certain other benefits that a particular supplier may offer, such as new product development capability. When approving a supplier, we take into consideration the System as a whole, which means that certain franchisees may pay higher prices than they could receive from another supplier that is not approved. We reserve the right to withhold approval of a supplier for any reason. We do not release our standards and specifications or criteria for supplier approval to System franchisees.

You may not purchase any item from any supplier for which approval is required until you have first received written notification of our approval. If you request that we evaluate a new supplier or product you must reimburse us for our costs in performing the evaluation and/or testing, in an amount not more than \$500 per request.

We may withdraw our approval of a supplier at any time, in our sole discretion.

### **Revenues of Franchisor and Affiliates**

We, and our affiliates, may derive income or revenue from franchisee purchases. We and/or our affiliates have the right to receive payments from any supplier, manufacturer, vendor or distributor to you or to other franchisees within our franchise system and to use these monies without restriction, and as we deem appropriate.

For the fiscal year ended December 31, 2016, neither we nor our affiliates earned any revenue in the form of rebates or other payments from approved suppliers. We do not provide you with any material benefit based on your use of an approved supplier.

### **Approved Location**

We must approve the location of your Franchised Business and any applicable lease for the premises.

### **Computer Purchase**

You must purchase our specified point of sale system ("POS System") and must purchase software and/or subscribe to any internet based programs we require. We reserve the right to designate our self or our affiliate as the sole supplier of required software or subscription services. You must accept all major credit cards for customer purchases. This requirement may require that you invest in additional equipment and that you incur fees from the credit card processing vendors that we designate.

### **Advertising**

All advertising and promotion of your Franchised Business must conform to our specifications and standards and must be approved by us in advance. You must submit to us, for our approval, copies of all advertising and promotional materials, including but not limited to, business cards, signs, displays and mail outs.

### **Insurance**

You must obtain and keep in force at a minimum the insurance we require in the Confidential Operations Manual or otherwise. The mandatory insurance currently includes: (i) comprehensive general liability insurance with limits of coverage of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, (ii) Business Income protection with limits of coverage of not less than \$100,000; (iv) Business Personal Property coverage with limits of not less than \$100,000; (v) workers' compensation insurance as required by the laws of the state in which the Franchised Business is operated and employers' liability insurance with a limit per claim of not less than \$1,000,000; (vi) a fidelity bond, with a minimum liability of \$50,000, with a \$2,500 deductible, insuring against employee theft and related matters; and (vii) general umbrella coverage in an amount not less than \$2,000,000. If the lease for your Franchised Business premises requires you to purchase insurance with higher limits than those we require, the lease insurance requirements will take precedence. All insurance policies must contain a separate endorsement naming us (and, if we request, our affiliates, officers, directors, employees or shareholders) as an additional insured and must be written by an insurance carrier accepted by us in writing. No insurance policy may be subject to cancellation, termination, non-renewal or material modification, except upon at least 30 days' prior written notice from the insurance carrier to us. You must provide us with a currently issued certificate of insurance evidencing coverage in conformity with our requirements. We may increase or otherwise modify the minimum insurance requirements upon 30 days' prior written notice to you, and you must comply with any modification.



### **Purchasing or Distribution Cooperatives**

We may negotiate purchase arrangements with some of our suppliers (including price terms and product allocations) for the benefit of System franchisees, but we are under no obligation to do so. There are currently no purchasing or distribution cooperatives related to the System.

### **Material Benefits**

We do not provide material benefits to franchisees, such as renewal rights or ability to purchase additional franchises, based on your use of approved or designated sources.

## **Item 9 FRANCHISEE'S OBLIGATIONS**

**This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.**

| <b>Obligation</b>                                             | <b>Article in Franchise Agreement</b> | <b>Disclosure Document Item</b> |
|---------------------------------------------------------------|---------------------------------------|---------------------------------|
| (a) Site selection and acquisition/lease                      | Article 3                             | Items 7 and 11                  |
| (b) Pre-opening purchases/lease                               | Article 3, Article 4                  | Items 5, 7 and 8                |
| (c) Site development and other pre-opening requirements       | Article 3, Article 4                  | Items 7 and 11                  |
| (d) Initial and ongoing training                              | Article 7                             | Items 6, 7 and 11               |
| (e) Opening                                                   | Article 3                             | Item 11                         |
| (f) Fees                                                      | Articles 2, 5, 6 and 16               | Items 5, 6, 7 and 11            |
| (g) Compliance with standards and policies/ Operations Manual | Articles 9 and 11                     | Items 8, 11, 14 and 16          |
| (h) Trademarks and proprietary information                    | Articles 10 and 11                    | Items 13 and 14                 |
| (i) Restrictions on products/ services offered                | Articles 1 and 9                      | Items 8 and 16                  |
| (j) Warranty and customer service requirements                | Article 9                             | Item 1                          |
| (k) Territorial development and sales quotas                  | Article 9                             | Item 12                         |
| (l) On-going product/ service purchases                       | Article 9                             | Item 8                          |
| (m) Maintenance, appearance and remodeling requirements       | Articles 4 and 9                      | Item 11                         |
| (n) Insurance                                                 | Article 12                            | Items 7 and 8                   |

| <b>Obligation</b>                                 | <b>Article in Franchise Agreement</b> | <b>Disclosure Document Item</b> |
|---------------------------------------------------|---------------------------------------|---------------------------------|
| (o) Advertising                                   | Article 6                             | Items 6, 7 and 11               |
| (p) Indemnification                               | Article 20                            | Item 6                          |
| (q) Owner's participation/<br>management/staffing | Articles 7 and 9                      | Items 11 and 15                 |
| (r) Records/reports                               | Article 5                             | Item 6                          |
| (s) Inspection/audits                             | Articles 5, 8 and 9                   | Item 6                          |
| (t) Transfer                                      | Article 16                            | Items 6 and 17                  |
| (u) Renewal                                       | Article 2                             | Items 6 and 17                  |
| (v) Post-termination obligations                  | Article 14                            | Item 17                         |
| (w) Non-competition covenants                     | Article 15                            | Item 17                         |
| (x) Dispute resolution                            | Article 22                            | Item 17                         |
| (y) Guaranty                                      | Exhibit E                             | Item 1 and 15                   |

**Item 10**  
**FINANCING**

We do not offer direct or indirect financing. We do not guarantee your note, lease or obligation.

We may, but are not required to, introduce you to certain third party financing companies. We have no authority or control over a third party financing company's decisions to offer financing to any franchisee, and we do not earn any revenue from any third party financing company based on our referrals to that company.

**Item 11**  
**FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

Except as listed below, we are not required to provide you with any assistance.

**Pre-Opening Obligations -Franchise Agreement**

Before you open your Franchised Business, we will:

1. Identify and approve the location for your Franchised Business (Franchise Agreement – Article 3).
2. Designate the initial inventory you must purchase for your Franchised Business (Franchise Agreement – Section 4.3).
3. Lend you one copy of our Confidential Operations Manual and our General Visual Outlines for Marketing and Retail Applications (the "Guidebook") (Franchise Agreement – Section 8.1). The Manual and the Guidebook remain our property.

4. Train you and your employees on how to operate a Franchised Business (Franchise Agreement – Section 7.2). This training is described in detail later in this Item.

5. Provide up to two days of assistance in the opening of your Franchised Business (Franchise Agreement – Section 7.2). If you are opening your second or later Franchised Business we reserve the right to not provide opening assistance.

### **Continuing Obligations – Franchise Agreement**

During the operation of your Franchised Business, we will:

1. Provide guidance and assistance in the operation of your Franchised Business. This guidance may be provided in the form of correspondence, field visits and periodic telephone or written communications (including e-mail), and will cover topics such as products or services to be offered to customers; improvements and developments in your Franchised Business; pricing, including maximum prices to be charged; administrative, bookkeeping, accounting and inventory control procedures; and operating problems encountered by you (Franchise Agreement – Section 8.1).

2. Issue, modify and supplement standards for the System that may regulate any one or more of the following regarding your Franchised Business: (a) hours of operation, (b) methods of merchandising and inventory control, (c) testing, marketing and sale of products and services, (d) maintenance of equipment, (e) checklists, (f) records preparation and retention, (g) and all other matters that in our sole judgment require standardization and uniformity in all Franchised Businesses (Franchise Agreement – Section 8.1).

3. Maintain a Brand Development Fund (Franchise Agreement – Section 6.3).

4. At your request, provide additional on-site training at your Franchised Business. You must pay our per diem fee for each trainer providing the training as well as reimburse our expenses (Franchise Agreement – Section 7.3).

5. Offer indemnification against and reimbursement for all damages for which you are held liable in any proceeding arising out of your use of any of the Proprietary Marks (including settlement amounts), if you have fully complied with the terms of the Franchise Agreement (Franchise Agreement – Section 10.14).

6. Provide training programs and seminars, franchisee meetings (if we so choose) and other related activities regarding the operation of the Franchised Business as we may conduct for you or NYS Collection personnel generally, which may be mandatory for you, your manager and other employees (Franchise Agreement – Section 7.3).

### **Marketing**

We do not require you to conduct a grand opening advertising campaign, although the terms of your lease may require you to do so.

### **Brand Development Fund**

We have established and will administer a Brand Development Fund (the “Brand Development Fund”) to advertise the System and the Products offered by NYS Collection Franchised Businesses on a regional or national basis. You are required to contribute \$1,200 per year, payable in monthly



installments of \$100.00 on first day of each month following the opening of your Franchised Business, via credit card. The Fund payment is pro-rated for your initial year. For the fiscal year ended December 31, 2016, \$59,292.41 was collected by the Brand Development Fund and \$44,321.18 was used. Of the amount spent, 65.5% was spent on the production of marketing materials, 27.5% was spent on the production of media placement and 7% was spent on administrative costs. The remainder will be carried over for use during our 2017 fiscal year.

The Brand Development Fund is maintained and administered by us or our designee as follows:

1. We direct all advertising programs and have sole discretion to approve the creative concepts, materials and media used in the programs and their placement and allocation. The Brand Development Fund is intended to maximize general public recognition and acceptance of the Proprietary Marks and improve the collective success of all Franchised Businesses operating under the System. Any Custom Kiosks, RMU Carts or Inline Stores operated by us or our affiliates will contribute to the Brand Development Fund generally on the same basis as you. In administering the Brand Development Fund, we and our designees are not required to make expenditures for you that are equivalent or proportionate to your contribution or to make sure that any particular franchisee benefits directly or pro rata from the placement of advertising.

2. The Brand Development Fund may be used to satisfy the costs of maintaining, administering, directing and preparing advertising, including the cost of preparing and conducting television, radio, magazine and newspaper advertising campaigns; direct mail and outdoor billboard advertising; public relations activities; mystery shopper services; employing advertising agencies; development and maintenance of our Website; and costs of our personnel and other departmental costs for advertising that we administer or prepare internally. All sums you pay to the Brand Development Fund will be maintained in a separate account. We may reimburse ourselves out of the Brand Development Fund for our reasonable administrative costs and expenses that we may incur in the administration or direction of the Brand Development Fund and advertising programs for you and the System. The Brand Development Fund and its earnings will not otherwise benefit us. The Brand Development Fund is operated solely as a conduit for collecting and expending the Brand Development Fund contributions as outlined above. Any sums paid to the Brand Development Fund that are not spent in the year they are collected will be carried over to the following year.

3. We will prepare an annual statement of the operations of the Brand Development Fund that will be made available to you if you request it. We are not required to have the Brand Development Fund statements audited.

4. Although the Brand Development Fund is intended to be perpetual, we may terminate the Brand Development Fund at any time. The Brand Development Fund will not be terminated until all monies in the Brand Development Fund have been spent for advertising or promotional purposes or returned to contributors on a pro rata basis. If we terminate the Brand Development Fund, we have the right to reinstate it at any time and you must again contribute to the Brand Development Fund.

### **Local Advertising**

You must conduct local advertising and promotion for your Franchised Business. You must spend at least \$300 each month or the amount required by the terms of the lease for your Location, whichever amount is higher. You may also have to pay a visual merchandising fee to your mall operator.

Any advertising and promotional materials you wish to use in local advertising must have our prior written approval, and in connection with this approval, we may permit you to use your own

advertising material. If you choose to utilize your own advertising materials, the materials must be submitted to us for our review at least 10 days before you intend to use the advertising materials. If we do not approve of your proposed advertising materials within five days after you submit them to us, your proposed materials are deemed not approved. Any advertising or promotional materials you submit to us for our review will become our property and there will be no restriction on our use or distribution of these materials. At our request you must include certain language in your advertising materials, such as “Franchises Available”, our website address and telephone number. Within 30 days of our request, you must provide us with verification of all expenditures for local advertising, marketing and promotion.

We do not anticipate forming or approving the formation of advertising cooperatives.

### **Advisory Council**

We may, in our discretion, form an advisory council to work with us to improve the System, the products offered by NYS Collection Franchised Businesses, advertising conducted by the Brand Development Fund, and any other matters that we deem appropriate. If an advisory council is formed, it will act solely in an advisory capacity, and will not have decision making authority. The advisory council will include franchisee representatives and our representatives. The franchisee representatives may be chosen by us or may be elected by other franchisees in the System. If you are selected to participate in an advisory council, you will pay for any costs or expenses you incur related to your participation. We will have the right to form, change, merge or dissolve any advisory council.

### **Website**

Websites (as defined below) are considered as “advertising” under the Franchise Agreement, and are subject (among other things) to our review and prior written approval before they may be used (as described above). The term “Website” means an interactive electronic document contained in a network of computers linked by communications software that you operate or authorize others to operate and that refers to the Franchised Business, Proprietary Marks, us, or the System. The term Website includes Internet and World Wide Web home pages.

In connection with any Website, the Franchise Agreement provides that you may not establish a Website related to the Proprietary Marks or the System, nor may you offer, promote, or sell any products or services, or make any use of the Marks, through the Internet without our prior written approval. As a condition to granting any consent, we will have the right to establish any requirement that we deem appropriate, including a requirement that your only presence on the Internet will be through one or more web pages that we establish on our Website.

We will have the right to establish a website or other electronic system providing private and secure communications (*e.g.*, an intranet) between us, our franchisees, and other persons and entities that we decide are appropriate. If we require, you must establish and maintain access to the intranet in the manner we designate. Additionally, we may periodically prepare agreements and policies concerning the use of the intranet that you must acknowledge and/or sign.

You are strictly prohibited from promoting your Franchised Business or using the Proprietary Marks in any manner on any social and/or networking Websites, such as Facebook, LinkedIn, MySpace and Twitter, without our prior written consent.

### **Site Selection and Opening**

Within 60 days after you sign the Franchise Agreement, we will offer you one or more potential mall locations for your Franchised Business for your consideration. You will have 10 days after receipt of information from us to notify us whether you intend to accept one of the locations we propose to you or if you wish to propose another location. You must enter into a lease with the mall's landlord directly.

We estimate that between 120 and 150 days will elapse from the date you sign the Franchise Agreement to the opening of your Franchised Business for business. Your Franchised Business must be opened for business not later than 120 or 150 days, as applicable, after the Franchise Agreement is executed, unless we grant an extension of this time period. You may not open for business until: (1) you have complied with all requirements regarding site selection, leasing of the site and construction of the Custom Kiosk or Inline Store; (2) we determine that your Franchised Business has been constructed, decorated, furnished, equipped and inventoried in accordance with plans and specifications we have approved; (3) the initial training program we provided has been completed to our satisfaction by all required persons or proof of scheduling and travel arrangements have been provided, (when applicable); (4) you have furnished us with all certificates of insurance required by the Franchise Agreement; (5) you have obtained all required governmental permits, licenses and authorizations necessary for the operation of your Franchised Business; and (6) you are in full compliance with all the terms of the Franchise Agreement.

Approval of the Location for your Franchised Business by us is not a representation, warranty or guaranty that you will be successful at that Location. Approval by us only means that the location meets our minimum criteria for approving sites. By signing the lease or sublease for the Location, you are affirming that you have done your own due diligence of the Location and have found the Location acceptable.

### **Training Program**

You and your employees that we designate must attend and complete, to our satisfaction, our mandatory training program. If a training session is offered prior to the date you begin operating your Franchised Business, you must attend that session. Otherwise, you must attend the next session that is offered after you open but you must provide proof of travel arrangements and training session scheduling prior to opening. Failure to attend a training session as outlined above will result in a fine (currently \$1,000.00) and is grounds for default. Our training program is provided quarterly at no additional charge, but you must pay all expenses you and your trainees incur while attending our training program, including travel, lodging, meals and applicable wages.

Approximately three to five days of training will be held in Aurora, Colorado, or at an operating NYS Collection location. If you do not satisfactorily complete our training program we may permit you to re-take our training program, or we may terminate your Franchise Agreement. In addition to our initial training program, we will provide one of our representatives for up to two days to assist with the opening of your Franchised Business. If you are opening your second or later Franchised Business we reserve the right to not provide opening assistance.

At your request, we will also provide you with additional on-site training or assistance at a mutually convenient time. You must pay us our then-current per diem fee (see Item 6) for each of our representatives providing assistance or training for each day the assistance or training continues. You must also pay all expenses of travel, lodging and meals incurred by our representatives. (Franchise Agreement – Section 7.3.)

The instructional materials we will use for our training program includes our Confidential Operations Manual, our Guidebook, as well as any other materials that we believe will be beneficial in the training process. There currently are no fixed (*i.e.*, monthly or bi-monthly) training schedules. We project the following training schedule:

#### TRAINING PROGRAM

| Subject                                               | Hours of Classroom Training | Hours of On-the-Job Training | Location                               |
|-------------------------------------------------------|-----------------------------|------------------------------|----------------------------------------|
| History/Philosophy of NYS Collection Eyewear          | 1                           | 0                            | Classroom                              |
| Use of the Manual                                     | 0.5                         | 0                            | Classroom                              |
| Site Pre-opening Procedures                           | 1                           | 0                            | Classroom                              |
| Setting Up Services Pre-opening; Miscellaneous        | 1                           | 0                            | Classroom                              |
| Recruiting Procedures                                 | 3                           | 2                            | Classroom; Operating Retail Kiosk/Cart |
| Personnel Issues                                      | 2                           | 0                            | Classroom                              |
| Daily Operating Procedures                            | 2                           | 0                            | Classroom                              |
| Sales Procedures                                      | 3                           | 6                            | Classroom; Retail Kiosk/Cart           |
| Customer Service Procedures                           | 1                           | 0                            | Classroom                              |
| Point of Sale System                                  | 1                           | 1                            | Classroom; Retail Kiosk/Cart           |
| Transacting Sales, Voids, etc.                        | 0.5                         | 0                            | Classroom                              |
| Merchandising                                         | 1                           | 1                            | Classroom; Retail Kiosk/Cart           |
| Inventory Management                                  | 2                           | 1                            | Classroom; Retail Kiosk/Cart           |
| Management Procedures                                 | 3                           | 0                            | Classroom                              |
| Franchise Reporting Requirements and Responsibilities | 2                           | 0                            | Classroom                              |
| Accounting/ Recordkeeping                             | 3                           | 0                            | Classroom                              |
| Marketing                                             | 2                           | 0                            | Classroom                              |

Our training program is conducted by us or by The Creative Company, headquartered in Aurora, Colorado. All of the instructors will have at least two years of training and retail experience.

In addition to the initial training program and any additional on-site assistance or training you request, as described above, we may offer refresher training programs or an annual meeting of our

franchisees. We may designate that attendance at any refresher training program or annual meeting is mandatory. We may charge you a fee for franchisee meetings, as described in Item 6 but we will not charge you a fee for refresher training. However, you must pay for the expenses of your trainees/attendees, including travel, lodging, meals and wages. We do not expect that any refresher training program will be longer than four days in any year, or that any franchisee meeting will be more than three days in any year.

### **Point of Sale and Computer System**

You must purchase the computerized point of sale and/or inventory management system we designate or approve. We may also designate a specific supplier for the POS system and, if we do, this information will be included in the Operations Manual. The POS system will provide you with the following functions: ringing sales, tracking inventory, and keeping track of employee time and scheduling. We will have full independent access to the information contained in your POS system at all times during the term of your Franchise Agreement. You must install and maintain a high speed internet connection for your POS system, such as a T-1 line, DSL or cable modem.

The cost of the POS system is approximately \$900, and you must pay a subscription fee for the POS system of approximately \$40-60 per month to our approved vendor.

We can require you to change the hardware and software you use for your Franchised Business. There are no contractual limits on when we can require you to make these changes or the cost of the modifications we can require.

We have the right to access your POS system, the data in it, and the reports it creates at any time. We can do this both at your Franchised Business and electronically. We currently plan on electronically polling your POS system nightly to download the daily information contained in your POS system. There are no contractual limitations on our right to access the information in your POS system or our use of the information we access.

### **Confidential Operations Manual**

You must operate your Franchised Business according to the standards, methods, policies and procedures specified in the Manual and the Guidebook. One copy of the Manual and the Guidebook is loaned to you by us for the term of the Franchise Agreement.

You must treat the Manual, any other of our manuals which are used in the operation of your Franchised Business, including the Guidebook, and the information in them as confidential, and must use all reasonable efforts to maintain this information as secret and confidential. You must not copy, duplicate, record, or otherwise reproduce these materials, in whole or in part, or otherwise give them to any unauthorized person. The Manual and Guidebook will remain our sole property and must be kept in a secure place at your Franchised Business.

We may revise the contents of the Manual or Guidebook, and you must comply with each new or changed standard. You must make sure that the Manual and Guidebook are kept current at all times. In the event of any dispute as to the contents of the Manual or Guidebook, the terms of the master copy maintained by us at our home office will be controlling.

Attached to this Disclosure Document as Exhibit F is the Table of Contents of the Confidential Operations Manual. Our Confidential Operations Manual includes approximately 257 pages.

In addition to the Confidential Operations Manual and Guidebook we lend to you, your mall operator may also lend to you a mall manual/code of ethics manual. You must keep your copy of this manual in a secure place at your Retail Kiosk/Cart/Store and you must at all times comply with the requirements in this manual.

### **Additional Investment**

Once every five years, and upon a transfer and renewal, we may require you to refurbish or remodel your Custom Kiosk, RMU Cart or Inline Store in accordance with our then current brand image and standards, including those relating to fixtures, furnishings, signs and equipment.

## **Item 12**

### **TERRITORY**

The Franchise Agreement grants you the right to operate your Franchised Business only at the approved location. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control.

If you wish to relocate your Franchised Business, whether within the same mall or within a different mall, you may only do so with our prior written approval. We will use the same factors in evaluating a new location that we used in evaluating your original location. Our approval will not be unreasonably withheld. This approval should not be construed as an assurance or guaranty that the new site will be successful.

We (and any of our affiliates) have the right: (a) to establish and operate, and grant rights to other franchise owners to establish and operate, NYS Collection businesses or similar businesses at any location and on any terms and conditions we deem appropriate; (b) to sell products identical or similar to, or dissimilar from, those your Franchised Business sells, whether identified by the Proprietary Mark or other trademarks or service marks through any distribution channels we think best (including professional vision centers, sports equipment stores, mail order and the Internet); (c) to be acquired (regardless of the form of transaction) by a business identical or similar to NYS Collection businesses, even if the other business operates, franchises and/or licenses competitive businesses near your Franchised Business; and (d) to engage in any other business activities not expressly prohibited by the Franchise Agreement, anywhere.

You may sell our products and related merchandise to customers who live anywhere but who choose to shop at your Franchised Business. You may not engage in any promotional activities or sell our proprietary products or similar products or services, whether directly or indirectly, through or on the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system (collectively, the "Electronic Media"); through catalogs or other mail order devices sent or directed to customers or prospective customers located anywhere; or by telecopy or other telephonic or electronic communications, including toll-free numbers, directed to or received from customers or prospective customers located anywhere. You may not place advertisements in printed media and on television and radio that are targeted to customers and prospective customers located outside of your immediate area. You have no options, rights of first refusal, or similar rights to acquire additional franchises. You may not sell our Proprietary Products to any business or other customer at wholesale.

We and our affiliates may sell products under the Proprietary Marks anywhere through any method of distribution other than a dedicated NYS Collection business, including sales through channels

of distribution such as the Internet, catalog sales, telemarketing or other direct marketing sales, professional vision centers and sports equipment stores (together, “alternative distribution channels”). You may not use alternative distribution channels to make sales anywhere and you will not receive any compensation for our sales through alternative distribution channels. If we sell any Products via our Website, we will fulfill the order and you are not entitled to any revenue from orders generated through our Website.

Except for the “NYS Collection” operators licensed by NYSC as described in Item 1, we have not established other franchised or company-owned NYS Collection businesses or another distribution channel selling or leasing similar products or services under a different trademark. We describe earlier in this Item 12 what we may do anywhere and at any time. In addition, neither we nor any parent or affiliate has established, or presently intends to establish, other franchised or company-owned businesses which sell our products or services under a different trade name or trademark, but we reserve the right to do so in the future, without first obtaining your consent.

You must meet a minimum sales volume in order to maintain your rights under the Franchise Agreement. You must generate at least \$100,000 in Gross Sales each year during the term of your Franchise Agreement. This minimum is the same whether you are operating a cart, a kiosk or a store, but if your cart, kiosk or store is seasonal (open for eight or fewer months each calendar year), the minimum Gross Sales amount will be prorated for the amount of time the cart, kiosk or store was operating. If you fail to meet this minimum, we will have the right to terminate your Franchise Agreement. “Gross Sales” is defined in the Franchise Agreement as all revenue, less any returns or credits, from the sale of all products and services and all other income of every kind and nature at or from the Franchised Business or otherwise related to the Franchised Business, including any proceeds from business interruption insurance, whether for cash or credit, and regardless of collection in the case of credit. Gross Sales does not include any sales taxes or other taxes collected from customers by you and paid directly to the appropriate taxing authority, or any customer refunds or adjustments.

### **Item 13** **TRADEMARKS**

Under the Franchise Agreement you have the right to use certain trademarks, service marks and other commercial symbols in connection with the operation of your Franchised Business. Our primary service mark is “NYS Collection” (the “Proprietary Mark”). Our affiliate, Marsalle, has registered or applied for registration of the Proprietary Marks on the Principal and Supplemental Registers of the United States Patent and Trademark Office (“USPTO”) as follows:

| <b>Mark</b>                    | <b>Application Date</b> | <b>Serial Number</b> | <b>Registration Date</b> | <b>Registration Number</b>           |
|--------------------------------|-------------------------|----------------------|--------------------------|--------------------------------------|
| NYS Collection                 | 8/19/2004               | 78/470,091           | 11/22/2005               | 3,017,669<br>(Principal Register)    |
| Exceptional Affordable Eyewear | 1/5/2010                | 77/905,048           | 8/3/2010                 | 3,829,840<br>(Supplemental Register) |
| NYS Collection                 | 08/16/2004              | 78/467,926           | 1/17/2006                | 3,045,240<br>(Principal Register)    |
| NYS Elite Eyewear              | 8/26/2010               | 85/116,971           | 5/3/2011                 | 3,954,339<br>(Principal Register)    |

All required affidavits and renewals pertaining to the above Proprietary Marks have been filed.

There are no currently effective determinations of the USPTO, the trademark administrator of this state or any court, nor is there any pending interference, opposition, or cancellation proceeding, nor any pending material litigation involving the Proprietary Mark which may be relevant to their use in this state or in any other state.

There are no agreements currently in effect which limit our right to use or to license others to use the Proprietary Mark, except for the trademark license agreement between us and Marsalle dated December 29, 2010.

You must promptly notify us of any suspected unauthorized use of the Proprietary Mark, any challenge to the validity of the Proprietary Mark, or any challenge to our ownership of, our right to use and to license others to use, or your right to use, the Proprietary Mark. We have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Mark, including any settlement. We have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Mark. We may defend you against any third party claim, suit or demand arising out of your use of the Proprietary Mark. If we, in our sole discretion, determine that you have used the Proprietary Mark in accordance with your Agreement, the cost of the defense, including the cost of any judgment or settlement, will be borne by us. If we determine that you have not used the Proprietary Mark in accordance with your Agreement, the cost of the defense, including the cost of any judgment or settlement, will be yours. In the event of any litigation relating to your use of the Proprietary Mark, you must sign any and all documents and do any acts as may, in our opinion, be necessary to carry out the defense or prosecution, including becoming a nominal party to any legal action. Except if this litigation is the result of your use of the Proprietary Mark in a manner inconsistent with the terms of your Agreement, we will reimburse you for your out-of-pocket costs in doing these acts.

There are no infringing uses actually known to us that could materially affect your use of the Proprietary Mark in this state or elsewhere.

We reserve the right to substitute different proprietary marks for use in identifying the System and the businesses operating under it, at our sole discretion. We will not be required to reimburse you for any of your costs related to conforming to our new Proprietary Marks, and will otherwise have no obligation or liability to you as a result of any change or substitution.

#### **Item 14**

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

#### **Patents and Copyrights**

You do not receive the right to use an item covered by a patent or copyright, but you can use the proprietary and confidential information that is in our Manual. The Manual is described in Item 11 and below. Although we have not filed an application for a copyright registration for the Manual, we claim a copyright and the information in it is proprietary and confidential. You must also promptly tell us when you learn about unauthorized use of this proprietary and confidential information. We are not obligated to take any action, but will respond to this information as we think appropriate.



### **Confidential Information**

You must not, during the term of the Franchise Agreement or after the term of the Agreement, communicate, divulge or use for the benefit of any other person, partnership, association, or corporation any confidential information, knowledge or know-how concerning the methods of operation of the Franchised Business which may be communicated to you or which you may learn because of your operation under the terms of the Franchise Agreement. You may divulge this confidential information only to those of your employees who need access to it to operate your Franchised Business. Any and all information, knowledge, know-how, techniques and other data which we designate as confidential will be deemed confidential for purposes of the Franchise Agreement.

At our request, you must require your manager and any personnel having access to any of our confidential information to sign agreements that say that they will maintain the confidentiality of information they receive in connection with their employment by you at your Franchised Business. The agreements must be in a form satisfactory to us, including specific identification of us as a third party beneficiary of the covenants with the independent right to enforce them and that they prohibit any direct or indirect ownership in a competing business.

If you are a legal entity, you and each of your: shareholders if you are a corporation, partners if you are a partnership, or members and managers if you are a limited liability company, must sign our Continuing Guaranty. All of the provisions of the Franchise Agreement (a copy of which is attached as Exhibit C to this Disclosure Document) will apply to you and each individual who signs the Continuing Guaranty. Each individual who signs the Continuing Guaranty must also agree to be bound by the confidentiality and non-competition covenants of the Franchise Agreement.

### **Item 15**

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

During the term of the Franchise Agreement, and at our discretion, you must attend and complete our initial training program, and you (or one of your owners, if you are a corporate entity) must devote full time and best efforts to the management and operation of the Franchised Business. The Franchised Business must have on-premises supervision of a manager who has satisfactorily completed our training program. You must also maintain a competent, conscientious, trained staff, including a fully trained manager (which may be you). If you are an individual, we recommend that you be the fully trained manager described above. We impose no limitations as to who you may hire as the manager, except that you must comply with all applicable laws and that you must not harm the goodwill associated with the System and the Proprietary Mark (this requirement may affect who you hire as your manager). The Franchised Business is not a passive investment, and we expect all of our franchisees to be actively involved in the operation of the Franchised Business.

In certain circumstances, we may require your manager to have an equity interest in your business. The manager must attend and complete our training program, as described in Item 11. The manager and other employees may also be required to enter into an agreement not to reveal confidential information obtained while employed by you. See Item 17 for a description of these obligations.

You must operate the Franchised Business in strict conformity with all applicable Federal, state and local laws, ordinances and regulations. These laws, ordinances and regulations vary from jurisdiction to jurisdiction and may be implemented or interpreted in a different manner. You must learn of the existence and requirements of all laws, ordinances and regulations applicable to the Franchised Business and you must adhere to them and to the then-current implementation or interpretation of them.

You must hire, train and pay all of your employees according to terms you and the employee have agreed upon, and you must make sure that each employee signs our form of Confidentiality Agreement (Exhibit D to the Franchise Agreement).

**Item 16**

**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must use the NYS Custom Kiosk, RMU Cart or Inline Store solely for the operation of the Franchised Business. You must keep your Franchised Business open and in normal operation for the minimum hours and days as we specify. You must not use or permit the use of the Franchised Business for any other purpose or activity at any time without first obtaining our written consent. You must operate the Franchised Business in strict conformity with the methods, standards and specifications we may require in the Manual or in writing. You must not change the standards, specifications and procedures without our prior written consent. You must comply with our policies related to customer service, gift cards, Product returns and Product warranties.

You must sell or offer for sale only those products and those services that we have approved for sale in writing; you must sell or offer for sale all types of merchandise specified by us; you may not change our standards and specifications without our prior written consent; and you must stop selling and offering for sale any services or products which we may, in our discretion, disapprove in writing at any time. We have the right to change the types of authorized goods and services and there are no limits on our right to make changes.

The System may be supplemented, improved or modified from time to time by us. You must comply with all of our reasonable requirements in that regard, including offering and selling new or different products or services as specified by us.

You are restricted by the Franchise Agreement, Operations Manual and any other practice or custom with respect to the goods or services which you may offer, which must be approved by us. You are not restricted as to the customers to whom you may sell products or services, except as described in Item 12.

**Item 17**

**RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

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

| <b>Provision</b>                    | <b>Article in Franchise Agreement</b> | <b>Summary</b>                                    |
|-------------------------------------|---------------------------------------|---------------------------------------------------|
| a. Length of the franchise term     | Article 2                             | Five years                                        |
| b. Renewal or extension of the term | Article 2                             | Three additional renewal terms of five years each |

| Provision                                         | Article in Franchise Agreement | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| c. Requirements for franchisee to renew or extend | Article 2                      | <p>You must provide notice that you wish to renew your Franchise Agreement; you must be current in all payments and not in default of your Franchise Agreement; if we require, you must renovate and/or upgrade your Custom Kiosk, RMU Cart or Store; you must sign release, pay renewal fee, sign renewal Franchise Agreement and you just have the right to maintain possession of the premises for your franchised business.</p> <p>You may be asked to sign a contract with materially different terms and conditions than your original contract, except the fees on renewal will not be greater than the fees that we then impose on similarly situated renewing franchisees</p> |
| d. Termination by franchisee                      | Not applicable                 | You may seek to terminate your Franchise Agreement on any ground permitted by law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| e. Termination by franchisor without cause        | Not applicable                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| f. Termination by franchisor with cause           | Article 13                     | We can terminate your Franchise Agreement for cause                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| g. "Cause" defined – curable defaults             | Article 13                     | Breach of Franchise Agreement and other grounds, such as failure to pay for product purchases, failure to pay any monies to us, our parent or affiliate(s), selling unauthorized products, failure to operate in accordance with our uniform standards (30 day cure period), failure to attend required training, violation of laws/ordinances that go uncorrected as required by the government agency, or operation of the franchised business in a manner that creates a health or safety hazard.                                                                                                                                                                                   |

| Provision                                                               | Article in Franchise Agreement | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| h. "Cause" defined – non-curable defaults                               | Article 13                     | Breach of Franchise Agreement, such as filing for bankruptcy, assignment for the benefit of creditors, lease termination, your or any of your owners' assets are blocked under any law related to terrorist activities, misuse of Proprietary Marks, abandonment of the Franchised Business, submitting false reports, failure to submit annual reports, repeated defaults (including second occurrence of prohibited product default), failure to meet minimum Gross Sales, repeated customer complaints, you misrepresent information provided to us, another agreement between you and us is terminated (this is a cross-default provision), you incur (3) insufficient fund fees in 12 months |
| i. Franchisee's obligations on termination/non-renewal                  | Article 14                     | Obligations include complete de-identification and payment of amounts due; we have the option to repurchase your Custom Kiosk, RMU Cart or Store for its fair market value or to assume your lease, return of Manual, cancellation of assumed names, transfer or website listings and phone numbers                                                                                                                                                                                                                                                                                                                                                                                               |
| j. Assignment of contract by franchisor                                 | Article 16                     | No restriction on right to transfer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| k. "Transfer" by franchisee – defined                                   | Article 16                     | Transfer all or substantially all of the assets of your business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| l. Franchisor approval of transfer by franchisee                        | Article 16                     | We have the right to approve transfers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| m. Conditions for franchisor approval of transfer                       | Article 16                     | Includes payment of money owed, you are not in default, sign release, transferee qualifies and signs new franchise agreement, refurbishment of the Custom Kiosk or RMU Cart and payment of the transfer fee, you enter into a purchase and sale agreement, new owner assumes business liabilities.                                                                                                                                                                                                                                                                                                                                                                                                |
| n. Franchisor's right of first refusal to acquire franchisee's business | Article 16                     | We can match any offer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| <b>Provision</b>                                                          | <b>Article in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                   |
|---------------------------------------------------------------------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| o. Franchisor's option to purchase franchisee's business                  | Article 14                            | Upon expiration or termination, we can buy certain assets                                                                                                                                                        |
| p. Death or disability of franchisee                                      | Article 16                            | Franchise must be assigned to approved buyer within 12 months                                                                                                                                                    |
| q. Non-competition covenants during the term of the franchise             | Article 15                            | Includes prohibition on owning or operating business which sells similar products                                                                                                                                |
| r. Non-competition covenants after the franchise is terminated or expires | Article 15                            | Includes prohibition on owning or operating business which sells similar services for two years and located at the Franchised Business Location or within 5 miles of where your Franchised Business was located. |
| s. Modification of the agreement                                          | Article 24                            | Must be in writing by both parties                                                                                                                                                                               |
| t. Integration/merger clause                                              | Article 24                            | Only the terms of the Franchise Agreement are binding (subject to state law). Any other representations or promises outside of the disclosure document and franchise agreement may not be enforceable.           |
| u. Dispute resolution by arbitration or mediation                         | Article 22                            | Mediation and arbitration in the city where we have our headquarters                                                                                                                                             |
| v. Choice of forum                                                        | Article 22                            | New Jersey (subject to state law – see State Specific Addendum)                                                                                                                                                  |
| w. Choice of law                                                          | Article 22                            | New Jersey(subject to state law – see State Specific Addendum)                                                                                                                                                   |

**Item 18**  
**PUBLIC FIGURES**

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

**Item 19**  
**FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor

supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

As of December 31, 2016, we had 99 franchised locations in the United States. These franchised locations represent units that are similar to the opportunity being offered. Of the 99 franchised units in operation on December 31, 2016, 78 were year-round operations which had been in continuous operation for a full year or more as of December 31, 2016. The remaining units were in continuous operation for less than one full year, or are seasonal, and are not considered to be representative examples.

We collect data and measure performance of franchised locations based on a point of sale reporting system. During the 12 month period January 1, 2016 to December 31, 2016, 57 of our 78 year-round locations were utilizing our point of sale reporting system and recorded the following sales:

| *                      | Top<br>Third | Middle<br>Third | Bottom<br>Third |
|------------------------|--------------|-----------------|-----------------|
| Number of<br>Locations | 19           | 19              | 19              |
| Range of Sales:        |              |                 |                 |
| High                   | \$577,743    | \$253,422       | \$169,843       |
| Low                    | \$261,617    | \$170,616       | \$50,132        |
| Average                | \$331,014    | \$217,540       | \$122,539       |
| Median                 | \$306,698    | \$219,504       | \$124,589       |

The Chart divides franchisees into three categories (Top Third, Middle Third, and Bottom Third). There were 7 franchisees (36.8% of the locations in the Top Third) that attained or surpassed the average sales for the Top Third; 10 franchisees (52.6% of the locations in the Middle Third) that attained or surpassed the average sales for the Middle Third; and 12 franchisees (63.1% of the locations in the Bottom Third) that attained or surpassed the average sales for the Bottom Third. The average sales represent the average sales for franchisees within each category. High sales and Low sales represent the Franchisee within each category that attained the highest and lowest sales.

Some outlets have sold this amount. Your individual results may differ. There is no assurance you'll sell as much.

#### Important Cautions and Notes:

1. The information presented in this Item 19 should not be considered to be the actual or probable sales that you will experience. Actual results will vary from franchisee to franchisee. Factors such as the length of time the location has been open, location, demographics, the franchisee's prior business experience, the franchisee's marketing efforts, the franchisee's cost controls and others will have an effect on your individual results.
2. You should not assume your business will reach the levels of sales disclosed above within any particular timeframe based upon this information. It might take you longer to ramp up.

3. The information presented in this Item 19 reflects is based on retail sales recorded by our franchised locations. It does not include any of the expenses of operating the business, for example, rent, payroll, taxes, interest charges, or owner compensation. It also does not include royalty fees, advertising fees, or other amounts due under the Franchise Agreement. When preparing a profit projection for your store, you will have to estimate your retail sales and identify and plan for these additional expenses.
4. Although we believe the information provided in this Item 19 is reasonably accurate, it is not exact and may contain errors. The information presented in this Item 19 has not been audited or reviewed.
5. Although data from our affiliate may be useful information, we do not believe it is a reliable indicator of your probable success or lack thereof in the business. You should conduct an independent evaluation of this franchise opportunity with your own advisors, using the information contained here as just one factor. You should not accord undue weight to any one factor.

Your results will likely differ from the results contained in this Item. We do not represent that you will attain comparable sales.

We will provide you with substantiation of the information contained in this Item 19 upon written request from you and subject to your signing an agreement to maintain the confidentiality of the information.

## Item 20 OUTLETS AND FRANCHISEE INFORMATION

The following information is accurate through December 31, 2016.

**Table No. 1  
Systemwide Outlet Summary  
For years 2014, 2015, 2016**

| Outlet Type   | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
|---------------|------|----------------------------------|--------------------------------|------------|
| Franchised    | 2014 | 45                               | 88                             | +43        |
|               | 2015 | 88                               | 107                            | +19        |
|               | 2016 | 107                              | 99                             | -8         |
| Company-Owned | 2014 | 3                                | 1                              | -2         |
|               | 2015 | 1                                | 0                              | -1         |
|               | 2016 | 0                                | 0                              | 0          |
| Total Outlets | 2014 | 48                               | 89                             | +41        |
|               | 2015 | 89                               | 107                            | +18        |
|               | 2016 | 107                              | 99                             | -8         |

**Table No. 2**  
**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)**  
**For years 2014, 2015, 2016**

| State          | Year | Number of Transfers |
|----------------|------|---------------------|
| California     | 2014 | 0                   |
|                | 2015 | 3                   |
|                | 2016 | 0                   |
| Colorado       | 2014 | 0                   |
|                | 2015 | 0                   |
|                | 2016 | 1                   |
| Florida        | 2014 | 1                   |
|                | 2015 | 0                   |
|                | 2016 | 0                   |
| Georgia        | 2014 | 0                   |
|                | 2015 | 2                   |
|                | 2016 | 1                   |
| Nevada         | 2014 | 0                   |
|                | 2015 | 2                   |
|                | 2016 | 0                   |
| North Carolina | 2014 | 1                   |
|                | 2015 | 0                   |
|                | 2016 | 0                   |
| Texas          | 2014 | 0                   |
|                | 2015 | 0                   |
|                | 2016 | 1                   |
| Utah           | 2014 | 1                   |
|                | 2015 | 0                   |
|                | 2016 | 0                   |
| <b>Total</b>   | 2014 | 3                   |
|                | 2015 | 7                   |
|                | 2016 | 3                   |



**Table No. 3**  
**Status of Franchised Outlets**  
**For years 2014, 2015, 2016**

| State      | Year | Outlets<br>at Start<br>of Year | Outlets<br>Opened | Termina-<br>tions | Non-<br>Renewals | Reacquired<br>by<br>Franchisor | Ceased<br>Operations<br>– Other<br>Reasons | Outlets<br>at End<br>of the<br>Year |
|------------|------|--------------------------------|-------------------|-------------------|------------------|--------------------------------|--------------------------------------------|-------------------------------------|
| Arizona    | 2014 | 0                              | 2                 | 0                 | 0                | 0                              | 0                                          | 2                                   |
|            | 2015 | 2                              | 3                 | 1                 | 0                | 0                              | 0                                          | 4                                   |
|            | 2016 | 4                              | 0                 | 0                 | 0                | 0                              | 4                                          | 0                                   |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| California | 2014 | 2                              | 25                | 0                 | 0                | 0                              | 0                                          | 27                                  |
|            | 2015 | 27                             | 4                 | 0                 | 0                | 0                              | 1                                          | 30                                  |
|            | 2016 | 30                             | 7                 | 0                 | 0                | 0                              | 7                                          | 30                                  |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| Colorado   | 2014 | 8                              | 0                 | 0                 | 0                | 0                              | 0                                          | 8                                   |
|            | 2015 | 8                              | 0                 | 0                 | 0                | 0                              | 0                                          | 8                                   |
|            | 2016 | 8                              | 0                 | 0                 | 0                | 0                              | 1                                          | 7                                   |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| Delaware   | 2014 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                          | 1                                   |
|            | 2015 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                          | 1                                   |
|            | 2016 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                          | 1                                   |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| Florida    | 2014 | 4                              | 11                | 0                 | 0                | 0                              | 1                                          | 14                                  |
|            | 2015 | 14                             | 1                 | 0                 | 0                | 0                              | 1                                          | 14                                  |
|            | 2016 | 14                             | 3                 | 0                 | 0                | 0                              | 2                                          | 15                                  |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| Georgia    | 2014 | 3                              | 0                 | 0                 | 0                | 0                              | 0                                          | 3                                   |
|            | 2015 | 3                              | 0                 | 0                 | 0                | 0                              | 0                                          | 3                                   |
|            | 2016 | 3                              | 0                 | 0                 | 0                | 0                              | 1                                          | 2                                   |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| Hawaii     | 2014 | 0                              | 0                 | 0                 | 0                | 0                              | 0                                          | 0                                   |
|            | 2015 | 0                              | 1                 | 0                 | 0                | 0                              | 0                                          | 1                                   |
|            | 2016 | 1                              | 1                 | 0                 | 0                | 0                              | 1                                          | 1                                   |
|            |      |                                |                   |                   |                  |                                |                                            |                                     |
| Louisiana  | 2014 | 0                              | 2                 | 0                 | 0                | 0                              | 0                                          | 2                                   |
|            | 2015 | 2                              | 1                 | 0                 | 0                | 0                              | 0                                          | 3                                   |
|            | 2016 | 3                              | 0                 | 0                 | 0                | 0                              | 1                                          | 2                                   |

| State          | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations – Other Reasons | Outlets at End of the Year |
|----------------|------|--------------------------|----------------|--------------|--------------|--------------------------|-----------------------------------|----------------------------|
|                |      |                          |                |              |              |                          |                                   |                            |
| Maryland       | 2014 | 0                        | 0              | 0            | 0            | 0                        | 0                                 | 0                          |
|                | 2015 | 0                        | 0              | 0            | 0            | 0                        | 0                                 | 0                          |
|                | 2016 | 0                        | 1              | 0            | 0            | 0                        | 0                                 | 1                          |
|                |      |                          |                |              |              |                          |                                   |                            |
| Nevada         | 2014 | 4                        | 4              | 0            | 0            | 0                        | 0                                 | 8                          |
|                | 2015 | 8                        | 3              | 0            | 0            | 0                        | 1                                 | 10                         |
|                | 2016 | 10                       | 3              | 0            | 0            | 0                        | 3                                 | 10                         |
|                |      |                          |                |              |              |                          |                                   |                            |
| New Jersey     | 2014 | 2                        | 0              | 0            | 0            | 0                        | 0                                 | 2                          |
|                | 2015 | 2                        | 1              | 0            | 0            | 0                        | 0                                 | 3                          |
|                | 2016 | 3                        | 0              | 0            | 0            | 0                        | 0                                 | 3                          |
|                |      |                          |                |              |              |                          |                                   |                            |
| New York       | 2014 | 6                        | 0              | 0            | 0            | 0                        | 0                                 | 6                          |
|                | 2015 | 6                        | 2              | 0            | 0            | 0                        | 0                                 | 8                          |
|                | 2016 | 8                        | 2              | 0            | 0            | 0                        | 0                                 | 10                         |
|                |      |                          |                |              |              |                          |                                   |                            |
| North Carolina | 2014 | 5                        | 0              | 0            | 0            | 0                        | 0                                 | 5                          |
|                | 2015 | 5                        | 0              | 0            | 0            | 0                        | 0                                 | 5                          |
|                | 2016 | 5                        | 0              | 0            | 0            | 0                        | 2                                 | 3                          |
|                |      |                          |                |              |              |                          |                                   |                            |
| Texas          | 2014 | 6                        | 0              | 0            | 0            | 0                        | 0                                 | 6                          |
|                | 2015 | 6                        | 4              | 0            | 0            | 0                        | 0                                 | 10                         |
|                | 2016 | 10                       | 0              | 0            | 0            | 0                        | 2                                 | 8                          |
|                |      |                          |                |              |              |                          |                                   |                            |
| Utah           | 2014 | 4                        | 0              | 0            | 0            | 0                        | 1                                 | 3                          |
|                | 2015 | 3                        | 0              | 0            | 0            | 0                        | 0                                 | 3                          |
|                | 2016 | 3                        | 1              | 0            | 0            | 0                        | 3                                 | 1                          |
|                |      |                          |                |              |              |                          |                                   |                            |
| Virginia       | 2014 | 0                        | 1              | 0            | 0            | 0                        | 0                                 | 1                          |
|                | 2015 | 1                        | 2              | 0            | 0            | 0                        | 0                                 | 3                          |
|                | 2016 | 3                        | 1              | 0            | 0            | 0                        | 0                                 | 4                          |
|                |      |                          |                |              |              |                          |                                   |                            |
| Washington     | 2014 | 0                        | 0              | 0            | 0            | 0                        | 0                                 | 0                          |

| State        | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations – Other Reasons | Outlets at End of the Year |
|--------------|------|--------------------------|----------------|--------------|--------------|--------------------------|-----------------------------------|----------------------------|
|              | 2015 | 0                        | 1              | 0            | 0            | 0                        | 0                                 | 1                          |
|              | 2016 | 1                        | 0              | 0            | 0            | 0                        | 0                                 | 1                          |
|              |      |                          |                |              |              |                          |                                   |                            |
| <b>Total</b> |      |                          |                |              |              |                          |                                   |                            |
|              | 2014 | 45                       | 45             | 0            | 0            | 0                        | 2                                 | 88                         |
|              | 2015 | 88                       | 23             | 1            | 0            | 0                        | 3                                 | 107                        |
|              | 2016 | 107                      | 19             | 0            | 0            | 0                        | 27                                | 99                         |

**Table No. 4**  
**Status of Company-Owned Outlets**  
**For years 2014, 2015, 2016**

| State        | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|--------------|------|--------------------------|----------------|------------------------------------|----------------|----------------------------|----------------------------|
| None         | 2014 | 3                        | 0              | 0                                  | 0              | 2                          | 1                          |
|              | 2015 | 1                        | 0              | 0                                  | 0              | 1                          | 0                          |
|              | 2016 | 0                        | 0              | 0                                  | 0              | 0                          | 0                          |
| <b>Total</b> | 2014 | 3                        | 0              | 0                                  | 0              | 2                          | 1                          |
|              | 2015 | 1                        | 0              | 0                                  | 0              | 1                          | 0                          |
|              | 2016 | 0                        | 0              | 0                                  | 0              | 0                          | 0                          |

**Table No. 5**  
**Projected Openings as of December 31, 2016**

| State      | Franchise Agreements Signed but Outlet Not Opened | Projected New Franchised Outlets in the Next Fiscal Year | Projected New Company-Owned Outlets in the Next Fiscal Year |
|------------|---------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------|
| California | 0                                                 | 8                                                        | 0                                                           |
| Florida    | 0                                                 | 8                                                        | 0                                                           |
| New Jersey | 0                                                 | 2                                                        | 0                                                           |
| Arizona    | 0                                                 | 4                                                        | 0                                                           |
| New York   | 0                                                 | 7                                                        | 0                                                           |
| Texas      | 0                                                 | 5                                                        | 0                                                           |

| State    | Franchise Agreements Signed but Outlet Not Opened | Projected New Franchised Outlets in the Next Fiscal Year | Projected New Company-Owned Outlets in the Next Fiscal Year |
|----------|---------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------|
| Utah     | 0                                                 | 2                                                        | 0                                                           |
| Virginia | 0                                                 | 5                                                        | 0                                                           |
| Nevada   | 0                                                 | 2                                                        | 0                                                           |
| Maryland | 0                                                 | 4                                                        | 0                                                           |
| Total    | 0                                                 | 47                                                       | 0                                                           |

A list of the names of all franchisees the addresses and telephone numbers of their businesses will be provided in Exhibit D to this Disclosure Document when applicable.

The name, city, state and current business telephone number (or if unknown, the last known home telephone number) of every franchisee who had a business terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or who has not communicated with us within 10 weeks of the issuance date of this disclosure document will be listed on Exhibit E to this Disclosure Document when applicable. **If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.**

During the last three fiscal years, we have had 2 franchisees sign confidentiality provisions that would restrict their ability to speak openly about their experience with the NYS Collection System.

There are no trademark-specific organizations formed by our franchisees that are associated with the NYS Collection System.

## Item 21 FINANCIAL STATEMENTS

Attached to this Disclosure Document as Exhibit G are our audited financial statements for the periods ending December 31, 2014, December 31, 2015 and December 31, 2016.

Our fiscal year end is December 31<sup>st</sup>.

## Item 22 CONTRACTS

The following contracts are attached to this Disclosure Document in the following order.

1. Multi-State Addendum – Exhibit B
2. Franchise Agreement – Exhibit C with the following exhibits:
  - A -- Location Acceptance Statement
  - B -- Internet Websites and Listings Agreement; Telephone Listing Agreement
  - C – Transfer of Franchise to a Corporation or Limited Liability Company
  - D –Confidentiality Agreement
  - E – Continuing Guaranty

F -- Electronic Funds Transfer Authorization  
G -- Franchisee Disclosure Acknowledgement Statement  
H -- General Release Agreement  
I -- Statement of Ownership

**Item 23**  
**RECEIPTS**

Two copies of an acknowledgment of your receipt of this Disclosure Document appear at the end of the Disclosure Document. Please return one signed copy to us and retain the other for your records.

# **Exhibit A**

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## **STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS**

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NYS Collection Eyewear, Inc.

## STATE ADMINISTRATORS/ DESIGNATION OF AGENT FOR SERVICE OF PROCESS

Listed here are the names, addresses and telephone numbers of the state agencies having responsibility for the franchising disclosure/registration laws. Where we are registered to sell franchises, we have appointed the state agency, or as noted below, a state officer, as our agent for service of process in the state. We may not yet be registered to sell franchises in any or all of the states listed. There may be states in addition to those listed below in which we have appointed an agent for service of process. There may also be additional agents appointed in some of the states listed.

|                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>CALIFORNIA</u><br>Department of Business Oversight<br>320 West Fourth Street, Suite 750<br>Los Angeles, California 90013-2344<br>(866) 275-2677<br>Agent: California Commissioner of Business Oversight                                                                       | <u>NORTH DAKOTA</u><br>North Dakota Securities Department<br>600 East Boulevard Avenue<br>State Capitol<br>Fifth Floor<br>Dept. 414<br>Bismarck, North Dakota 58505-0510<br>(701) 328-4712<br>Agent: North Dakota Securities Commissioner                                                  |
| <u>HAWAII</u><br>Commissioner of Securities<br>Department of Commerce and Consumer Affairs<br>335 Merchant Street, Room 203<br>Honolulu, Hawaii 96813<br>(808) 586-2722<br>Agent: Commissioner of Securities of the State of Hawaii                                              | <u>OREGON</u><br>Department of Finance and Corporate Securities<br>Labor and Industries Building<br>350 Winter Street NE, Room 410<br>Salem, Oregon 97301-3881<br>(503) 378-4387<br>Agent: Director of Oregon Department of Insurance and Finance                                          |
| <u>ILLINOIS</u><br>Franchise Division<br>Office of Attorney General<br>500 South Second Street<br>Springfield, Illinois 62706<br>(217) 782-4465<br>Agent: Illinois Attorney General                                                                                              | <u>RHODE ISLAND</u><br>Department of Business Regulation<br>Division of Securities<br>1511 Pontiac Ave.<br>John O. Pastore Complex<br>Building 69-1<br>Cranston, RI 02920<br>(401) 462-9500<br>Agent: Director of Rhode Island Department of Business Regulation of Financial Institutions |
| <u>INDIANA</u><br>Franchise Section<br>Indiana Securities Division<br>Room E-111<br>302 West Washington Street<br>Indianapolis, Indiana 46204<br>(317) 232-6681<br>Agent: Indiana Secretary of State<br>Indiana Securities Division<br>201 State House<br>Indianapolis, IN 46204 | <u>SOUTH DAKOTA</u><br>Department of Labor and Regulation<br>Division of Securities<br>124 South Euclid, Suite 104<br>Pierre, South Dakota 57501<br>(605) 773-4823<br>Agent: Director of South Dakota Division Securities                                                                  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>MARYLAND</u><br/>Office of the Attorney General<br/>Securities Division<br/>200 St. Paul Place<br/>Baltimore, Maryland 21202-2020<br/>(410) 576-6360<br/>Agent: Maryland Securities Commissioner<br/>200 St. Paul Place<br/>Baltimore, Maryland 21202-2020</p>                                                                                                                                                               | <p><u>VIRGINIA</u><br/>State Corporation Commission<br/>Division of Securities and Retail Franchising<br/>1300 East Main Street, 9<sup>th</sup> Floor<br/>Richmond, Virginia 23219<br/>(804) 371-9051<br/>Agent: Clerk of the State Corporation<br/>Commission<br/>1300 E Main St., 1<sup>st</sup> Fl.<br/>Richmond, VA 23219<br/>Tel: (804) 371-9733</p> |
| <p><u>MICHIGAN</u><br/>Consumer Protection Division<br/>Antitrust and Franchise Unit<br/>Michigan Department of Attorney General<br/>670 Law Building<br/>Lansing, Michigan 48913<br/>(517) 373-7177<br/>Agent: Michigan Department of Commerce<br/>Corporations and Securities Bureau<br/>6546 Mercantile Way<br/>Lansing, MI 48910</p>                                                                                           | <p><u>WASHINGTON</u><br/>Director<br/>Washington Department of Financial Institutions<br/>Securities Division<br/>150 Israel Road SW<br/>Tumwater, Washington 98501<br/>(360) 902-8760<br/>Agent: Securities Administrator, Director of<br/>Department</p>                                                                                                |
| <p><u>MINNESOTA</u><br/>Minnesota Department of Commerce<br/>85 7<sup>th</sup> Place East, Suite 500<br/>St. Paul, Minnesota 55101-2198<br/>(651) 539-1600<br/>Agent: Minnesota Commissioner of Commerce</p>                                                                                                                                                                                                                       | <p><u>WISCONSIN</u><br/>Securities Division of the Wisconsin Department<br/>of Financial Institutions<br/>345 W. Washington Ave., 4<sup>th</sup> Floor<br/>Madison, Wisconsin 53703<br/>(608) 266-8559<br/>Agent: Wisconsin Commissioner of Securities</p>                                                                                                |
| <p><u>NEW YORK</u><br/>Office of the New York State Attorney General<br/>Investor Protection Bureau<br/>Franchise Section<br/>120 Broadway, 23<sup>rd</sup> Floor<br/>New York, NY 10271-0332<br/>(212) 416-8236 Phone<br/>(212) 416-6042 Fax<br/><br/>Agent for service:<br/>New York Department of State<br/>One Commerce Plaza,<br/>99 Washington Avenue, 6<sup>th</sup> Floor<br/>Albany, NY 12231-0001<br/>(518) 473-2492</p> |                                                                                                                                                                                                                                                                                                                                                           |



# **Exhibit B**

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## **MULTI-STATE ADDENDUM**

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NYS Collection Eyewear, Inc.

## **MULTI-STATE ADDENDA**

### **CALIFORNIA APPENDIX**

1. California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer or non-renewal of a franchise. If the Franchise Agreement contains provisions that are inconsistent with the law, the law will control.
2. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.).
3. The Franchise Agreement contains covenants not to compete which extend beyond the termination of the agreements. These provisions may not be enforceable under California law.
4. Section 31125 of the California Corporation Code requires the franchisor to provide you with a disclosure document before asking you to agree to a material modification of an existing franchise.
5. Neither the franchisor, any person or franchise broker in Item 2 of the Disclosure Document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 79a et seq., suspending or expelling such persons from membership in such association or exchange.
6. The franchise agreement requires binding arbitration. The arbitration will occur in New Jersey with the costs being borne by the franchisee and franchisor. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5 Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California. Business and Professions Code Section 20040.5 relating to forum selection clauses restricting venue outside the state of California or arbitration may be preempted by the Federal Arbitration Act. Section 20040.5 may still apply to any provision relating to judicial proceedings. A binding arbitration provision may not be enforceable under generally applicable contract defenses, such as fraud, duress, or unconscionability.
7. The Franchise Agreement requires application of the laws of New Jersey. This provision may not be enforceable under California law.
8. You must sign a general release if you renew or transfer your franchise. California Corporation Code 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code 31000 through 31516). Business and Professions Code 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code 20000 through 20043).
9. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

11. The Franchise Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.
12. The Antitrust Law Section of the Office of the California Attorney General views maximum price agreements as per se violations of the Cartwright Act.
13. OUR WEBSITE, [www.nyscollection.com](http://www.nyscollection.com), HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at [www.dbo.ca.gov](http://www.dbo.ca.gov).
14. Based upon our financial condition, the California Commissioner of Business Oversight requires that we defer the payment of all initial fees until all of our material pre-opening obligations have been satisfied and you open your business and it is operating.

### **ADDENDUM REQUIRED BY THE STATE OF MARYLAND**

This will serve as the State Addendum for the State of Maryland for NYS Collection Eyewear Inc.'s Franchise Disclosure Document and for its Franchise Agreement. The amendments to the Franchise Agreement included in this addendum have been agreed to by the parties.

1. Item 11 of the Franchise Disclosure Document shall be amended to state that a franchisee may obtain an accounting of the advertising fund as required by COMAR 02.02.08.04B(2), by requesting same in a written request to Franchisor.

2. Item 17 of the Disclosure Document is amended to state that the general release required as a condition of renewal, sale and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

3. Item 17 of the Disclosure Document is amended to state that a franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

4. Item 17 of the Disclosure Document is amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

5. Item 17 of the Disclosure Document is amended to state that the provisions in the Franchise Agreement that provide for termination upon bankruptcy of the franchisee may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

6. Item 17 of the Franchise Disclosure Document is hereby amended to state that the Franchise Agreement requires binding arbitration, the site of which is in the State of New Jersey, the costs of which are borne by the parties equally and any issues not decided by arbitration may be brought in a court of competent jurisdiction. The law of the State of New Jersey governs the arbitration. However, pursuant to Section 14-216(c)(25) of the Maryland Franchise Registration and Disclosure Law, a franchisee is permitted to enter into litigation with the Franchisor in the State of Maryland, regardless of the language in the Franchise Agreement.

7. The appropriate sections of the Franchise Agreement are amended to permit a franchisee to bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

8. The appropriate sections of the Franchise Agreement are amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

9. The appropriate sections of the Franchise Agreement are amended to state that the general release required as a condition of renewal, sale and/or assignment/ transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

10. The Franchise Agreement and Franchisee Disclosure Acknowledgment Statement are amended to include the following statement: "All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release,

estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.”

11. The registered agent authorized to receive process in Maryland is the Maryland Securities Commissioner, 200 St. Paul Place, Baltimore, Maryland 21202-2020.

**ADDENDUM PURSUANT TO  
THE NEW YORK FRANCHISE LAW**

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

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THE FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23<sup>RD</sup> FLOOR, NEW YORK, NEW YORK 10271. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FOR IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

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

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

- A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices or comparable civil or misdemeanor allegations.
- B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.
- C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.
- D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency, or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

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

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

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

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

7. The following is added to the end of the "Summary" section of Item 17(j), titled **"Assignment of contract by franchisor"**:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor's obligations under the franchise agreement.

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

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

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Addendum dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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

**ADDENDUM REQUIRED BY THE COMMONWEALTH OF VIRGINIA**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for NYS Collection Eyewear, Inc. for use in the Commonwealth of Virginia shall be amended as follows:

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

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

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



**ADDENDUM REQUIRED BY THE STATE OF WASHINGTON**

The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your franchise.

Due to the franchisor's financial condition, the Securities Division of the Washington Department of Financial Institutions requires that the franchisor's collection of the initial franchise fee will be deferred until the franchisor has fulfilled its initial pre-opening obligations and your franchised business is open for business. The Franchise Agreement and Item 5 of the Franchise Disclosure Document are amended accordingly.

In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the State of Washington or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.

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

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

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

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Addendum dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST

NYS COLLECTION EYEWEAR, INC.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_  
Witness

\_\_\_\_\_

# **Exhibit C**

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## **FRANCHISE AGREEMENT**

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NYS Collection Eyewear, Inc.

**NYS COLLECTION EYEWEAR, INC.**

**FRANCHISE AGREEMENT**

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**FRANCHISEE**

---

**DATE**

- ☐ RMU Cart
- ☐ Inline Store
- ☐ Custom Kiosk

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## EXHIBITS

- A – Location Acceptance Statement
- B – Internet Websites and Listings Agreement; Telephone Listing Agreement
- C – Transfer of Franchise to a Corporation or Limited Liability Company
- D – Confidentiality Agreement
- E – Continuing Guaranty
- F – Electronic Funds Transfer Authorization
- G – Franchisee Disclosure Acknowledgement Statement
- H – General Release Agreement
- I -- Statement of Ownership



**NYS COLLECTION EYEWEAR, INC.**

**FRANCHISE AGREEMENT**

**THIS FRANCHISE AGREEMENT** ("Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between NYS COLLECTION EYEWEAR, INC., a Delaware corporation having its principal place of business located at 4 Timber Lane, Suite E, Marlboro, NJ 07746 (hereinafter referred to as "we", "us" or "our") and \_\_\_\_\_, with a principal place of business or residence at \_\_\_\_\_ (hereinafter referred to as "you" or "your").

**WHEREAS**, we have developed a system of uniform standards, methods, procedures, specifications, merchandising and advertising (hereinafter referred to as the "System") for the operation of Custom Kiosks, Retail Merchandising Unit Carts ("RMU Carts") and Inline Stores which are typically located in shopping malls (hereinafter referred to as the "Franchised Business"), which specialize in the sale of proprietary line of reasonably priced sunglasses, reading glasses, and accessories, as are approved from time to time by us ("Approved Products"), all under the trade name, trademark and service mark of "NYS Collection" (the "Marks" or "Proprietary Marks"); and

**WHEREAS**, you wish to obtain the right and license from us for the use of the System and Proprietary Marks, and in association therewith to own and operate a Custom Kiosk/RMU Cart/Inline Store only at the premises identified on Exhibit A hereto (hereinafter referred to as the "Premises"), and you understand and accept the terms, conditions and covenants set forth herein as those which are reasonably necessary to maintain our high and uniform standards of quality and service in order to protect the goodwill and enhance the public image of the System and the Proprietary Marks; and

**WHEREAS**, we have the sole and exclusive right to the goodwill associated with the System and the Proprietary Marks and are willing to grant the right and license to you on the terms and conditions herein contained to use the System and the Proprietary Marks; and

**WHEREAS**, you desire to obtain a franchise to use the System and the Proprietary Marks at the location described in Exhibit A, pursuant to the provisions hereof, and you have had a full and adequate opportunity to be thoroughly advised of the terms and conditions of this Franchise Agreement by counsel of your own choosing and represent and warrant that you have the business experience and financial ability to operate a Custom Kiosk/RMU Cart/Inline Store; and

**WHEREAS**, you acknowledge that you have read this Agreement and our Franchise Disclosure Document ("Disclosure Document") and that you understand and accept the terms, conditions and covenants contained in this Agreement as being reasonably necessary to maintain uniform high standards of quality at all Custom Kiosk/RMU Cart/Inline Store locations and to protect the goodwill of the Proprietary Marks; and

**WHEREAS**, we expressly disclaim the making of any warranty or guarantee, expressed or implied, oral or written, regarding the potential revenues, profits or success of the business venture contemplated by this Agreement. You acknowledge that you have not received or relied upon any such warranty or guarantee; and

**WHEREAS**, you acknowledge that you have no knowledge of any representations by us, our officers, directors, shareholders or representatives about the franchise offered hereunder, about us or our

franchising programs and policies that are contrary to the statements in the Disclosure Document or to the terms of this Agreement; and

**WHEREAS**, you acknowledge that this Agreement places detailed and substantial obligations on you, including strict adherence to our reasonable present and future requirements regarding facilities, equipment, suppliers, operating procedures, management methods, merchandising strategies, sales promotion programs and related matters. You acknowledge that future improvements, changes and developments in the System may require additional expense to be undertaken by you.

**BEFORE SIGNING THIS AGREEMENT, YOU SHOULD READ IT CAREFULLY WITH ASSISTANCE OF LEGAL COUNSEL.**

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

## **ARTICLE 1**

### **GRANT OF FRANCHISE**

#### **1.1 Grant**

Subject to the terms, conditions and limitations elsewhere in this Agreement, we hereby grant to you a non-transferable right and license to use the System, the Proprietary Marks and to market, sell and provide the Approved Products in accordance with the System. The Approved Products are the only products authorized to be offered and sold at the Custom Kiosk/RMU Cart/Inline Store from the location set forth on Exhibit "A" (the "Approved Location").

#### **1.2 Location**

The right and license granted in Section 1.1 hereof shall be restricted solely and exclusively to use in and from the Franchised Business's Premises. You understand and acknowledge that this Agreement does not confer upon you any territorial exclusivity. During the term of this Agreement, the Approved Location, and the Custom Kiosk/RMU Cart/Inline Store shall be used exclusively by you and solely for the purpose permitted by this Agreement. In the event that, prior to the termination of the franchise hereunder, the lease or sublease should expire or terminate without your fault, or if the landlord closes the location where the Custom Kiosk/RMU Cart/Inline Store is located, or if the Approved Location should be expropriated or you otherwise lose possession thereof without fault on your part, you shall be entitled to relocate the Custom Kiosk/RMU Cart/Inline Store to another location acceptable to us, provided that: (a) we have first given our written consent to such relocation and new site; and (b) the new premises shall be developed by you in the same manner as described in Article 3 hereof solely at your cost.

#### **1.3 Non-Exclusivity**

Except as set forth above, the license granted to you by this Agreement is non-exclusive and we shall have, at all times throughout the term of this Agreement and any renewals hereof, and at all places, the unqualified right to open and operate, or to franchise and license others to open and operate, businesses utilizing the System anywhere, regardless of the proximity to your Approved Location.

#### **1.4 Limitations on Sale of Approved Products**

This license does not include any right to sell any product at wholesale or the right to sell any product at or from any location except from the Approved Location. Use by you, directly or indirectly, of

the System, the Proprietary Marks licensed hereunder, the sale of any product or the servicing of the Franchised Business's customers at any location other than from the Premises shall be a material breach of this Agreement and shall give us, in addition to all other rights and remedies hereunder, the right to terminate this Agreement.

### **1.5 Rights Reserved to Us**

We reserve the right to establish or operate, or franchise any other franchisee to establish or operate, a NYS Collection business under the System at any location. We (and any affiliates that we periodically might have) have the right:

(a) to establish and operate, and grant rights to other franchisees to establish and operate, Custom Kiosks/RMU Carts/Inline Stores or similar businesses at any locations and on any terms and conditions we deem appropriate;

(b) to sell the Approved Products and any products identical or similar to, or dissimilar from, those you sell at, from or through the Custom Kiosk/RMU Cart/Inline Store, whether identified by the Proprietary Marks or other trademarks or service marks through any distribution channels we deem best (including professional vision centers, sports equipment, mail order and the Internet);

(c) to be acquired (regardless of the form of transaction) by a business identical or similar to NYS Collection business, even if the other business operates, franchises and/or licenses competitive businesses near your Approved Location; and

(d) to engage in any other business activities not expressly prohibited by this Agreement, anywhere.

You may not relocate the Custom Kiosk/RMU Cart/Inline Store from the Approved Location, except as provided in Section 1.2 above. You shall be prohibited from engaging in any promotional activities or selling any eyewear products or services, whether directly or indirectly, through or on the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system; through catalogs or other mail order devices sent or directed to customers or prospective customers located anywhere; or by telecopy or other telephonic or electronic communications, including toll-free numbers, directed to or received from customers or prospective customers located anywhere, without our consent. You may not use these or other alternative distribution channels to make sales anywhere and you will not receive any compensation for our sales through these or other alternative distribution channels. If we sell any Approved Products via our Website, we will fulfill the order and you are not entitled to any revenue from orders generated through our Website.

## **ARTICLE 2**

### **TERM**

#### **2.1 Initial Term**

This Agreement, unless terminated earlier as hereinafter provided, shall remain in force for an initial term of five (5) years commencing on the date it is executed by the Franchisor ("Initial Term").

## **2.2 Renewal**

Subject to the provisions of this Section, you shall have an option (exercisable only by written notice delivered to us less than nine (9) months, but more than six (6) months, prior to the end of the Initial Term of this Agreement) to renew the franchise hereunder up to three (3) additional periods of five (5) years each, if:

(a) you have been, throughout the Initial Term of this Agreement, in substantial compliance, and at the expiration of such Initial Term are in full compliance, with this Agreement and all other agreements between you and us or companies associated or affiliated with us;

(b) you enter into our then-current Franchise Agreement and all other ancillary agreements, instruments and documents then customarily used by us in the granting of franchises (which then-current Franchise Agreement may materially differ from this Agreement, including a higher rate of fees, different methods of calculating fees due, and different payment methods, which shall be the same as those set out in the franchise agreements being executed at the time of renewal);

(c) you are able to maintain possession of the Premises for the Custom Kiosk/RMU Cart/Inline Store (or at relocated location pursuant to Section 1.2 hereof) pursuant to a lease reasonably acceptable to us;

(d) you refurbish, upgrade, and/or renovate your Custom Kiosk/RMU Cart/Inline Store as we require in order that your Business will meet our then-current standards and image for NYS Collection Custom Kiosks/RMU Carts/Stores;

(e) the landlord of the Premises consents to a renewal or extension of the lease;

(f) at the time the renewal option is exercised and at the time such renewal commences, all monetary obligations to us and any affiliate of ours must be current and must have been current at all times during the preceding twelve (12) months;

(g) you execute a general release running in favor of us, our affiliates and our respective officers, directors and shareholders releasing all claims against us, our officers, directors and shareholders; and

(h) you pay to us a renewal fee in the amount of Two Thousand Five Hundred Dollars (\$2,500).

## **2.3 Refusal to Renew Franchise Agreement**

We can refuse to renew your franchise if your lease or other document by which you have the right to occupy the Approved Location is not extended before your renewal term is to take effect to cover the period of the renewal or if there is not have a written commitment from the landlord to renew the lease for a period at least equal to the renewal term. We may also refuse to renew your franchise under other circumstances, including, but not limited to, your failure to substantially comply with the terms of this Agreement, your failure to pay amounts owed to us when due, or your failure to cure of any defaults incurred during the Initial Term of this Agreement, if applicable.

## **2.4 Renewal Under Law**

Even though we decline the renewal of your franchise, it is possible that we can be required to renew it under a law, rule, regulation, statute, ordinance, or legal order that is applicable at the time. If that happens, to the extent it is allowed by the concerned law, rule, regulation, statute, ordinance or order, your renewal term will be subject to the conditions of the Franchise Agreement we are using for new franchisees at the time the renewal period begins. If we are not then offering new franchises, your renewal period will be subject to the terms in the Franchise Agreement that we indicate. If for any reason that is not allowed, the renewal term will be governed by the terms of this Agreement.

## **2.5 Your Election Not to Renew**

For the purposes hereof, you shall be deemed to have irrevocably elected not to renew the franchise hereunder (and the option to do so shall thereupon terminate) if you fail to execute and return to us our then-standard Franchise Agreement and other ancillary documents required by us for a renewal franchise within thirty (30) days after we have delivered them to you.

# **ARTICLE 3 PREMISES**

## **3.1 Lease**

As used in this Agreement, the word "lease" means any agreement or document by which you are allowed to occupy the Approved Location unless the context requires otherwise.

## **3.2 Location for Kiosk/Cart/Inline Store**

Within sixty (60) days after you sign this Agreement, we will offer you one or more potential mall locations for your Custom Kiosk/RMU Cart/Inline Store for your consideration. You will have ten (10) days after receipt of information from us to notify us whether you intend to accept one of the locations we propose to you or suggest an alternate location.

You understand and acknowledge that our approval of a site for your Custom Kiosk/RMU Cart/Inline Store is not a representation, warranty or guaranty that you will be successful at such site, irrespective of whether we propose the site to you or you propose a site to us. Our approval of a site only indicates that it meets our then-current minimum criteria for a NYS Collection location. You further understand and acknowledge that you shall do your own due diligence review of your site, whether we propose the site to you or you propose the site to us.

## **3.3 Opening for Business**

Your Franchised Business shall be open for business within one hundred fifty (150) days from the date this Agreement is executed. Failure to do so shall be grounds for termination of this Agreement. In the event this Agreement is terminated, we shall have all of the rights and you shall have all of the duties described in this Agreement. The foregoing time frame may be extended, at our sole discretion, due to forces beyond your control, including unusual engineering or construction problems, fire, flood, earthquake, or similar acts of God.

You may not open the Franchised Business for business until: (1) you have complied with all requirements regarding site selection, leasing of the site and construction; (2) we determine that your cart/kiosk/store has been constructed, decorated, furnished, equipped and inventoried in accordance with plans and specifications we have approved; (3) the initial training program we provided has been

completed to our satisfaction by all required persons, subject to training session availability); (4) the initial franchise fee and all other amounts due to us have been paid; (5) you have furnished us with all certificates of insurance required by this Agreement; (6) you have obtained all required governmental permits, licenses and authorizations necessary for the operation of the Franchised Business; and (7) you are in full compliance with all the terms of this Agreement.

#### **ARTICLE 4**

#### **DESIGN AND CONSTRUCTION; MAINTENANCE AND REPAIR**

##### **4.1 Design and Construction**

Within thirty (30) days after you have executed this Agreement, you shall pay to our approved supplier fifty percent (50%) of the then-current cost of the kiosk unit, if this Agreement is for a Custom Kiosk unit. The supplier will arrange for the kiosk to be built and installed at the Approved Location. You shall ensure that all electrical connections, high speed internet connections and any other required utilities connections have been established before your kiosk can be installed. You shall ensure the supplier has access to the Approved Location in order to install the kiosk. You shall obtain all required licenses and permits for the Custom Kiosk/RMU Cart/Inline Store. The design and construction of an Inline Store must be done by a vendor approved by us.

##### **4.2 Outfitting of Kiosk/Cart/Inline Store**

You agree to purchase and use all of the fixtures, equipment, and interior decoration items required for the Custom Kiosk/RMU Cart/Inline Store from suppliers or vendors approved by us, which may include us or our affiliate. In addition, you agree to purchase all other items we specify for your Custom Kiosk/RMU Cart/Inline Store only from approved suppliers or vendors.

It shall be your sole responsibility to ensure that the Custom Kiosk/RMU Cart/Inline Store is equipped, decorated, stocked and opened without delay and in strict accordance with the plans and specifications approved by us and in accordance with our Confidential Operations Manual, as defined in Section 11.1, and our directives.

##### **4.3 Opening Inventory**

You agree to order as your opening inventory all of the Approved Products we specify in the amounts designated by us. Such Approved Products shall be supplied by us, our affiliate or other designated suppliers. In the event we or our affiliate provide you directly with any Approved Products or other items in connection with the opening or operation of the Franchised Business, we have the right to reasonably mark up those items. Such markup is to compensate us or our affiliate for out-of-pocket expenses in acquiring the items for you.

##### **4.4 We Do Not Guarantee Your Success**

We do not guarantee that the location of the Franchised Business or the design, décor, appearance, fixtures, layout or other improvements of the Custom Kiosk/RMU Cart/Inline Store will be suitable or adequate for your business nor guarantee your success. Such success shall be dependent on your skill as an independent business person.

##### **4.5 Change After Opening**

At such time as your Custom Kiosk/RMU Cart/Inline Store is built and has opened for business, you may not make any significant change to the interior or exterior of the Custom Kiosk/RMU Cart/Inline

Store or its appearance without our prior written approval. This prohibition includes the use of any fixtures or display items not previously approved by us, whether you propose to use them permanently or temporarily.

#### **4.6 Maintenance of Custom Kiosk/RMU Cart/Inline Store**

You shall assume all responsibility for the maintenance and repair of your Custom Kiosk/RMU Cart/Inline Store. You agree to keep the Custom Kiosk/RMU Cart/Inline Store, including the interior, exterior, trade fixtures, equipment, décor, furnishings, and all other tangible property used in connection with the Custom Kiosk/RMU Cart/Inline Store, in a high condition of cleanliness, repair and appearance. You agree to promptly replace anything that you cannot maintain in a high state of repair and appearance. You agree to promptly make all repairs and improvements to the Custom Kiosk/RMU Cart/Inline Store that we specify.

#### **4.7 Modifications to Custom Kiosk/RMU Cart Image**

We reserve the right to change the design of “NYS Collection” Custom Kiosks/ RMU Carts/Inline Stores, their retail format, color, trade dress, signage, commercial symbols, décor, products, services and all other aspects of “NYS Collection” Custom Kiosks/RMU Carts/Inline Stores and the Franchised Business at any time in our reasonable business judgment in order to meet competition, to attempt to enhance the business of the Franchised Business, or to improve their appearance. If we make any of these changes, you agree to comply with such changes in the manner and within the time frames specified by us. We agree and affirm that none of these changes will require you to perform any major remodeling or redecoration of the Custom Kiosk/RMU Cart/Inline Store more often than once every five (5) years. All changes made to your Custom Kiosk/RMU Cart/Inline Store shall be at your sole cost and expense.

### **ARTICLE 5** **FEES AND REPORTING**

#### **5.1 Initial Franchise Fee**

In consideration of the grant of this franchise, you shall pay to us a non-recurring initial franchise fee for the franchise hereunder, payable in a lump sum upon the execution of this Agreement. The initial franchise fee shall be deemed to have been fully earned by us upon execution of this Agreement and is not refundable. The initial franchise fee payable by you hereunder shall be (check one):

- ☐ Fifteen Thousand Dollars (\$15,000); or
- ☐ Two Thousand Five Hundred Dollars (\$2,500) if this Agreement is (i) for a Franchised Business beyond your first; or (ii) for a seasonal location (operated at a site where it will be open eight (8) months or less each calendar year); or
- ☐ If you are a qualified United States veteran purchasing your first Franchised Business, the initial franchise fee will be zero (\$0).

#### **5.2 Interest on Late Payments**

To encourage prompt and timely payment of amounts due to us and our affiliate, and to cover the costs and expenses involved in handling and processing any payments not received by their due dates, you shall also pay, upon demand, interest on the overdue amount equal to the lesser of: (i) one and one-

half percent (1.5%) per month; or (ii) the highest rate permitted by law. Such charges shall accrue from the date payment was due until the date payment is actually received by us. Notwithstanding the foregoing, each failure to pay amounts payable to us or our affiliate when due will be a material breach of this Agreement and shall give us, in addition to all other rights and remedies hereunder, the right to terminate this Agreement.

### **5.3 Application of Payments**

We shall have sole discretion to apply any payments received from you to any past due indebtedness of yours for purchases made from us or our affiliates, late payment charges or any other indebtedness of yours to us or our affiliates. We reserve the right to specify the payment methods for various fees due to us pursuant to this Agreement. You must make all payments in the form we direct.

### **5.4 Insufficient Funds Fee**

If, for any reason, any payment owed by you to us or our affiliate is denied by your bank due to insufficient funds in your account, then you shall, in addition to applicable interest as described in Section 5.4 above, pay us an insufficient funds fee in the amount of One Hundred Dollars (\$100). If you incur three (3) insufficient funds fees within any twelve (12) month period, we will have the right to terminate this Agreement without providing you an opportunity to cure the default.

### **5.5 Bookkeeping, Accounting and Records**

You shall use a bookkeeping, accounting, inventory control, point of sale and record-keeping system for the business of the Custom Kiosk/RMU Cart/Inline Store that is approved by us, and you shall retain all invoices, order forms, time cards, payroll records, cash register tapes, check stubs, bank deposit receipts, sales tax records and returns, cash disbursements journals and general ledgers. You shall keep such original documents at the Custom Kiosk/RMU Cart/Inline Store throughout the term of this Agreement, or at another location of which we have approved and shall be kept advised, and for at least three (3) years thereafter unless we give written permission to dispose of such records.

### **5.6 Reports and Tax Returns**

You shall furnish to us throughout the term of this Agreement in the form from time to time prescribed by us:

(a) within sixty (60) days after the end of each fiscal year, an unaudited balance sheet, statement of profit and loss and source and application of funds from the beginning of that fiscal year, prepared by an independent certified public accountant and verified by your statutory declaration as to the information furnished to such accountant; and

(b) such other reports, statements, sales slips, order forms, records, calculations and indices as we may, from time to time, require.

Notwithstanding the above, we shall have independent and continuous access to communicate directly with your point of sale system and to poll the same on a daily or weekly basis, as determined by us from time to time.

### **5.7 Audited Statements**

If we, in our sole discretion, determine that any report, financial statement, tax return or schedule furnished by you understates Gross Sales, distorts any other information or is incomplete, unclear or



misleading, we shall have the right to require you to furnish audited annual financial statements for that year at your sole cost and expense, with such statements being prepared in accordance with generally accepted accounting principles consistently applied.

#### **5.8 Information from Others**

You hereby authorize us to make reasonable inquiries of your bank, credit reporting agencies, suppliers and trade creditors concerning the business of the Custom Kiosk/RMU Cart/Inline Store and hereby direct such persons and companies to provide to us such information as we may request.

### **ARTICLE 6**

### **MARKETING AND PROMOTION**

#### **6.1 Local Marketing**

You agree to expend, during the term of this Agreement, not less than Three Hundred Dollars (\$300) each month or the minimum local marketing amount required pursuant to the terms of your lease, whichever amount is higher, on local marketing to promote your Custom Kiosk/RMU Cart/Inline Store. Any advertising you conduct shall be conducted in a dignified manner and shall conform to such standards and requirements as we may specify from time to time in the Confidential Operations Manual, Guidebook or otherwise. If you choose to utilize your own advertising materials, the materials must be submitted to us not later than ten (10) days prior to the date you expect to use the materials for our review. If we do not disapprove of your proposed materials within five (5) days after they are submitted to us, the materials are deemed approved. Any advertising or promotional materials you submit to us for our review will become our property and there will be no restriction on our use or dissemination of such materials. Within thirty (30) days of our request, you shall provide us with verification of all expenditures for local advertising, marketing and promotion, including such information as we may require. At our request, all advertising conducted by you shall include certain language, including, but not limited to, "Franchises Available" and our Website address and telephone number.

#### **6.2 Grand Opening Marketing**

We recommend, but do not require, that you conduct a grand opening marketing campaign to promote the opening of your Franchised Business. All grand opening marketing materials to be used by you shall be considered "local marketing" and will be subject to the approvals and restrictions set forth in Section 6.1.

#### **6.3 Brand Development Fund**

You will be required to pay \$1,200 annually to the Brand Development Fund. The Fund payment is pro-rated for your initial year and is payable in \$100 installments via credit card beginning with the month following the opening of your Franchised Business. We shall maintain and administer a Brand Development Fund (hereinafter referred to as the "Fund") for such national and regional marketing programs as we may deem necessary or appropriate, in our sole discretion, as follows.

(a) we shall direct all national and regional marketing programs with sole discretion over the creative concepts, materials, endorsements and media used therein, and the placement and allocation thereof. You understand and acknowledge that the Fund is intended to maximize general public recognition and acceptance of the System and the Proprietary Marks for the benefit of all businesses operating under the System, and that we undertake no obligation in administering the Fund to ensure that expenditures from the Fund are proportionate or equivalent to your contributions made for

your Franchised Business, or that any particular franchisee benefits directly or pro rata from the placement of any such advertising;

(b) you agree that the Fund may be used to meet any and all costs of maintaining, administering, directing and preparing national and/or regional advertising materials, programs and public relations activities (including, without limitation, the cost of preparing and conducting television, radio, magazine, billboard, newspaper, e-commerce, direct mail and other media programs and activities; for conducting marketing surveys and test marketing; employing advertising agencies to assist therewith; development and maintenance of our Website; and providing promotional brochures, coupons and other marketing materials to all franchisees of the System). The Fund shall be accounted for separately from our other funds, and shall not be used to defray any of our reasonable administrative costs and expenses that we may incur in the administration or direction of the Fund and advertising programs for you and the System. The Fund and its earnings will not otherwise benefit us. The Fund is operated solely as a conduit for collecting and expending the Marketing Fees as outlined above. Any sums paid to the Fund that are not spent in the year they are collected will be carried over to the following year;

(c) an unaudited statement of the operations of the Fund shall be prepared annually by our accountants and shall be made available to you. The cost of the statement shall be paid by the Fund. Except as expressly provided in this Section 6.3, we assume no direct or indirect liability or obligation to you with respect to the maintenance, direction or administration of the Fund;

(d) we shall, for each company-owned location, make contributions to the Fund on the same basis as our franchisees; and

(e) although the Fund is intended to be perpetual, we may terminate the Fund at any time. The Fund will not be terminated until all monies in the Fund have been spent for advertising or promotional purposes or returned to contributors on a pro rata basis. If we terminate the Fund, we have the right to reinstate it at any time and you must again contribute to the Fund.

#### **6.4 Website**

As used in this Agreement, the term "Website" means an interactive electronic document, series of symbols, or otherwise, that is contained in a network of computers linked by communications software. The term Website includes, but is not limited to, Internet and World Wide Web home pages. In connection with any Website, you agree to the following:

(a) We shall have the right, but not the obligation, to establish and maintain a Website which may, without limitation, promote the Proprietary Marks, NYS Collection locations, and any or all of the products offered at NYS Collection locations, the franchising of NYS Collection businesses, and/or the System. We shall have the sole right to control all aspects of the Website, including without limitation its design, content, functionality, links to the websites of third parties, legal notices, and policies and terms of usage; we shall also have the right to discontinue operation of the Website.

(b) We shall have the right, but not the obligation, to designate one or more web page(s) to describe you and/or the Franchised Business with such web page(s) to be located within our Website. You shall comply with our policies with respect to the creation, maintenance and content of any such web pages; and we shall have the right to refuse to post and/or discontinue posting any content and/or the operation of any web page.

(c) You shall not establish a separate Website related to the Proprietary Marks or the System without our prior written approval (which we shall not be obligated to provide). If approved to establish such a Website, you shall comply with our policies, standards and specifications with respect to the creation, maintenance and content of any such Website. You specifically acknowledge and agree that any such Website owned or maintained by you or for your benefit shall be deemed “advertising” under this Agreement, and will be subject to (among other things) our approval under this Article 6.

(d) We shall have the right to modify the provisions of this Section 6.4 relating to Websites as we shall solely determine is necessary or appropriate.

(e) You understand and agree that you may not promote your Custom Kiosk/RMU Cart/Inline Store, the Franchised Business or use any Proprietary Mark in any manner on social and/or networking Websites, including, but not limited to, Facebook, LinkedIn, MySpace and Twitter, without our prior written consent.

#### **6.5 Development of Advertising Materials**

We may develop signs, point of purchase materials, advertising photostats, display props, display material, brochures, handouts or other advertising or promotional material for use by franchisees in the System. If developed, you agree to purchase such items in the amounts reasonably specified by us and to use them as required by us. We reserve the right to mark up these items to compensate us for our development, administrative and handling costs.

#### **6.6 Advisory Council**

We may, in our discretion, form an advisory council to work with us to improve the System, the products offered by NYS Collection businesses, advertising conducted by the Fund, and any other matters that we deem appropriate. If an advisory council is formed, it will act solely in an advisory capacity, and will not have decision making authority. The advisory council will include franchisee representatives and our representatives. The franchisee representatives may be chosen by us or may be elected by other franchisees in the System. If you are selected to participate in an advisory council, you will pay for any costs or expenses you incur related to your participation. We will have the right to form, change, merge or dissolve any advisory council.

### **ARTICLE 7** **TRAINING AND TECHNICAL ASSISTANCE**

#### **7.1 Managerial Responsibility**

It is agreed that at all times during the term of this Agreement, either you or a fully trained Manager, who is identified in writing to us and certified by us (the “Manager(s)”), shall:

(a) devote full time, attention and effort to the active management and operation of the Franchised Business;

(b) irrespective of any delegation of authority, not inconsistent with clause (a), reserve and exercise ultimate authority and responsibility with respect to the management and operation of the business of the Franchised Business; and

- (c) represent you and act on your behalf in all dealings with us.

If two (2) or more individuals are named in this Section, each of them shall fulfill the requirements of clause (a) and both or all of them shall jointly fulfill the requirements of clauses (b) and (c), and shall be identified to us in writing on a form provided by us.

## **7.2 Initial Training Program**

While the kiosk/cart/store is being built and installed, and before the Franchised Business is opened for business, we shall make available to you a training program which must be successfully completed prior to the opening of the Franchised Business by you and any Managers. If a training session is not offered prior to the date you open, you must attend the next session that is offered after you open but you must provide proof of travel arrangements and training session scheduling prior to opening. Failure to attend a training session as outlined above will result in our then-current fine and is grounds for default. The training program shall be held at our office location or at such other place as may be specified by us. All costs and expenses incurred by you and your trainees relating to such training program (including, without limitation, the cost of travel, lodging, meals and applicable wages) shall be paid by you. If you do not satisfactorily complete our training program we may permit you to re-take our training program or we may terminate this Agreement. In addition to our initial training program, we will provide one of our representatives for up to two (2) days to assist with the opening of your Franchised Business. If this Agreement is for your second (2<sup>nd</sup>) or later Franchised Business we reserve the right to not provide opening assistance.

## **7.3 Refresher Training; Franchisee Meetings**

At your request, we will also provide you with additional on-site training or assistance at a mutually convenient time. You must pay us our then-current per diem fee for each of our representatives providing assistance or training for each day the assistance or training continues. You must also pay all expenses of travel, lodging and meals incurred by our representatives.

In addition to the initial training program and any additional on-site assistance or training you request, as described above, we may offer refresher training programs or an annual meeting of our franchisees. We may designate that attendance at any refresher training program or annual meeting is mandatory. We may charge you a fee for franchisee meetings but will not charge for refresher training. However, for both franchisee meetings and refresher training you must also pay for the expenses of your trainees/attendees, including travel, lodging, meals and wages. We do not expect that any refresher training will be longer than four days in any calendar year, or that any franchisee meeting will be more than three days in any calendar year.

## **7.4 Hiring and Training of Employees by You**

You shall hire and train, at your expense, except as may be set forth in Sections 7.2 or 7.3, all employees of the Franchised Business, and shall be exclusively responsible for the terms of their employment and compensation. You shall not employ anyone who refuses or fails to complete such training program. You shall at all times maintain a sufficient number of trained employees to service your customers.

## **7.5 Operating Assistance**

We shall make available to you such operating assistance and training on a continuing basis as we consider appropriate and which may consist of advice and guidance with respect to:

- (a) methods and procedures for the purchase, storage, display and sale of Approved Products;
- (b) such additional services and products as we may approve, from time to time, to be used or offered for sale by franchisees;
- (c) the purchase, operation, maintenance and use of displays, uniforms, materials and supplies;
- (d) formulating and implementing advertising and promotional programs using such merchandising, marketing and advertising research data and advice as may, from time to time, be developed by us and deemed by us to be helpful in the operation of the Custom Kiosk/RMU Cart/Inline Store.
- (e) the establishment and implementation of administrative, bookkeeping, accounting, inventory control and general operating procedures for the proper operation of the Franchised Business; and
- (f) the operation, cleanliness and efficiency of the Custom Kiosk/RMU Cart/Inline Store.

## **ARTICLE 8**

### **OUR DUTIES**

#### **8.1 Our Duties**

During the term of this Agreement, we shall offer to you the following:

- (a) an initial training program in System standards, specifications, methods and techniques as provided for in Section 7.2 hereof;
- (b) such periodic continuing individual or group advice, consultation, and assistance, rendered in person, by periodic correspondence (electronic or otherwise), or telephone or written communications made available from time to time to all franchisees of the System, as we may deem necessary or appropriate to assist you in conforming to the requirements of the System. Such continuing advice will include, but not be limited to, such topics as products and services to be offered to customers, improvements and developments in operating a Custom Kiosk/RMU Cart/Inline Store, pricing, and administrative, bookkeeping, accounting and inventory control procedures;
- (c) subject to Section 11.1 hereof, to lend to you one (1) copy of the Confidential Operations Manual and one (1) copy of any other manuals designated for use with the System, including the Guidebook, as well as such additions and modifications thereto as we may, in our sole discretion, issue from time to time, which manuals may be provided to you electronically, such as via CD-ROM or a password protected Website;
- (d) new, modified or supplemented standards for the System that, in our sole discretion, are beneficial or necessary to maintain the uniformity and goodwill of the System utilized by all franchisees; and

(e) the opportunity for you to purchase Approved Products required to open the Custom Kiosk/RMU Cart/Inline Store from us, our affiliate or from designated suppliers and to provide buying advisory services.

## **8.2 Products and Services**

Upon request and at your expense, we shall offer to you, during the term of this Agreement, any of the following services and products which we are then offering to other franchisees and on the same terms and conditions:

(a) supplies of signs, equipment, accessories, printed business forms and other materials and supplies used in the operation of the Franchised Business;

(b) on-site assistance by a person employed or retained by us at mutually convenient times; and

(c) periodic supplemental training, as set forth in Section 7.3 hereof.

## **8.3 System Maintenance**

We shall continue our efforts to maintain uniform standards of quality, cleanliness, appearance and service at all System locations, to promote, protect and enhance the public image and reputation of the System, and to increase the demand for the services and products offered by all System franchisees and to that end we shall:

(a) review all materials prepared by you for use in local advertising and promotion pursuant to Section 6.1 hereof; and

(b) conduct periodic inspections of the services and products provided to the public by your Franchised Business.

## **8.4 Inspection**

We or our representatives or agents shall have the right at any time during normal business hours, and without prior notice to you, to enter and inspect the Premises and all aspects of the operation of the Custom Kiosk/RMU Cart/Inline Store and Franchised Business together with all records, books of account, tax returns and other documents and materials in your possession or under your control relating to the Franchised Business, you and the subject matter and terms of this Agreement, including, without limitation, all of your records required to be maintained pursuant to applicable law, to ascertain that you are operating the Franchised Business in accordance with the System, the terms of this Agreement, the Confidential Operations Manual and the Guidebook. We or our representatives or agents shall be allowed to make extracts from or copies of any such material and to take samples of any products sold at the Custom Kiosk/RMU Cart/Inline Store and immediately remove any unauthorized products from the Custom Kiosk/RMU Cart/Inline Store without any liability to us, including, but not limited to, payment for such unauthorized products. In the event that we give notice to you of any deficiency detected during such inspection, you shall diligently correct such deficiency as soon as possible, but in any event within five (5) days after receipt of such notice. If you fail to correct such deficiency within such five (5) day period, we shall have the right (but not the obligation) to correct such deficiency on your behalf of and at your sole expense, and in such case you shall reimburse us for all costs incurred by us (including, without limitation, a reasonable charge for the time of any of our personnel) in connection therewith.

## **ARTICLE 9**

### **YOUR DUTIES**

In order to maintain the high quality and uniform standards associated with the System and the Proprietary Marks, and to promote and protect the goodwill associated therewith, you shall perform the following duties.

#### **9.1 Compliance with Standards and Specifications**

You shall at all times comply strictly, and cause the Custom Kiosk/RMU Cart/Inline Store to comply strictly, with all standards, specifications, processes, procedures, requirements and reasonable instructions of ours regarding the operation of the Franchised Business, whether they now exist or are hereafter established from time to time. You shall adopt as a standard for performance and operation of the Franchised Business our standards and conform to all specifications relating to construction, décor, design, equipment, packaging, products, services, uniforms, signs, displays or decorations, and other identifying materials, uniform record keeping practices, days and hours of operation and such other matters as may be in any administrative bulletins, and other confidential manuals or materials developed by us, or otherwise, as any of same may be modified from time to time by us. To insure the conformance and compliance by you with our standards of performance, you will permit us, our officers, employees and designated representatives to enter your Approved Location at any time and from time to time to conduct an inspection to ascertain whether or not the uniform standards are being met.

The Custom Kiosk/RMU Cart/Inline Store and everything located therein must be maintained in first-class condition and repair and must be kept clean, neat and sanitary. It must be adequately lighted and must be operated in a clean, wholesome and sanitary manner consistent with our requirements. All maintenance, repairs and replacements requested by us or needed in connection with the Custom Kiosk/RMU Cart/Inline Store must be made promptly. All of your employees must be clean and neat and must wear the required uniform, if any, at all times. Mandatory specifications, standards, and operating procedures prescribed from time to time by us, or otherwise communicated to you in writing, will constitute provisions of this Agreement as if fully set forth in this Agreement. All references to "this Agreement" includes all such mandatory specifications, standards and operating procedures.

In addition to the foregoing, you shall also be required to comply with any manual or code of ethics provided by the mall operator where your Custom Kiosk/RMU Cart/Inline Store is operated. A copy of such manual must be kept up to date and in a secure place at your Approved Location.

#### **9.2 Maintenance of Premises**

You shall at all times keep and maintain the Approved Location and the equipment and furnishings in a neat, clean, orderly and sanitary condition, and the equipment and furnishings in good repair and maximum working condition. In connection therewith, you shall from time to time abide by any reasonable requirement of ours with regard to the remodeling and upgrading of the Custom Kiosk/RMU Cart/Inline Store to comply with standards then applicable to new "NYS Collection" franchisees. If at any time during the Initial Term or any renewal thereof any of the equipment and furnishings become obsolete or depreciated, then to the extent that they require replacement in accordance with our standards, you will replace the same with items required by our then-current standards and specifications. You shall not attach or exhibit any signs, displays, or posters on or in the interior of said building other than signs, displays or posters then currently supplied, required, or authorized in writing by us, nor shall you permit or suffer others to do so. To maintain a modern, progressive, sanitary, and uniform operational image, at any time during the Initial Term or any renewal thereof, we shall have the right to require you to perform such remodeling, repairs, replacements and redecoration in and upon the

Custom Kiosk/RMU Cart/Inline Store and Approved Location, improvements, equipment and furnishings used by you which are reasonably necessary and practical to bring such Custom Kiosk/RMU Cart/Inline Store and the Approved Location, improvements, equipment and furnishings up to our then-current standards; provided, however, that we shall not make this request more frequently than every five (5) years. You will bear the entire cost of any remodeling, repairs, replacements, redecoration or other maintenance or refurbishing required hereunder. You acknowledge that possible additional investment may be required pursuant to this Section. If you fail to make or begin to make any required remodeling, repairs, replacements, redecoration or other maintenance or refurbishing required hereunder within ten (10) days after receipt of notice from us of the actions required to be taken, we may, but are not required to, arrange for the completion of all required actions on your behalf and you shall reimburse us upon demand for all costs incurred.

### **9.3 Sale of Approved Products**

You shall offer for sale all the Approved Products and only the Approved Products, as same exist from time to time. All Approved Products must be offered for sale on a continuous basis at the Custom Kiosk/RMU Cart/Inline Store at the time and in the manner required by us. No sale of any product except Approved Products may be solicited, accepted or made at or from the Approved Location. If requested by us on at least thirty (30) days' notice as part of a general program or standardization effort by us, the marketing of an Approved Product must be discontinued. In such an event, such product ceases to be an Approved Product;

(i) You must at all times maintain an inventory of Approved Products sufficient in quantity and variety to realize the full potential of the Franchised Business.

(ii) We may, from time to time, conduct market research and testing to determine consumer trends and salability of new products and services. You must cooperate by participating in our market research programs, test marketing new products and services and providing timely reports and other relevant information regarding marketing research. In connection with such test marketing, you must purchase a reasonable quantity of products to be tested and effectively promote and make a reasonable effort to sell such products and services.

(iii) You must at all times comply with our policies and standards relating to customer service and product warranties.

If you offer or sell any products that are not Approved Products, you shall be in default of this Agreement. Upon notice from us, you must pay our then current prohibited product fee and you will have three (3) days to remove any unapproved products from your Custom Kiosk/RMU Cart/Inline Store. If, at any time thereafter, you offer or sell unapproved products from the Custom Kiosk, RMU Cart, Inline Store or otherwise at the Approved Location, we will have the right to terminate this Agreement without providing you the opportunity to cure the default.

### **9.4 Advertising**

You shall, at your own expense, promotionally display in and upon the Premises "NYS Collection" advertising signs of such nature, form, color, number, location, size and containing such material as we shall direct or approve in writing. Only signs or advertising media approved by us shall be displayed by you in or upon the Approved Location or elsewhere. All signs must be purchased from suppliers approved by us. You shall install and maintain such signs at your own expense for the period that such signs remain in your possession. Upon termination of this Agreement for whatever reason, the



signs shall become our property, and you shall promptly remove and procure any such signs and deliver them to us according to our direction.

### **9.5 Approved Suppliers**

You shall adhere to our minimum quality standards and specifications for all facets of the “NYS Collection” franchise, including equipment, computers, point of sale systems, signage, layout design, decor, furniture, fixtures, furnishings, inventory supplies, advertising and sales promotion materials and other products or materials used in the operation of the Franchised Business. You must purchase all required software and subscriptions from suppliers designated by us, as we deem necessary for the operation of the Franchised Business. Such standards and specifications have been established by us for uniformity, quality control and to protect, maintain and foster our reputation, goodwill and public acceptance. All such information regarding standards and specifications is contained in the Confidential Operations Manual and the Guidebook. The Confidential Operations Manual and the Guidebook are incorporated in this Agreement by reference and you agree to comply with all provisions therein. All such standards and specifications may be modified at any time by us. We will afford you the opportunity to purchase in sufficient quantity, and in a timely manner to meet your reasonable needs, such proprietary products and supplies as we or our affiliated companies are in the business of selling. You will also have the opportunity to purchase from us advertising, promotional and training materials developed by us.

(i) We have and will continue to periodically approve suppliers and distributors of the products, materials and supplies used in the operation of a Custom Kiosk/RMU Cart/Inline Store that meet our standards and requirements, including, without limitation, standards and requirements relating to product quality, prices, consistency, reliability, financial capability, labor relations and customer relations. You must purchase all products, materials and supplies only from distributors and other suppliers approved by us from time to time.

(ii) We may approve a single distributor or other supplier (collectively “supplier”) for any product and may approve a supplier only as to certain products. We may concentrate purchases with one (1) or more suppliers to obtain lower prices or the best advertising support or services for any group of NYS Collection franchisees. We may, if we choose, take advantage of discounts offered by a supplier in connection with the acquisition of large quantities of products and resell said products to franchisees at a profit. Approval of a supplier may be conditioned on requirements relating to the frequency of delivery, concentration of purchases, standards of service, including prompt attention to complaints, or other criteria and may be temporary, pending our continued evaluation of the supplier from time to time. You understand and acknowledge that we or our affiliate will be the supplier for proprietary NYS Collection products.

(iii) If you desire to purchase any unapproved products or from any unapproved supplier, you must submit to us a written request for approval of the proposed product or supplier and obtain our written approval of the product or supplier prior to purchasing any such products or from said supplier. We may inspect the proposed supplier’s facilities and require product samples from the proposed supplier to be delivered at our option either directly to us or to any independent entity which we designate for testing. You agree to reimburse our reasonable costs in conducting our evaluation of the proposed product or supplier, which evaluation and ultimate approval or rejection shall be completed within forty-five (45) days of submission. We reserve the right to periodically re-inspect the facilities and products of any approved supplier and to revoke our approval if the supplier does not continue to meet any of our

criteria. You understand and acknowledge that nothing in this Agreement requires us to approve any product or supplier you propose.

#### **9.6 Compliance with Applicable Laws**

You shall secure and maintain in force in its name all required licenses, permits and certificates relating to the operation of the Custom Kiosk/RMU Cart/Inline Store. You must operate the Custom Kiosk/RMU Cart/Inline Store in full compliance with all applicable laws, ordinances and regulations, including, without limitation, all government regulations relating to workers' compensation insurance, unemployment insurance, and withholding and payment of federal and state income taxes, social security taxes and sales taxes. All necessary and appropriate measures must be taken to avoid unsatisfactory safety, sanitation or health ratings at all times from government authorities. Conditions or practices disapproved by any such authorities must be corrected promptly except that, after consultation between you and us, you may contest in good faith the action by such authority as being arbitrary, capricious, unfair or unlawful. All advertising employed by you must be completely factual, in good taste (in our judgment), and must conform to the highest standards of ethical advertising. You must in all dealings with us, our affiliates, your customers, suppliers, and public officials adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You must refrain from any business or advertising practice which may be harmful to our business, the goodwill associated with the Proprietary Marks or other Custom Kiosks/RMU Carts/Inline Stores. You must notify us in writing within five (5) days of the commencement of any action, suit or proceeding, and of the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental unit, which may adversely affect the operation or financial condition of you or the Franchised Business, or of any notice of violation of any law, ordinance or regulation relating to health or safety.

#### **9.7 Custom Kiosk/RMU Cart/Inline Store Management; No Employment Interference**

You shall assure that at all times the Custom Kiosk/RMU Cart/Inline Store must be under the direct, on-premises supervision of a Manager who has satisfactorily completed our training program. You shall hire all employees of the Custom Kiosk/RMU Cart/Inline Store and be exclusively responsible for the terms of their employment, their compensation, and for the proper training of the employees in the operation of the Custom Kiosk/RMU Cart /Inline Store and shall require all such personnel to execute our Confidentiality Agreement in the form annexed hereto as Exhibit D. You and all of your owners shall also execute the Confidentiality Agreement. You must establish at the Custom Kiosk/RMU Cart/Inline Store a training program for all employees that meets our standards. You may not recruit or hire, either directly or indirectly, any employee (or former employee for six (6) months after his or her employment has ended) of another NYS Collection business without the advance written permission of the employer-franchisee.

#### **9.8 Payments to Us or Our Affiliates**

All services or products purchased from us or our affiliates must be prepaid via either wire transfer, credit card or via cash on delivery, unless another payment method is specified by us. No payment terms are permitted for proprietary product purchases. All other supplies, forms, documents and equipment required for the operation of the Custom Kiosk/RMU Cart/Inline Store and not required to be purchased from us or our designees may be purchased from us or from any source or supplier approved or designated in writing by us or from any other source or supplier, provided that we shall have first approved in writing such other source or supplier, which approval shall not be unreasonably withheld so long as the standards of the System are met.

### **9.9 Forms of Payment; Gift Cards**

You shall maintain at all times such arrangements with (and only with) such credit card issuers or sponsors, and shall implement and at all times operate such point-of-sale systems and credit verification systems as the we may designate from time to time. We may develop a gift card program for “NYS Collection” businesses, and you shall be obligated to participate in such program. If and when developed, gift cards will be available for sale or redemption at all NYS Collection locations in the System.

### **9.10 Training Requirements**

You shall assure that your Manager(s) and other personnel of the Franchised Business we may direct shall attend and participate at such additional or supplemental training courses, seminars and franchisee meetings as may be specified by us from time to time. We shall have the right to charge you a reasonable fee for such additional onsite training or franchisee meetings and you shall also be responsible to pay all travel, accommodation, meal and other expenses of you and your Manager(s) and other personnel in respect of attending and completing any courses, seminars or meetings.

### **9.12 Innovations to System**

Should you, or anyone affiliated with you, develop any innovations, ideas, products or discoveries related to the NYS System, the Franchised Business or any of the concepts, Approved Products or anything else associated with them, you shall advise us promptly of the innovation, idea, product or discovery. We have sole discretion over the decision to implement such innovation, idea, product or discovery. You shall not use such innovation, idea, product or discovery without prior authorization from us.

All innovations, ideas, products and discoveries developed or used in connection with the System or with the Franchised Business become our property, whether developed by you, by us, an affiliate of yours, or any other franchisee. We shall not be obligated to provide payment or reward to you, any affiliate of yours or any franchisee in the System if any innovation, idea, product or discovery is developed by any such person, whether or not implemented into the System.

### **9.13 Minimum Gross Sales**

In order to maintain your rights under this Agreement, you shall, during the term of this Agreement, achieve a minimum level of Gross Sales equal to One Hundred Thousand Dollars (\$100,000) each year. If your location is seasonal (meaning it is in operation for eight (8) or fewer months each calendar year), the minimum Gross Sales requirement shall be pro-rated for the number of months the Franchised Business is operating. If you fail to meet this minimum Gross Sales amount in any year, we may terminate this Agreement upon notice to you, without providing you another opportunity to cure the default.

“Gross Sales” means all revenue, less any returns or credits, from the sale of all products and services and all other income of every kind and nature at or from the Franchised Business or otherwise related to the Franchised Business, including any proceeds from business interruption insurance, whether for cash or credit, and regardless of collection in the case of credit. Gross Sales does not include any sales taxes or other taxes collected from customers by you and paid directly to the appropriate taxing authority, or any customer refunds or adjustments.

#### **9.14 Mystery Shopper**

You shall participate in any independent evaluation service designated by us to conduct a “mystery shopper” quality control and evaluation program with respect to us or affiliate-owned and/or franchised locations. You agree that the Franchised Business will participate in such mystery shopper program, as prescribed and required by us. We reserve the right to use either the Brand Development Fund to pay for this service or to require you to pay the then-current charges imposed by such evaluation service with respect to inspections of the Franchised Business, and you agree that you shall promptly pay such charges.

### **ARTICLE 10** **PROPRIETARY MARKS**

#### **10.1 Proprietary Marks**

When used in this Agreement, “Proprietary Marks” mean the “NYS Collection” trademark and service marks which are used now or in the future to identify Custom Kiosks, RMU Carts, Inline Stores and Approved Products, and to distinguish it from that of any other business, and the trademarks, service marks, trade names, logos and commercial symbols as may be designated by us from time to time for use in connection with the System.

#### **10.2 License of Proprietary Marks**

You are licensed to use the Proprietary Marks, goodwill and trade secrets in the operation of the Custom Kiosk/RMU Cart/Inline Store only at the Approved Location. Nothing in this Agreement shall be construed as authorizing or permitting their use at any other location or for any other purpose, except as may be authorized in writing by us. During the term of this Agreement and any renewal or extension hereof, you shall identify yourself as the independent owner of the Franchised Business in conjunction with any use of the Proprietary Marks, including, but not limited to, on invoices, order forms, receipts, business stationery, contracts with all third parties or entities, as well as the display of such notices in such content and form and at such conspicuous locations as we may designate in writing.

#### **10.3 Ownership of Proprietary Marks**

You acknowledge that, as between you and us, the ownership of all of the Proprietary Marks, goodwill and trade secrets remains solely with us and that you shall not register or attempt to register the Proprietary Marks or to assert any rights in them other than as specifically granted in this Agreement. You acknowledge that we are the licensee of the owner of the Proprietary Marks, and we have the authority to grant to you and other franchisees a sub-license to use such Proprietary Marks.

#### **10.4 Use of Proprietary Marks**

You shall only use the Proprietary Marks, logos, trade styles, color combinations, designs, signs, symbols and slogans, and only in the manner and to the extent specifically permitted by this Agreement or in the Confidential Operations Manual, the Guidebook or any other manuals, directives or memos prepared by us.

#### **10.5 Approval of Items Using Proprietary Marks**

We reserve the right to approve all signs, memos, stationery, business cards, advertising material, forms and all other objects and supplies using the Proprietary Marks. All advertising, publicity, point of sale materials, signs, decorations, furnishings, equipment, or other materials employing the words “NYS

Collection” shall be in accordance with this Agreement, the Confidential Operations Manual, and the Guidebook and you shall obtain our approval prior to such use.

#### **10.6 Cessation of Use after Expiration, Termination or Non-Renewal**

Upon the expiration, termination or non-renewal of this Agreement, you shall immediately cease using the Proprietary Marks, color combinations, designs, symbols or slogans; and we may cause you to execute such documents and take such action as may be necessary to evidence this fact. After the effective date of expiration, termination or non-renewal, you shall not represent or imply that you are associated with us. To this end, you irrevocably appoint us or our nominee to be your attorney-in-fact to execute on your behalf any document or perform any legal act necessary to protect the Proprietary Marks from unauthorized use. You acknowledge and agree that the unauthorized use of the Proprietary Marks will result in irreparable harm to us for which we shall be entitled to obtain injunctive relief, monetary damages, reasonable attorneys’ fees and costs.

#### **10.7 Notification of Infringement**

You shall immediately notify us of any apparent infringement of or challenge to your use of the Proprietary Marks, or any claim, demand, or suit based upon or arising from the unauthorized use of, or any attempt by any other person, firm, or corporation to use, without authorization, or any infringement of or challenge to, any of the Proprietary Marks. You also agree to immediately notify us of any other litigation instituted by any person, firm, corporation or governmental entity against us or you.

#### **10.8 Our Right to Defend**

We shall undertake the defense or prosecution of any litigation concerning you that relates to any of the Proprietary Marks or that, in our judgment, may affect the goodwill of the System; and we may, in such circumstances, undertake any other action which we deem appropriate. We shall have sole and complete discretion in the conduct of any defense, prosecution or other action we choose to undertake. In that event, you shall cooperate and execute those documents and perform those acts which in our opinion are necessary for the defense or prosecution of the litigation or for such other action as may be undertaken by us.

#### **10.9 You Shall Use Only Designated Proprietary Marks**

In order to develop and maintain high uniform standards of quality and service and to protect our reputation and goodwill, you shall do business and advertising using only the Proprietary Marks designated by us. You shall not do business or advertise using any other name. You are not authorized to and shall not use the phrase “NYS Collection” by itself, as a part of the legal name of any corporation, partnership, proprietorship or other business entity to which you are associated, or with a bank account, trade account or in any legal or financial connection.

#### **10.10 Inspection**

In order to preserve the validity and integrity of the Proprietary Marks, and to assure that you are properly employing them in the operation of your Franchised Business, we and our agents shall have the right at all reasonable times to inspect your business and operations. You shall cooperate with and assist our representative in such inspection.

#### **10.11 Trademark Symbols**

You shall be required to affix the ®, ™ or ™ symbol upon all advertising, publicity, signs, decorations, furnishings, equipment or other printed or graphic material employing the phrase “NYS Collection” or any other of the Proprietary Marks, whether presently existing or developed in the future.

#### **10.12 No Right to Deny Use of Proprietary Marks**

You acknowledge that you do not have any right to deny the use of the Proprietary Marks to any other “NYS Collection” franchisees. In consideration therefor, you shall execute all documents and take such action as may be requested to allow us or other “NYS Collection” franchisees to have full use of the Proprietary Marks.

#### **10.13 Avoidance of Conflict**

If during the term of this Agreement there is a claim of prior use of the “NYS Collection” name or any other of the Proprietary Marks in the area in which you are doing business or in another area or areas, you shall so use our other Proprietary Marks in such a way and at our discretion in order to avoid a continuing conflict.

#### **10.14 Indemnification**

We agree to indemnify you against, and to reimburse you for, all damages, costs, reasonable attorneys’ fees and expenses for which you are held liable in any proceeding in which your use of any Proprietary Mark pursuant to and in compliance with this Agreement is held to constitute trademark infringement, unfair competition or dilution, and for all costs reasonably incurred by you in the defense of any such claim brought against you or in any such proceedings in which you are named as a party, provided that you have timely notified us of such claim or proceedings, have otherwise complied with this Agreement and have tendered complete control of the defense of such to us. If we defend such claim, we shall have no obligation to indemnify or reimburse you with respect to any fees or disbursements of any attorney retained by you.

#### **10.15 Limited License**

You understand and agree that the limited license to use the Proprietary Marks granted hereby applies only to such Proprietary Marks as are designed by us, and which are not subsequently designated by us as being withdrawn from use, together with those which may hereafter be designated by us in writing. You expressly understand and agree that you are bound not to represent in any manner that you have acquired any ownership or equitable rights in any of the Proprietary Marks by virtue of the limited license granted hereunder, or by virtue of your use of any of the Proprietary Marks.

If it becomes advisable at any time, in our discretion, to modify or discontinue use of any Proprietary Mark and/or to adopt or use one or more additional or substitute Proprietary Marks, then you shall be obligated to comply with any such instruction by us. We shall not be required to reimburse you for any expenses of compliance, such as changing signs, stationery, etc. You waive any claim arising from or relating to any Proprietary Mark change, modification or substitution. We will not be liable to you for any expenses, losses or damages sustained by you as a result of any Proprietary Mark addition, modification, substitution or discontinuation, except as provided herein. You covenant not to commence or join in any litigation or other proceeding against us for any of these expenses, losses or damages.

#### **10.16 Name Registrations**

Before commencing business at the Approved Location, you must supply evidence satisfactory to us that you have complied with all applicable laws regarding the use of fictitious or assumed names. You must take such steps as we approve in writing to register the trade name "NYS Collection" to be able to operate the Franchised Business under such name within the town or state where the Premises are located. Except for registration of a "d/b/a" or assumed name or other fictitious name certificate in connection with the operation of the Franchised Business, you must not register or attempt to register our names or the Proprietary Marks in your own name or that of any other entity, nor shall you make any attempt to register a domain name, whether or not they include domain derivatives, outlaw websites, or the Proprietary Marks and you may not use our name on any lease agreement.

### **ARTICLE 11** **OPERATIONS MANUAL AND CONFIDENTIALITY**

#### **11.1 Confidential Operations Manual and Guidebook**

We have developed and will lend to you during the term of this Agreement an operating manual for the Franchised Business (herein referred to as the "Confidential Operations Manual") and a guidebook entitled "General Visual Outlines for Marketing and Retail Applications" (the "Guidebook") containing mandatory specifications, standards, methods, techniques and procedures for the operation of the Custom Kiosk/RMU Cart/Inline Store prescribed from time to time by us for our franchisees, and containing information relative to your other obligations hereunder. All such specifications, standards and operating procedures shall be consistent with this Agreement and all applicable laws. Specifications, standards and operating procedures prescribed from time to time by us in the Confidential Operations Manual, the Guidebook, or otherwise communicated to you in writing shall constitute provisions of this Agreement as if fully set forth herein and shall be kept confidential by you at all times during the term of this Agreement and after the termination or expiration thereof for any reason. You shall operate your Custom Kiosk/RMU Cart/Inline Store strictly in accordance with the Confidential Operations Manual, the Guidebook and any other manuals we provide to you. We shall have the right to add to, and otherwise modify, the Confidential Operations Manual and Guidebook from time to time to reflect changes in Approved Products, the System, or the operation of the Franchised Business; provided, however, no such addition or modification shall alter your fundamental status and rights under this Agreement. You covenant to accept, implement and adopt any such modifications at your own cost. You shall keep the Confidential Operations Manual and Guidebook up to date with replacement pages and insertions as instructed by us, if they are provided to you in hard copy format. You acknowledge that the Confidential Operations Manual and the Guidebook contain our proprietary information and you agree to keep them and their contents confidential at all times and not to make any copies thereof. The Confidential Operations Manual and Guidebook shall at all times remain our property, and you shall promptly return them to us upon our request, and in any event upon the termination or expiration of this Agreement for any reason. In the event a dispute arises as to the contents of the Confidential Operations Manual or Guidebook, the master copy maintained by us shall be controlling.

#### **11.2 Confidentiality**

You shall not, during the term of this Agreement or at any time thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, association or corporation any confidential information or know-how concerning the methods of operation of the System hereunder which may be communicated to you, or of which you may become apprised, by virtue of the operation of the Custom Kiosk/RMU Cart/Inline Store under this Agreement ("confidential information"). You shall divulge such confidential information only to such of your employees who must have access to it in order to operate

the Franchised Business. Any and all information, knowledge, and know-how, including, without limitation, the materials, equipment, specifications, techniques, and other data which we designate as confidential, shall be deemed confidential for purposes of this Agreement, except information which you can demonstrate came to your attention prior to disclosure thereof by us; or which, at the time of disclosure by us to you, had become a part of the public domain through publication or communication by others; or which, after disclosure to you by us, becomes a part of the public domain through publication or communication by others.

At our request, you shall require any personnel having access to any confidential information provided by us to execute covenants that they will maintain the confidentiality of information they received in connection with their employment by you at the Approved Location. Such covenants shall be in the form of Confidential Agreement attached hereto as Exhibit D, and which will include, without limitation, specific identification of us as a third party beneficiary of such covenants with the independent right to enforce them.

You acknowledge that any failure to comply with the requirements of this Article 11 will cause us irreparable injury, and you agree to pay all court costs and reasonable attorneys' fees incurred by us when we seek to obtain specific performance of or an injunction against violation of the requirements of this Article 11.

### **11.3 Return of Confidential Operations Manual and Guidebook**

You shall keep the Confidential Operations Manual and Guidebook at your Approved Location at all times and promptly return all copies to us upon the expiration or termination of this Agreement, and shall refrain from making any copies thereof or otherwise reproducing it either in whole or in part at any time.

## **ARTICLE 12** **INSURANCE**

At all times during the term of this Agreement and at your own expense, you shall obtain and keep in force at a minimum the insurance required by us in the Confidential Operations Manual or otherwise. If your lease requires you to purchase insurance with higher limits than those we specify, the lease insurance requirements shall control. All insurance policies shall contain a separate endorsement naming NYS Collection Eyewear, Incorporated (and if we require, our affiliates, officers, directors, managers, members, limited partners, general partners, shareholders, independent contractors and employees) as additional insureds, and shall expressly provide that any interest of an additional insured shall not be affected by our breach of any policy provisions or any negligence on the part of an additional insured. All policies shall also include a waiver of subrogation in favor of the additional insureds. All policies shall be written by an insurance carrier accepted in writing by us. Our acceptance of an insurance carrier does not constitute our representation or guarantee that the insurance carrier shall remain a going concern or capable of meeting claim demands during the term of the insurance policy. No insurance policy shall be subject to cancellation, termination, nonrenewal or material modification, except upon at least 30 days' prior written notice from the insurance carrier to us. Upon our request, you shall provide us with a currently issued certificate of insurance evidencing coverage in conformity with the provisions of this Article 12. If you fail to comply with at least the minimum insurance requirements set forth by us, we may obtain the insurance and keep the insurance in force and effect and you shall pay us, on demand, the cost of the premium plus an administrative fee in connection with obtaining the insurance. We may increase or otherwise modify the minimum insurance requirements upon 30 days prior written notice, and



you shall comply with any such modification. Your obligation to obtain the required policies in the amounts specified is not limited in any way by any insurance we maintain.

### **ARTICLE 13** **TERMINATION**

#### **13.1 Automatic – No Opportunity to Cure**

This Agreement shall immediately terminate at the end of the term hereof, unless you exercise your renewal rights as described above, and shall also terminate without notice if:

(a) you, or any of your partners, if you are a partnership, or any of your officers, directors, shareholders, or members, if you are a corporation or limited liability company, shall become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by you or such a petition is filed against and not opposed by you; if you are adjudicated a bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver or other custodian for you or your business or assets is filed and consented to by you; if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law should be instituted by or against you; if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless a *supersedeas* bond is filed); if you are dissolved; if execution is levied against your business or property; if suit to foreclose any lien or mortgage against the Premises or equipment is instituted against you and not dismissed within thirty (30) days; or if the real or personal property of the Franchised Business shall be sold after levy thereupon by any sheriff, marshal, or constable;

(b) you permit or suffer the lease to expire or be terminated;

(c) you make an assignment, transfer or sale of the franchise or ownership in the franchise as defined in Article 16 hereof without first complying with the provisions of this Agreement;

(d) you or any of your owners' assets, property, or interests are blocked under any law, ordinance, or regulation relating to terrorist activities, or you or any of your owners otherwise violate any such law, ordinance, or regulation;

(e) you abandon or surrender or transfer control of the operation of the Custom Kiosk/RMU Cart/Inline Store or fail to actively carry on business from the Premises without our prior written consent and such condition continues for two (2) days after notice of such default is given, provided, however, we shall not terminate this Agreement solely as a result of your abandoning the associated with the Custom Kiosk/RMU Cart/Inline Store due to death without first giving ten (10) days' prior written notice to your trustee, executor, administrator or next of kin as shown in our files;

(f) you fail or refuse to submit any report, financial statement, tax return, schedule or other information or supporting records required herein, or submit such reports more than five (5) days late on two (2) or more occasions during the term of this Agreement;

(g) repeated and frequent justifiable complaints are made by your customers;

(h) you willfully or fraudulently misrepresent any fact, condition or report required to be made by this Agreement;

(i) you commit breaches hereof such that, during any consecutive twelve (12) month period, we give to you notices of three (3) or more different breaches, or three (3) or more similar breaches committed on different occasions, whether such breaches are subsequently cured or not;

(j) you breach any term of any lease, sublease, agreement (including, without limitation, any other franchise agreement) or contract to which you and we or any of our affiliated or associated companies are parties, or if any franchise agreement to which you (or any affiliate of yours or any person beneficially owning greater than fifty percent (50%) of the voting and equity rights and interests in you) and we are parties is terminated by us;

(k) you fail to achieve the minimum Gross Sales requirement;

(l) you incur three (3) insufficient funds fees in any twelve (12) month period; or

(m) notwithstanding subparagraph (j) above, if you offer and sell unapproved products from your Custom Kiosk/RMU Cart/Inline Store a second (2<sup>nd</sup>) time during the term of this Agreement.

(i) you misuse the Proprietary Marks.

### **13.2 By Us – After Notice and Opportunity to Cure**

We shall have the right to terminate this Agreement effective immediately (in the notice of termination with a specified time period for the opportunity to cure) upon delivery of notice of termination to you if:

(a) you operate the business associated with the Custom Kiosk/RMU Cart/Inline Store in a manner that presents a health or safety hazard to your customers, employees or the public and such manner of operation continues uncorrected after notice from us or the landlord of the Premises to correct same;

(b) you fail or refuse to pay any amount owed to us or any company affiliated with us for any debt whatsoever within ten (10) days after a demand for payment, or you repeatedly and consistently pay any amount due hereunder after its due date;

(c) you sell or offer for sale any unauthorized product or service after notice from us to cease doing the same;

(d) you fail to comply with any other provision of this Agreement or any other specification, standard or operating procedure prescribed by us and do not correct such failure within thirty (30) days after written notice of such failure to comply (which notice shall describe the action that you must take) is delivered to you; or

(e) you violate any law, ordinance, rule or regulation of any governmental agency in connection with the operation of the Custom Kiosk/RMU Cart/Inline Store and do not correct such violation within the period required by such governmental agency.

(f) you fail to attend any training session required by us.

#### **13.4 Loss of Occupancy**

In the event your lease expires, or if your right to the possession of the Custom Kiosk/RMU Cart/Inline Store is otherwise lost without your fault, in our reasonable judgment, we shall not terminate this Agreement, provided that you relocate and reopen your Custom Kiosk/RMU Cart/Inline Store at a location mutually agreeable to you and us and under occupancy terms acceptable to us. In this relocation, you agree to comply with our then-current location, leasing, design, construction and opening requirements. In addition, such relocation shall occur and your business must be open to the public within ninety (90) days from the date on which the prior lease terminated.

#### **13.5 Cross-Defaults; Non-Exclusive Remedies, etc.**

Any default by you (or any person/company affiliated with you) under this Agreement may be regarded as a default under any other agreement between us (or any of our affiliates) and you (or any of your affiliates). Any default by you (or any person/company affiliated with you) under any other agreement, including, but not limited to any agreement between us (or any of our affiliates) and you (or any person/company affiliated with you), and any default by you (or any person/company affiliated with you) under any obligation to us (or any of our affiliates) may be regarded as a default under this Agreement. Any default by you (or any person/company affiliated with you) under any lease, sublease, loan agreement, security interest or otherwise, whether with us, any of our affiliates and/or any third party may be regarded as a default under this Agreement and/or any other agreement between us (or any of our affiliates) and you (or any of your affiliates).

In each of the foregoing cases, we (and any of our affiliates) will have all remedies allowed at law, including termination of your rights (and/or those of any person/company affiliated with you) and our (and/or our affiliates') obligations. No right or remedy which we may have (including termination) is exclusive of any other right or remedy provided under law or equity and we may pursue any rights and/or remedies available.

#### **13.6 Our Right to Discontinue Services to You**

If you are in breach of any obligation under this Agreement, and we deliver to you a notice of termination pursuant to this Article 13, we have the right to suspend our performance of any of our obligations under this Agreement including, without limitation, the sale or supply of any services or products for which we are an approved supplier to you and/or suspension of your webpage on our Website, until such time as you correct the breach.

#### **13.7 Amendment Pursuant to Applicable Law**

Notwithstanding anything to the contrary contained in this Article, if any valid, applicable law or regulation of a competent governmental authority having jurisdiction over this franchise and the parties hereto shall limit our rights of termination under this Agreement or shall require longer notice periods than those set forth above, this Agreement is deemed amended to satisfy the minimum notice periods or restrictions upon such termination required by such laws and regulations; provided, however, that such constructive amendment shall not be deemed a concession by us that the grounds for termination set forth in this Agreement do not constitute "good cause" for termination within the meaning ascribed to that term by any applicable law or regulation. We shall not be precluded from contesting the validity, enforceability or application of such laws or regulations in any action, hearing or proceeding relating to this Agreement or the termination of this Agreement.

**ARTICLE 14**  
**RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION**

**14.1 Payment of Amounts Owed to Us and Other Creditors**

You agree to pay, within seven (7) days of the effective date of termination or expiration of this Agreement, all amounts owed to us and any company affiliated with us and your trade and other creditors which are then unpaid. All periodic payments shall be deemed to accrue daily and shall be adjusted accordingly.

**14.2 Return of Manuals and Retention of Records**

You agree that, within fifteen (15) days of the effective date of termination, non-renewal or expiration of this Agreement for any reason, you will immediately return to us all copies of the Confidential Operations Manual, Guidebook and all promotional or other materials of a proprietary nature or which bears any of the Proprietary Marks. You shall retain all business records for at least three (3) years following the expiration of termination of this Agreement, and shall keep us advised of the location of such records.

**14.3 Cancellation of Assumed Names; Transfer of Website Listings and Phone Numbers**

You agree, upon termination, non-renewal or expiration of this Agreement for any reason, to take such action as may be required to cancel all registrations relating to the use of any of the Proprietary Marks and will not directly or indirectly at any time or in any manner identify any premises or any business as a franchise, or yourself as a franchisee, of ours; and you shall not, in any manner or for any purpose, use any of the Proprietary Marks or any colorable imitation thereof. You shall notify your internet service provider, the telephone company and all listing agencies of the termination or expiration of your right to use any Website domain name or uniform resource locator (whether or not created in contravention of this Agreement), telephone number and any classified or other telephone directory listings associated with such names and to authorize the transfer of same to us or our designee. You acknowledge that, as between us and you, we have the sole rights to and interest in all domain names, uniform resource locators, telephone numbers and directory listings associated with the Proprietary Marks. You will provide us, on execution of this Agreement, with undated assignments of Websites and listings and the telephone number and related listings to us, in the form annexed hereto as Exhibit "B".

**14.4 De-identification of the Kiosk/Cart/Inline Store**

Unless you are selling the Custom Kiosk/RMU Cart/Inline Store to a new franchisee for the System, you agree to immediately, upon request from us, make such alterations and removals or changes in signs and colors as we may reasonably request so as to distinguish effectively the Custom Kiosk/RMU Cart/Inline Store from its former appearance and from the then-prevailing Custom Kiosk/RMU Cart/Inline Store image.

**14.5 Continuing Obligations**

All obligations of the parties hereto which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force and effect, notwithstanding such expiration or termination. In particular, but without limiting the generality of the foregoing, the provisions of Articles 10, 11, and 15 hereof shall survive termination or expiration of this Agreement.

#### **14.6 Our Option to Purchase Assets**

Upon expiration, non-renewal or termination of this Agreement, we shall have the option, exercisable by written notice to you within thirty (30) days after expiration, non-renewal or termination of this Agreement, to purchase from you for cash all tangible assets of the Franchised Business. We will also be entitled to an assignment of any lease or, if an assignment is prohibited, a sublease for the full remaining term of the lease and on the same terms and conditions as your lease. Nothing in this Agreement requires us to purchase any assets of the Custom Kiosk/RMU Cart/Inline Store upon the expiration or termination of this Agreement.

The purchase price for said assets shall be fair market value as agreed upon by you and us. In the event you and we cannot agree on a purchase price within a reasonable time, the purchase price shall be determined by an independent appraiser selected as follows: we and you shall each select one (1) appraiser and those two (2) appraisers shall select a third appraiser who shall determine the purchase price. The decision of the third appraiser shall be binding on all parties. We and you shall each pay the cost of our respective appraisers, and the cost of the third appraiser shall be divided equally between us and you. In determining the purchase price, no value shall be included for intangibles, goodwill or going concern value.

The closing of our purchase of the assets (the "Closing") shall occur at a time and place designated by us, but in no event later than sixty (60) days after determination of the purchase price. The purchase price shall be paid in three (3) equal installments. The first installment shall be paid at the Closing and subsequent installments shall be due on the first and second anniversary dates of the Closing. Unpaid installments of the purchase price shall accrue interest from the date of the Closing until paid at the prime rate of interest announced from time to time by Citibank, N.A. or, if said bank stops announcing such a rate, then at the rate such bank charges its largest commercial borrowers for short term borrowing. Payment of any accrued interest shall accompany payments to you of each installment of the purchase price. We shall have the right to offset against and reduce the amount of the first installment of the purchase price, and defer said installment, if necessary, by any and all amounts owed by you to us or any of our affiliates. If you are unable to deliver clear title to all the purchased assets or if there are other unresolved issues, the Closing will be accomplished through an escrow.

If we exercise the repurchase option set forth herein, we shall have the right, pending the Closing, to appoint a manager to maintain the operation of the Custom Kiosk/RMU Cart/Inline Store. Alternatively, we may require you to close the Custom Kiosk/RMU Cart/Inline Store during such time period without removing any assets. We have an unrestricted right to assign the option to repurchase set forth herein.

### **ARTICLE 15**

#### **NON-COMPETITION**

##### **15.1 Non-Competition During Agreement**

During the term of this Agreement, you shall not individually nor in conjunction with any person, firm, partnership, corporation or other third party as principal, agent, shareholder, director, officer, employee, consultant or guarantor or in any other manner whatsoever, directly or indirectly, carry on or be engaged in or concerned with or interested in, financially or otherwise, or advise in the establishment or operation of, any retail business which offers primarily sunglasses, reading glasses and accessories (a "Competitive Business").

## **15.2 Non-Competition Following Termination or Transfer**

In the event of the termination of this Agreement by us pursuant to Article 13, or in the event this Agreement is transferred pursuant to Section 16.2, 16.4 or 16.7 hereof, you (or, in the case of a Transfer among the individuals comprising you pursuant to Section 16.4, the Transferor individual(s)) shall not, without our prior written consent, at any time during the period of two (2) years from the date of such expiration or termination or transfer, either individually or in conjunction with any person, firm, partnership or corporation or other third party as principal, agent, shareholder, director, officer, employee, consultant, guarantor or in any other manner whatsoever, directly or indirectly carry on, be engaged in or be concerned with or interested in, financially or otherwise, or advise in the operation of a Competitive Business at the Premises or within five (5) miles of where your Franchised Business was located.

## **15.3 Interference with Employment Relations**

During the term of this Agreement and for a period of two (2) years after the termination or expiration of this Agreement for any reason whatsoever, or the transfer of this Agreement pursuant to Section 16.2, 16.4 or 16.7 hereof, you (or, in the case of a Transfer among the individuals comprising you pursuant to Section 16.4, the Transferor individual(s)) shall not solicit for employment any person who is, at the time of such solicitation, employed by us or by any other franchisee of ours, nor shall you directly or indirectly induce any such person to leave his or her employment.

## **15.4 Amendment of Restrictive Covenants**

You acknowledge that the provisions of this Article 15 have been inserted for our sole benefit and that we shall have the right, from time to time during the term of this Agreement in our sole discretion, to waive in whole or in part or otherwise reduce the scope of any covenant set forth in this Article 15 or any portion thereof without your consent, effective upon our giving notice thereof to you.

## **15.5 Other Covenants**

You covenant that after termination, non-renewal or expiration of this Agreement, regardless of the cause of termination or expiration, you shall not, without our prior written consent, directly or indirectly:

- (a) adopt, use, employ or trade under any of the Proprietary Marks, nor adopt, use, employ or trade under any other name, mark or symbol that constitutes a reproduction, counterfeit, copy, imitation or variation thereof, or which is confusingly similar thereto;

- (b) adopt, use, employ or trade under any description or representation that falsely suggests or indicates a connection or association with us;

- (c) copy, communicate or otherwise use for the benefit of you or of any other person any information deemed confidential pursuant to Article 11 hereof; or

- (d) contest or aid others in contesting the validity or enforceability of the Proprietary Marks or the System, contrary to Article 10 hereof.

## **15.6 Power of Attorney**

You hereby irrevocably appoint us as your true and lawful attorney to take any action, execute any document, or do any other act or things required by Articles 10 and 14 hereof at your sole risk and expense upon your failure or refusal to comply fully therewith within ten (10) days after termination, non-

renewal or expiration of this Agreement; and you further consent and agree that we or our designated agents shall have the right to enter the Custom Kiosk/RMU Cart/Inline Store at any time, at your sole risk and expense and without liability for trespass, tort or other act, to make any alterations thereto required by Section 14.4 hereof upon your failure or refusal to do so within ten (10) days after the termination, non-renewal or expiration of this Agreement, and you hereby covenant and agree for your successors and assigns to allow, ratify and confirm whatever we shall do by virtue of the foregoing power of attorney. You hereby declare that the powers of attorney herein granted may be exercised during any subsequent legal incapacity on your part.

## **ARTICLE 16**

### **ASSIGNMENT, TRANSFER AND SALE**

#### **16.1 By Us**

We shall have the right to assign this Agreement and all of our attendant rights and privileges to any person, firm, corporation or other entity provided that, with respect to any assignment resulting in the subsequent performance by the assignee of our functions: (i) the assignee shall, at the time of such assignment, be financially responsible and economically capable of performing our obligations; and (ii) the assignee shall expressly assume and agree to perform such obligations.

You expressly affirm and agree that we may sell our assets, our rights to the Proprietary Marks or to the System outright to a third party; may go public; may engage in a private placement of some or all of our securities; may merge, acquire other corporations, or be acquired by another corporation; may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring; and, with regard to any or all of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages arising from or related to the loss of said Proprietary Marks (or any variation thereof) and/or the loss of association with or identification of "NYS Collection Eyewear, Inc." as Franchisor. Nothing contained in this Agreement shall require us to remain in the retail industry or to offer the same products and services, whether or not bearing the Proprietary Marks, in the event that we exercise our right to assign our rights in this Agreement.

#### **16.2 By You**

You shall not, in whole or in part, voluntarily or involuntarily, directly or indirectly, pledge, encumber, mortgage, assign, subdivide, subfranchise or otherwise transfer any interest in this Agreement, or any interest in the Custom Kiosk/RMU Cart/Inline Store or the franchise granted hereunder (including, without limitation, by your personal representatives in the event of your death, by will, declaration of, or transfer in, trust or the laws of intestate succession), or any interest in you or in any proprietorship, partnership or corporation which owns any interest in this Agreement or in the Custom Kiosk/RMU Cart/Inline Store or the franchise granted hereunder or in you, nor offer, permit or suffer the same without our prior written approval, which approval shall not be unreasonably withheld. If such approval is granted, it shall be conditional upon:

(a) your being then in full compliance herewith and settling and paying to us or our affiliates and all trade creditors of the Custom Kiosk/RMU Cart/Inline Store all outstanding debts;

(b) the transferee executing our then-current franchise agreement (which shall have a term equal to the remainder of the term hereof) and such other ancillary agreements, instruments and documents then customarily used by us to grant franchises;

(c) you and your officers, directors and shareholders, if a corporation, executing a general release of us, our officers, directors and employees;

(d) the transferee purchasing all of your assets used in connection with the Franchised Business in accordance with all applicable bulk sales legislation and assuming all of your business liabilities;

(e) the transferee being an individual having adequate financial resources and otherwise meeting all the criteria for "NYS Collection" franchisees;

(f) our being paid a transfer fee in the amount of Five Thousand Dollars (\$5,000) for the administration of such transfer and the preparation, execution and filing of all documentation required by us in connection with such transfer; and

(g) you and transferee entering into a written agreement of purchase and sale, the form and content of which shall be subject to our approval.

### **16.3 Assignment to Corporate Entity**

Notwithstanding Section 16.2, after obtaining our written consent, the franchise granted hereunder may, subject to Section 17.1, be assigned by you without charge, once only, to a newly formed corporate entity (such as a corporation, partnership or limited liability company) which shall conduct no business other than the franchise granted hereunder, which is actively managed by you and in which you at all times own and control greater than fifty percent (50%) of the equity and voting rights and interests. You and such entity shall execute a Transfer of Franchise agreement in our standard form, and each of your owners shall execute guarantees in our favor.

In the event of such an assignment by you of the franchise granted hereunder to a corporate entity which you control, you agree, as a condition of being permitted to make such assignment, forthwith to cause the entity and its directors/managers and owners to acknowledge this Agreement and to agree in writing to be bound by the provisions hereof, cause the entity in its articles of organization to provide in effect that its object or business is confined exclusively to the operation of a "NYS Collection" Custom Kiosk/RMU Cart/Inline Store as provided in this Agreement, and cause the entity to restrict the issue of, and its directors/managers and owners to restrict the transfer of, ownership interests of the entity so that you shall continuously own greater than fifty percent (50%) of the equity and voting rights and interests in such entity.

### **16.4 Transfer Among Franchisees**

In the event that you comprise two (2) or more individuals, we shall not unreasonably withhold our consent to a sale, assignment or transfer of any kind (a "Transfer") of the interest of one (1) such individual (the "Transferor") in the franchise hereunder to the other individual or individuals comprising you, if but only if:

(a) the Transferor transfers the whole of such interest in this Agreement and all other agreements relating to the franchise hereunder;

(b) the Transfer shall not relieve the Transferor of the Transferor's obligations hereunder to us;



(c) the Transfer shall be completed in accordance with all applicable bulk sales legislation;

(d) the Transferor shall have given us at least thirty (30) days' prior written notice of the proposed Transfer, together with all reasonable details thereof which we may demand;

(e) the Transferor and the remaining individual(s) with an interest in you execute such documents as may be required by us in connection with such Transfer; and

(f) the remaining individual(s) with an interest in you is (are), in our opinion, capable of operating the business associated with the Custom Kiosk/RMU Cart/Inline Store without the Transferor.

### **16.5 Our Right of First Refusal**

If you shall at any time decide to sell the Custom Kiosk/RMU Cart/Inline Store or the ownership interest therein, you shall obtain a bona fide, executed written offer to purchase the Custom Kiosk/RMU Cart/inline Store, together with all real or personal property, leasehold improvements and other assets used by you in connection with the Franchised Business, from a responsible and fully disclosed purchaser and shall submit an exact copy of such offer to us. We shall, for a period of thirty (30) days from the date of delivery of such offer, have the right, but not the obligation, exercisable by written notice to you, to purchase the Custom Kiosk/RMU Cart/Inline Store and the said assets for the price and on the terms and conditions contained in such offer, provided that we may substitute cash for any form of payment proposed in such offer and there shall be deducted from the purchase price the amount of any commission or fee that would otherwise have been payable to any broker, agent or other intermediary in connection with such sale. During said thirty (30) day period, we shall have the right to inspect all of your books and records relating to the Franchised Business's operation, specifically including all financial records and statements for the three (3) full fiscal years preceding the date on which the thirty (30) day right of first refusal commences, and if you are a corporate entity, all corporate minute books and transfer records. If we do not exercise our right of first refusal, you may complete the sale of the Custom Kiosk/RMU Cart/Inline Store to such purchaser on the same terms offered to us subject to the provisions of Section 16.2 hereof. If the sale to such purchaser is not completed within sixty (60) days after the expiration of our thirty (30) day right of first refusal period, or if the terms of the offer change, we shall again have the right of first refusal herein provided.

### **16.6 Temporary Operation of Business by Us**

For the purposes of this Section 16.6, "you" shall include the controlling shareholder of a corporate entity. In the event that you:

(a) fail to keep the Custom Kiosk/RMU Cart/Inline Store open for business during the hours required by us (whether pursuant to the Confidential Operations Manual or otherwise) or your lease;

(b) are absent from the Custom Kiosk/RMU Cart/Inline Store for more than five (5) consecutive days or for more than thirty (30) days in any consecutive ninety (90) day period, or abandon the Premises; or

(c) die or become incapacitated, which shall be defined as the inability to operate the Custom Kiosk/RMU Cart/Inline Store for a period of thirty (30) consecutive days, and your heirs or personal representatives have not yet, or do not, assume control of the business of the Custom

Kiosk/RMU Cart/Inline Store by means of an assignment (with our approval) pursuant to Sections 16.2 and 16.7 hereof, then, unless and until we terminate this Agreement pursuant to Article 13 or Section 16.7 hereof, we shall be entitled to enter onto the Premises and to operate and manage the business associated with the Custom Kiosk/RMU Cart/Inline Store for your (or your estate's) account until the franchise hereunder is terminated, assigned to a party acceptable to us or until you resume control over the business associated with the Custom Kiosk/RMU Cart/Inline Store and operate it in accordance herewith. In the event that we so operate the Franchised Business, we shall account to you (or your estate) for all net income from such operation, less our reasonable expenses incurred in, and our then-current management fee for our operation of the Franchised Business plus our expenses.

#### **16.7 Step-In Rights**

If we determine in our sole judgment that the operation of your business is in jeopardy, or if a default occurs, then in order to prevent an interruption of the franchised business which would cause harm to the System and thereby lessen its value, you authorize us to operate your business for as long as we deem necessary and practical, and without waiver of any other rights or remedies which we may have under this Agreement. In our sole judgment, we may deem you incapable of operating the franchised business if, without limitation, you are absent or incapacitated by reason of illness or death; you have failed to pay when due or have failed to remove any and all liens or encumbrances of every kind placed upon or against your business; or we determine that operational problems require that we operate your business for a period of time that we determine, in our sole discretion, to be necessary to maintain the operation of the business as a going concern.

We shall keep in a separate account all monies generated by the operation of your business, less our then current management fee and the expenses of the business, including reasonable compensation and expenses for our representatives. In the event of our exercise of the Step-In Rights, you agree to hold harmless us and our representatives for all actions occurring during the course of such temporary operation. You agree to pay all of our reasonable attorneys' fees and costs incurred as a consequence of our exercise of the Step-In Rights. Nothing contained herein shall prevent us from exercising any other right which it may have under this Agreement, including, without limitation, termination pursuant to Article 13 above.

#### **16.8 Transfer Upon Death or Incapacity**

For the purposes of this Section 16.8, "you" shall include the controlling equity holder of a corporate entity. If you die or become incapacitated (which shall be deemed to include, in our reasonable opinion, your inability, by reason of physical or mental illness or disability, to operate the business of the Custom Kiosk/RMU Cart/Inline Store in the ordinary course for a period of thirty (30) days or more in any consecutive ninety (90) day period) so that you (or, in the case of your incapacity only, the Manager(s)) are not able to devote full time and attention to the operation of the Franchised Business then the rights granted hereunder may be transferred to your heirs or personal representatives, if our prior written consent is obtained, within twelve (12) months from the beginning of the disability or from the date of death. In no event will we be willing to provide our consent to such transfer unless the conditions set forth in Section 16.2 hereof (save and except the requirement to pay our then-current transfer fee) are satisfied. In the event that such conditions (save and except the requirement to pay our then-current transfer fee) are not satisfied, we shall have the right in our sole discretion to terminate this Agreement by notice, in the case of death, to your estate and, in the case of your incapacity, to you.

**ARTICLE 17**  
**PARTNERSHIP, LIMITED LIABILITY AND CORPORATE FRANCHISEES**

If you or any successor thereof is a partnership, limited liability company, corporation or other limited liability entity, or if the franchise granted hereunder is assigned to such an entity pursuant to Article 16 hereof:

(a) upon the execution of this Agreement (or, in the case of an assignment, upon such assignment) and subject to the provisions of Article 16 hereof, upon each transfer of an interest in this Agreement or in you, all holders of an interest in you shall execute a written agreement with us in the form required by us individually undertaking to be bound, jointly and severally, by all of the terms of this Agreement;

(b) the organizational documents and governing documents shall recite that the issuance and transfer of any interest therein is restricted by the terms of Article 16 of this Agreement and copies thereof shall be furnished to us at our request. You shall also submit to us, at any time upon request, a list of all directors, officers, managers and partners or beneficial equity holders reflecting their respective interests in you and other information regarding you, in such form as we may require; and

(c) you, if you are a corporation, shall maintain stop transfer instructions against the transfer on your records of any securities with voting rights subject to the restrictions of Article 16 hereof and shall issue no such securities, nor permit any issued securities to remain outstanding, upon the face of which the following printed legend does not legibly and conspicuously appear: "The transfer of the shares represented by this certificate is subject to the terms and conditions of a Franchise Agreement with NYS Collection Eyewear, Inc., dated \_\_\_\_\_."

**ARTICLE 18**  
**TAXES, PERMITS AND INDEBTEDNESS**

**18.1 Responsibility for Taxes**

You shall be solely responsible for all expenses of the business franchised by this Agreement and shall promptly pay when due all taxes levied or assessed and all indebtedness to us or to others incurred by you in connection with the conduct of such business.

We have the right to collect from you the cost of all income taxes, sales taxes and other taxes arising as a result of our licensing of intellectual property to you in the state where your Custom Kiosk/RMU Cart/Inline Store is located, and any other income we receive from you. This fee is payable only imposed if a state collects these taxes or assessments.

**18.2 Compliance with Laws**

You shall comply with all federal, provincial and local by-laws, rules and regulations, and shall timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of the business franchised by this Agreement, including, without limitation, licenses to do business, name registrations and sales tax permits.

**18.3 Notice of Litigation**

You shall notify us in writing within five (5) days of the commencement of any action, suit or proceeding and of the issuance of any order, writ, injunction, award or decree of any court, agency or

other government instrumentality which may adversely affect the operation or financial condition of the Franchised Business.

## **ARTICLE 19**

### **CUSTOMER RELATIONS**

#### **19.1 Cooperation**

You shall cooperate with us and all other franchisees of ours in promoting good public and customer relations with the public generally and with customers and potential customers of the Franchised Business. You shall comply with all of our policies relating to customer service, including, but not limited to, our policies relating to customer refunds and product warranties.

#### **19.2 Notice to Us**

You shall forthwith forward to us copies of all correspondence received from customers containing complaints or compliments regarding service received or products purchased from you or from any other franchisee of ours.

#### **19.3 Customer Complaints**

You shall promptly advise and provide us with copies of all complaints received from customers. We shall be entitled to respond to any customer complaints or to require you to respond to any customer complaints.

## **ARTICLE 20**

### **RELATIONSHIP AND INDEMNIFICATION**

#### **20.1 Independent Parties**

You are and will at all times remain an independent contractor and are not and shall not represent yourself to be the agent, joint venturer, partner or employee of ours, or to be related to us other than as our independent franchisee. No representations will be made or acts taken by you which could establish any apparent relationship of agency, joint venture, partnership or employment, and we shall not be bound in any manner whatsoever by any agreements, warranties or representations made by you to any other person, nor with respect to any other action of yours. You shall not establish any bank account, make any purchase, apply for a loan or credit, or incur or permit any obligation to be incurred in our name or on our credit.

#### **20.2 Non-Liability**

We shall not be obligated or liable for any injury or death to any person, or damage to or loss of any property caused by your action, failure to act, negligence, breach of this Agreement or willful misconduct, nor for any liability of yours.

#### **20.3 Indemnification by Us**

We shall, during the term of this Agreement only, indemnify you and hold you harmless from and against all expenses and costs (including your attorney and customer costs, travel, investigation and living expenses and witness fees, but not for lost business or any type of damages, including, but not limited to, consequential, punitive and incidental damages) for which you are held liable or which you incur in the defense of any litigation commenced against you as a direct result of your proper use of the Proprietary Marks in accordance herewith, provided that you have timely notified us of such litigation or threatened

litigation. We shall have the right to participate in and to control such litigation or proceeding (including the right to compromise or settle such litigation or proceeding) to the extent that we deem necessary or advisable, and you shall fully cooperate with us and execute such documents and do such acts and things as, in our opinion, may be necessary.

#### **20.4 Indemnification by You**

You shall, during the term of this Agreement and after the termination or expiration of this Agreement and in addition to your obligations contained in Article 12 hereof, indemnify us and our officers, directors and employees, and hold them harmless from and against all damages, losses, claims, actions, liability, expenses and costs for which they are held liable or which they incur (including attorney and customer costs, travel, investigation and living expenses of employees and witness fees) in any litigation or proceeding as a result of or arising out of:

- (a) a breach by you of this Agreement, or any lease, sublease, agreement or contract to which we or our affiliates and you are parties;
- (b) any injury to, or loss of property of, any person in or on the Premises;
- (c) your taxes, liabilities, costs or expenses of your business;
- (d) losses, claims or damages incurred by persons, other than you, due to errors or omissions contained in financial statements prepared by you pursuant to Article 5 hereof, even if caused by the negligence of you, your employees, agents, contractors, or others for whom you are, in law, responsible;
- (e) any negligent or willful act or omission of you, your employees, agents, servants, contractors or others for whom you are, in law, responsible; and
- (f) any advertising or promotional material distributed, broadcast or in any way disseminated by you or on your behalf, unless such material has been produced or approved in writing by us.

### **ARTICLE 21**

#### **SECURITY INTERESTS**

##### **21.1 Collateral**

You grant to us a security interest ("Security Interest") in all of the furniture, fixtures, equipment, signage, and realty (including your interests under all real property and personal property leases) of the Franchised Business, together with all similar property now owned or hereafter acquired, additions, substitutions, replacements, proceeds, and products thereof, wherever located, used in connection with the Franchised Business. All items in which a security interest is granted are referred to as the "Collateral".

##### **21.2 Indebtedness Secured**

The Security Interest is to secure payment of the following (the "Indebtedness"):

- (a) All amounts due under this Agreement or otherwise by you;

(b) All sums which we may, at our option, expend or advance for the maintenance, preservation, and protection of the Collateral, including, without limitation, payment of rent, taxes, levies, assessments, insurance premiums, and discharge of liens, together with interest, or any other property given as security for payment of the Indebtedness;

(c) All expenses, including reasonable attorneys' fees, which we incur in connection with collecting any or all Indebtedness secured hereby or in enforcing or protecting our rights under the Security Interest and this Agreement; and

(d) All other present or future, direct or indirect, absolute or contingent, liabilities, obligations, and indebtedness of you to us or third parties under this Agreement, however created, and specifically including all or part of any renewal or extension of this Agreement, whether or not you execute any extension agreement or renewal instruments.

(e) Our security interest, as described herein, shall be subordinated to any financing related to your operation of the Franchised Business, including, but not limited to, a real property mortgage and equipment leases.

### **22.3 Additional Documents**

You will from time to time as required by us join with us in executing any additional documents and one or more financing statements pursuant to the Uniform Commercial Code (and any assignments, extensions, or modifications thereof) in form satisfactory to us.

### **22.4 Possession of Collateral**

Upon default and termination of your rights under this Agreement, we shall have the immediate right to possession and use of the Collateral.

### **22.5 Our Remedies in Event of Default**

You agree that, upon the occurrence of any default set forth above, the full amount remaining unpaid on the Indebtedness secured shall, at our option and without notice, become due and payable immediately, and we shall then have the rights, options, duties, and remedies of a secured party under, and you shall have the rights and duties of a debtor under, the Uniform Commercial Code of New Jersey (or other applicable law), including, without limitation, our right to take possession of the Collateral and without legal process to enter any premises where the Collateral may be found. Any sale of the Collateral may be conducted by us in a commercially reasonable manner. Reasonable notification of the time and place of any sale shall be satisfied by mailing to you pursuant to the notice provisions set forth above.

### **22.6 Special Filing as Financing Statement**

This Agreement shall be deemed a Security Agreement and a Financing Statement. This Agreement may be filed for record in the real estate records of each county in which the Collateral, or any part thereof, is situated and may also be filed as a Financing Statement in the counties or in the office of the Secretary of State, as appropriate, in respect of those items of Collateral of a kind or character defined in or subject to the applicable provisions of the Uniform Commercial Code as in effect in the appropriate jurisdiction.

**ARTICLE 22**  
**DISPUTE RESOLUTION**

**22.1 Mediation and Arbitration**

(a) We and you acknowledge that during the term of this Agreement disputes may arise between the parties that may be resolvable through mediation. To facilitate such resolution, we and you agree that each party shall submit the dispute between them for non-binding mediation at a mutually agreeable location before commencing an arbitration proceeding under Section 22.1(c). If we and you cannot agree on a location, the mediation will be conducted in the county and state where our headquarters are located at the time. The mediation will be conducted by one (1) mediator who is appointed under the American Arbitration Association's Commercial Mediation Rules and who shall conduct the mediation in accordance with such rules. We and you agree that statements made by us, you or any other party in any such mediation proceeding will not be admissible in any arbitration or other legal proceeding. Each party shall bear its own costs and expenses of conducting the mediation and share equally the costs of any third parties who are required to participate in the mediation.

(b) If any dispute between the parties cannot be resolved through mediation within forty-five (45) days following the appointment of the mediator, the parties agree to submit such dispute to arbitration subject to the terms and conditions of Section 22.1(c).

(c) Except to the extent we elect to enforce the provisions of this Agreement by judicial process and injunction in our sole discretion, all disputes, claims and controversies between the parties arising under or in connection with this Agreement or the making, performance or interpretation thereof (including claims of fraud in the inducement and other claims of fraud and the arbitrability of any matter) which have not been settled through negotiation or mediation will be settled by binding arbitration in New Jersey under the authority of New Jersey Statutes. The arbitrator(s) will have a minimum of five (5) years' experience in franchising or distribution law and will have the right to award specific performance of this Agreement. If the parties cannot agree upon a mutually agreeable arbitrator, then the arbitration shall be conducted as per the selection method set forth in the New Jersey Statutes. The proceedings will be conducted under the commercial arbitration rules of the American Arbitration Association, to the extent such rules are not inconsistent with the provisions of this arbitration provision or the New Jersey Statutes. The decision of the arbitrator(s) will be final and binding on all parties. This Section will survive termination or non-renewal of this Agreement under any circumstances. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction thereof. During the pendency of any arbitration proceeding, you and we shall fully perform our respective obligations under this Agreement.

**22.2 Litigation, Waiver of Jury Trial; Limitation of Damages, etc.**

Without in any way limiting or otherwise affecting the parties' obligations regarding binding arbitration, the parties agree that any litigation between you and us (and/or involving any principal of yours or which could be brought by you or on your behalf and including matters involving any of our related entities or otherwise), whether to enforce an arbitration award or involving any litigation, dispute, controversy, claim, proceeding or otherwise between or involving you and us which is not subject to the foregoing agreement regarding arbitration (or in the event that a court having jurisdiction should hold that the foregoing agreement regarding arbitration is not enforceable) or otherwise, will be held exclusively before a court in the most immediate state judicial district and court encompassing our headquarters and having subject matter jurisdiction or (if a basis for Federal jurisdiction is present) the United States District Court closest to our headquarters, the parties consenting to the exclusive jurisdiction of such court(s) and WAIVING ALL RIGHTS TO TRIAL BY JURY.

So as to achieve many of the advantages which would normally be associated with arbitration (such as lower expense, more rapid resolution of controversies, fewer protracted and complex proceedings, reduced instances of costly and time-consuming appeal, use of a more sophisticated and experienced trier of fact and law, etc.) and for the parties' mutual benefit, THE PARTIES AGREE THAT IN ANY LITIGATION BETWEEN US AND YOU (AND/OR ANY PRINCIPAL OF YOURS OR WHICH COULD BE BROUGHT BY YOU OR ON YOUR BEHALF) THE PARTIES KNOWINGLY WAIVE ALL RIGHTS TO TRIAL BY JURY. IN ANY MEDIATION, ARBITRATION, LITIGATION OR OTHERWISE, THE PARTIES WAIVE ALL RIGHTS TO PUNITIVE, EXEMPLARY, MULTIPLE, PAIN-AND-SUFFERING, MENTAL DISTRESS OR SIMILAR DAMAGES AND AGREE THAT THE PARTIES MAY ONLY RECOVER ACTUAL FINANCIAL LOSSES.

### **22.3 Prior Notice of Claims by You**

Prior to your taking any legal or other action against us, whether for arbitration, damages, injunctive, equitable or other relief (including but not limited to rescission) and whether by way of claim, counterclaim, cross-complaint, raised as an affirmative defense or otherwise, based on any alleged act or omission of ours, you will first give us sixty (60) days' prior written notice and opportunity to cure such alleged act or omission.

### **22.4 Periods In Which to Make Claims**

22.4.1 The parties agree that, except as provided below, no arbitration proceeding, action or suit (whether by way of claim, counterclaim, cross-complaint, raised as an affirmative defense or otherwise) by either party will lie against the other (nor will any action or suit by you against any person and/or entity affiliated with us), whether for damages, rescission, injunctive or any other legal and/or equitable relief, in respect of any alleged breach of this Agreement, or any other claim of any type, unless such party will have commenced such arbitration proceeding, action or suit before the expiration of the earlier of:

(a) One hundred eighty (180) days after the date upon which the state of facts giving rise to the cause of action comes to the attention of, or should reasonably have come to the attention of, such party; or

(b) One (1) year after the initial occurrence of any act or omission giving rise to the cause of action, whenever discovered.

22.4.2 Notwithstanding the foregoing limitations, where any federal, state or provincial law provides for a shorter limitation period than above described, whether upon notice or otherwise, such shorter period will govern.

22.4.3 The foregoing limitations may, where brought into effect by our failure to commence an action within the time periods specified, operate to exclude our right to sue for damages but will in no case, even upon expiration or lapse of the periods specified or referenced above, operate to prevent us from terminating your rights and our obligations under this Agreement as provided herein and under applicable law nor prevent us from obtaining any appropriate court judgment, order or otherwise which enforces and/or is otherwise consistent with such termination.

22.4.4 The foregoing limitations shall not apply to our claims arising from or related to: (1) your under-reporting of revenue; (2) your under-payment or non-payment of any amounts owed to us or any affiliated or otherwise related entity; (3) indemnification by you; (4) your confidentiality, non-



competition or other exclusive relationship obligations; and/or (5) your unauthorized use of the Proprietary Marks.

#### **22.5 Withholding Consent**

In no event will you make any claim, whether directly, by way of setoff, counter-claim, defense or otherwise, for money damages or otherwise, by reason of any withholding or delaying of any consent or approval by us. Your sole remedy for any such claim is to submit it to mediation and arbitration as described in this Agreement and, if mediation fails to resolve such matter, for the arbitrator to order us to grant such consent.

#### **22.6 Survival and Construction**

Each provision of this Article 22, together with the provisions of Article 23, will be deemed to be self-executing and continue in full force and effect subsequent to and notwithstanding the expiration, termination, setting aside, cancellation, rescission, unenforceability or otherwise of this Agreement (or any part of it) for any reason, will survive and will govern any claim for rescission or otherwise. Each provision of this Agreement will be construed as independent of, and severable from, every other provision; provided that if any part of this Agreement is deemed unlawful in any way, the parties agree that such provision will be deemed interpreted and/or modified to the minimum extent necessary to make such provision lawful or, if such construction is not permitted or available, the remainder of this Agreement will continue in full force and effect. Each party reserves the right to challenge any law, rule or judicial or other construction which would have the effect of varying or rendering ineffective any provision of this Agreement.

#### **22.7 Costs and Attorneys' Fees**

Except as expressly provided otherwise in this Agreement with respect to appeal of an arbitration award, each party shall be responsible to pay its own costs of enforcement and/or defense (including but not limited to attorneys' fees) in any claim or dispute between the parties (including your and/or our affiliates, related persons/entities, etc.).

#### **22.8 Validity and Execution**

This Agreement will become valid when executed and accepted by us at our headquarters.

#### **22.9 Binding Effect**

This Agreement is binding upon the parties hereto and their respective executors, administrators, heirs, assigns, and successors in interest, and will not be modified except by written agreement signed by both parties.

#### **22.10 Construction**

Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto. Except where this Agreement expressly provides otherwise, we have the right to condition, withhold and/or refuse, in our sole and absolute discretion, any request by you and our approval of, or consent to, any action or omission by you. The headings of the several articles and sections hereof are for convenience only and do not define, limit, or construe the contents of such articles or sections. The term "attorneys' fees" will include, without limitation, legal fees, whether incurred prior to, in preparation for or in contemplation of the filing of any written demand or claim, action, hearing or proceeding to enforce the obligations of this Agreement. References to a "controlling interest" in you will mean more than fifty percent (50%) of the voting control of you, if you are a

corporation or limited liability company, and any general partnership interest, if you are a partnership. The term "Franchisee" as used herein is applicable to one or more persons, a corporation or a partnership, as the case may be. The singular usage includes the plural and the masculine and neuter usages include the other and the feminine. If two (2) or more persons are at any time you hereunder, whether or not as partners or joint venturers, their obligations and liabilities to us will be joint and several. This Agreement will be executed in multiple copies, each of which will be deemed an original. Each of the provisions of this Article 22 shall apply to any claim brought (or which could be brought) by any principal of yours or by or on your behalf.

## **ARTICLE 23**

### **GENERAL**

#### **23.1 Joint and Several**

If two (2) or more parties shall sign or be subject to the terms and conditions of this Agreement as Franchisee, the liability of each such party to make the payments to be made and to perform all other obligations to be performed under or pursuant to this Agreement shall be deemed to be joint and several. A breach hereof of one (1) such party or you shall be deemed to be a breach of both or all.

#### **23.2 Rights Cumulative**

No right or remedy conferred upon or reserved to us or you by this Agreement is intended to be, nor shall such right or remedy be deemed to be, exclusive of any other right or remedy herein or by law or equity provided or permitted and each shall be cumulative of every other right or remedy.

#### **23.3 Entire Agreement and Amendments**

This Agreement, the Schedules and Exhibits hereto and any documents incorporated by reference herein, contain the entire understanding and agreement of the parties hereto concerning the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions with respect to the subject matter hereof, whether oral or written; provided, however, that nothing in this or any related agreement is intended to disclaim the representations made by us in the Disclosure Document that was furnished to you by us.

Except as provided herein, you acknowledge and agree that there are no warranties, representations, statements, promises or inducements, express or implied, or collateral, whether oral or written, about this Agreement by us or our officers, directors, shareholders, employees or agents that are contrary to the terms of this Agreement or the documents referred to herein. No amendment or other modification to this Agreement shall be valid or binding upon the parties unless the same is in writing.

#### **23.4 Non-Waiver**

No waiver by us of any breach, failure or default in performance by you and no failure, refusal or neglect of ours to exercise any right hereunder or to insist upon strict compliance with or performance of your obligations hereunder shall constitute a waiver of the provisions of this Agreement with respect to any subsequent breach, failure or default and shall not constitute a waiver by us of rights at any time or thereafter to require strict compliance with the provisions hereof.

#### **23.5 Invalid Provisions; Substitution of Valid Provisions**

If any provision of this Agreement relating to the payment of fees to us, to non-competition during the term of this Agreement, or to the preservation of any of the Proprietary Marks or confidential

information disclosed pursuant to this Agreement is declared invalid or unenforceable, and if, as a result, we believe in our sole opinion that the continuation of this Agreement would not be in the best interests of the System, we have the right to terminate this Agreement on written notice to you. If any state or federal law requires renewal of this Agreement, you agree to enter into our then-current form of Franchise Agreement. To the extent that any restrictive covenant contained in this Agreement is deemed unenforceable because of its scope in terms of area, business activity prohibited, or length of time, you agree that the invalid provision will be deemed modified or limited to the extent or manner necessary to make that particular provision valid and enforceable to the greatest extent possible in light of the intent of the parties expressed in that provision under the laws applied in the forum in which we are seeking to enforce it.

If any lawful requirement or court order of any jurisdiction (1) requires a greater advance notice of the termination or non-renewal of this Agreement than is required under this Agreement, or the taking of some other action which is not required by this Agreement, or (2) makes any provision of this Agreement or any specification, standard or operating procedures prescribed by us invalid or unenforceable, the advance notice and/or other action required or revision of the specification, standard or operating procedure will be substituted for the comparable provisions of this Agreement in order to make the modified provision enforceable to the greatest extent possible. You agree to be bound by the modification to the greatest extent lawfully permitted.

#### **23.6 Time of Essence**

Time shall be of the essence in this Agreement.

#### **23.7 Gender**

Whenever a personal pronoun is used herein, it is understood that such usage shall include both singular and plural, masculine, feminine and neuter, and refer in appropriate cases to corporations or other legal entities as well as to individuals.

#### **23.8 Notice**

All notices, consents, approvals, statements, authorizations, documents, or other communications required or permitted to be given hereunder shall be in writing, and may be delivered personally or mailed by registered mail, postage prepaid, or transmitted by facsimile or other form of electronic communication tested prior to transmission to the said parties at their respective addresses set forth hereunder, namely:

To the Franchisor at:                   NYS Collection Eyewear, Inc.  
4 Timber Lane, Suite E,  
Marlboro, NJ 07746  
Attention: President  
Fax: (732) 429-1536

To the Franchisee at:                   \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or at any such other address or addresses as the party to whom such notice, consent, approval, statement, authorization, documentation or other communication is to be given may designate by notice in writing so given to the other parties hereto as provided hereinbefore. Any notices, consents, approvals, statements,

authorizations, documents or other communications, if mailed, shall be deemed to have been given on the fifth (5th) business day (except Saturdays and Sundays) following such mailing, or, if delivered personally or transmitted by telex or other form of electronic communication, shall be deemed to have been given on the day of delivery or transmission (as the case may be), if a business day, or if not a business day, on the business day next following the day of delivery or transmission (as the case may be).

### **23.9 Impossibility of Performance**

Notwithstanding anything to the contrary contained in this Agreement, if either party hereto is bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason of strikes, labor troubles, inability to procure materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, acts of God or other reasons beyond the control of such party, whether all of a like nature or not, which is not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then the performance of such term, covenant or act is excused for the period of the delay and the party so delayed shall be entitled to perform such term, covenant or act within the appropriate time period after the expiration of the period of such delay. However, the provisions of this Section shall not in any way operate to excuse you from the prompt payment of any fees or other sums required to be paid to us or our affiliates by the terms of this Agreement, or from the prompt performance of any of your other obligations hereunder where such prompt performance is delayed, hindered or prevented by reason of lack of funds.

### **23.10 Further Assurances**

Each of the parties covenants and agrees to execute and deliver such further and other agreements, assurances, undertakings, acknowledgments or documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence and do and perform and cause to be done and performed any further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof. You shall, within the time and from time to time forthwith upon our request, provide us with a statutory declaration confirming any matter provided for in this Agreement. You shall, at any time and from time to time forthwith upon our request, provide us with access to your corporate records to confirm your compliance with the terms of this Agreement.

### **23.11 Enforcement**

You acknowledge that your failure to comply herewith could cause us irreparable harm which may not be compensable by way of damages, and, therefore, we shall be entitled to apply to a court of competent jurisdiction to have ourselves appointed as the receiver of your business and to obtain (without bond) declarations, temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement relating to your use of the Proprietary Marks, relating to your obligations upon termination or expiration of this Agreement, and relating to assignment of the franchise hereunder and ownership interests in you, and to prohibit any act or omission by you or your employees that constitutes a violation of any applicable law, by-law or regulation, is dishonest or misleading to your customers or prospective customers, or constitutes a danger to employees, customers, or to the public, or which may impair the goodwill associated with the Proprietary Marks. If we secure any such injunction, declaration or order of specific performance, you agree to pay to us any damages incurred by us as a result of your breach of any provision, our full attorneys' fees and all expenses we may have incurred to enforce this Agreement (including a reasonable allowance for our employees' time spent).

### **23.12 You May Not Withhold Payments**

You agree that you will not, on grounds of an alleged non-performance by us of any of our obligations or for any other reason, withhold payment of any amount due whatsoever to us or our

affiliates. No endorsement or statement on any check or payment of any sum less than the full sum due to us shall be construed as an acknowledgment of payment in full or an accord and satisfaction, and we may accept and cash such check or payment without prejudice to our right to recover the balance due or pursue any other remedy provided herein or by law. We may apply any payments made by you as we may see fit. We may set off against any payment due by you to us, and may, at our option, pay your trade creditors.

### **23.13 Changes and Modifications**

You understand and agree that the System must not remain static if it is to meet (without limitation) presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, societal trends and other marketplace variables, and if it is to best serve the interests of us, you and all other franchisees. Accordingly, you expressly understand and agree that we may from time to time change the components of the System including, but not limited to, altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition, other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which your Custom Kiosk/RMU Cart/Inline Store is authorized and required to offer; modifying or substituting entirely the building, premises, equipment, signage, trade dress, decor, color schemes and uniform specifications and all other unit construction, design, appearance and operation attributes which you are required to observe hereunder; and changing, improving, modifying or substituting the Proprietary Marks. You expressly agree to comply with any such modifications, changes, additions, deletions, substitutions or alterations.

You shall accept, use and effectuate any such changes or modifications to, or substitution of, the System as if they were part of the System at the time that this Agreement was executed.

We shall not be liable to you for any expenses, losses or damages sustained by you as a result of any of the modifications contemplated hereby. You hereby covenant not to commence or join in any litigation or other proceeding against us or any third party complaining of any such modifications or seeking expenses, losses or damages caused thereby. Finally, you expressly waive any claims, demands or damages arising from or related to the foregoing activities including, without limitation, any claim of breach of contract, breach of fiduciary duty, fraud, and/or breach of the implied covenant of good faith and fair dealing.

### **23.14 Compliance With Anti-Terrorism Laws**

You and your owners agree to comply, and to assist us to the fullest extent possible in our efforts to comply, with Anti-Terrorism Laws (defined below). In connection with that compliance, you and your owners certify, represent, and warrant that none of your property or interests is subject to being blocked under, and that you and your owners otherwise are not in violation of, any of the Anti-Terrorism Laws. "Anti-Terrorism Laws" mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of the Anti-Terrorism Laws by you or your owners, or any blocking of your or your owners' assets under the Anti-Terrorism Laws, shall constitute good cause for immediate termination of this Agreement, as provided in Section 13.1 above.

### **23.15 Acknowledgments**

YOU ACKNOWLEDGE THAT YOU HAVE CONDUCTED AN INDEPENDENT INVESTIGATION OF THE BUSINESS FRANCHISED HEREUNDER, AND RECOGNIZE THAT THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT INVOLVES BUSINESS RISKS AND THAT ITS SUCCESS WILL BE LARGELY DEPENDENT UPON YOUR ABILITY AS AN INDEPENDENT BUSINESS PERSON. WE EXPRESSLY DISCLAIM THE MAKING OF, AND YOU ACKNOWLEDGE THAT YOU HAVE NOT RECEIVED, ANY WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO THE POTENTIAL VOLUME, PROFITS, OR SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT.

YOU ACKNOWLEDGE THAT YOU HAVE RECEIVED, READ, AND UNDERSTOOD THIS AGREEMENT, INCLUDING THE EXHIBITS HERETO; THAT WE HAVE FULLY AND ADEQUATELY EXPLAINED THE PROVISIONS OF EACH TO YOUR SATISFACTION; AND THAT WE HAVE ACCORDED YOU AMPLE TIME AND OPPORTUNITY TO CONSULT WITH ADVISORS OF YOUR OWN CHOOSING ABOUT THE POTENTIAL BENEFITS AND RISKS OF ENTERING INTO THIS AGREEMENT.

YOU ACKNOWLEDGE THAT YOU HAVE RECEIVED THE DISCLOSURE DOCUMENT REQUIRED BY THE TRADE REGULATION RULE OF THE FEDERAL TRADE COMMISSION ENTITLED "DISCLOSURE REQUIREMENT AND PROHIBITIONS CONCERNING FRANCHISING AND BUSINESS OPPORTUNITY VENTURES" AT LEAST FOURTEEN (14) CALENDAR DAYS PRIOR TO THE DATE ON WHICH THIS AGREEMENT WAS EXECUTED OR ANY MONEY WAS PAID TO US OR ANY AFFILIATE OF OURS.

YOU ARE AWARE OF THE FACT THAT SOME FRANCHISEES OF OURS MAY OPERATE UNDER DIFFERENT FORMS OF AGREEMENTS AND, CONSEQUENTLY, THAT OUR OBLIGATIONS AND RIGHTS IN RESPECT TO OUR VARIOUS FRANCHISEES MAY DIFFER MATERIALLY IN CERTAIN CIRCUMSTANCES.

YOU ACKNOWLEDGE THAT UNDER APPLICABLE U.S. LAW, INCLUDING, WITHOUT LIMITATION, EXECUTIVE ORDER 13224, SIGNED ON SEPTEMBER 23, 2001 ("ORDER"), WE ARE PROHIBITED FROM ENGAGING IN ANY TRANSACTION WITH ANY PERSON ENGAGED IN, OR WITH A PERSON AIDING ANY PERSON ENGAGED IN, ACT OF TERRORISM, AS DEFINED IN THE ORDER. ACCORDINGLY, YOU REPRESENT AND WARRANT TO US THAT AS OF THE DATE OF THIS AGREEMENT, NEITHER YOU NOR ANY PERSON HOLDING ANY OWNERSHIP INTEREST IN YOU, CONTROLLED BY YOU, OR UNDER COMMON CONTROL WITH YOU IS DESIGNATED UNDER THE ORDER AS A PERSON WITH WHOM BUSINESS MAY NOT BE TRANSACTED BY US, AND THAT YOU (1) DO NOT, AND HEREAFTER SHALL NOT, ENGAGE IN ANY TERRORIST ACTIVITY; (2) ARE NOT AFFILIATED WITH AND DO NOT SUPPORT ANY INDIVIDUAL OR ENTITY ENGAGED IN, CONTEMPLATING, OR SUPPORTING TERRORIST ACTIVITY; AND (3) ARE NOT ACQUIRING THE RIGHTS GRANTED UNDER THIS AGREEMENT WITH THE INTENT TO GENERATE FUNDS TO CHANNEL TO ANY INDIVIDUAL OR ENTITY ENGAGED IN, CONTEMPLATING, OR SUPPORTING TERRORIST ACTIVITY, OR TO OTHERWISE SUPPORT OR FURTHER ANY TERRORIST ACTIVITY.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement under seal as of the day and year first above written.

SIGNED, SEALED AND DELIVERED  
in the presence of:

**NYS COLLECTION EYEWEAR, INC.**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "A" TO THE FRANCHISE AGREEMENT**

**LOCATION ACCEPTANCE STATEMENT**

The location of the Franchise which relates to the foregoing Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ between NYS Collection Eyewear, Inc. ("Franchisor") and \_\_\_\_\_ ("Franchisee") shall be:

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

The undersigned Franchisee acknowledges that he/she has made a thorough investigation and analysis of the site for his/her Custom Kiosk/RMU Cart/Inline Store and he/she hereby approves the same.

\_\_\_\_\_  
Franchisee (Print Name)

\_\_\_\_\_  
Signature

The undersigned officer of Franchisor hereby approves the above described Custom Kiosk/RMU Cart/Inline Store location.

NYS COLLECTION EYEWEAR, INC.

By: \_\_\_\_\_  
Authorized Officer



**EXHIBIT "B" TO THE FRANCHISE AGREEMENT**

**INTERNET WEB SITES AND LISTINGS AGREEMENT**

**THIS INTERNET WEB SITES AND LISTINGS AGREEMENT** (the "Internet Listing Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between NYS Collection Eyewear, Inc., a Delaware corporation (the "Franchisor"), and \_\_\_\_\_, a \_\_\_\_\_ (the "Franchisee").

**WITNESSETH:**

**WHEREAS**, Franchisee desires to enter into a Franchise Agreement with Franchisor (the "Franchise Agreement"); and

**WHEREAS**, Franchisor would not enter into the Franchise Agreement without Franchisee's agreement to enter into, comply with, and be bound by all the terms and provisions of this Internet Listing Agreement;

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual promises and covenants contained herein, and in further consideration of the Franchise Agreement and the mutual promises and covenants contained therein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. DEFINITIONS**

All terms used but not otherwise defined in this Internet Listing Agreement shall have the meanings set forth in the Franchise Agreement. "Termination" of the Franchise Agreement shall include, but shall not be limited to, the voluntary termination, involuntary termination, or natural expiration thereof.

**2. TRANSFER; APPOINTMENT**

2.1 Interest in Internet Web Sites and Listings. Franchisee may acquire (whether in accordance with or in violation of the Franchise Agreement) during the term of the Franchise Agreement, certain right, title, and interest in and to certain domain names, hypertext markup language, uniform resource locator addresses, and access to corresponding Internet web sites, and the right to hyperlink to certain web sites and listings on various Internet search engines (collectively, the "Internet Web Sites and Listings") related to the Franchised Business or the Marks (all of which right, title, and interest is referred to herein as "Franchisee's Interest").

2.2 Transfer. On Termination of the Franchise Agreement, or on periodic request of Franchisor, Franchisee will immediately direct all Internet Service Providers, domain name registries, Internet search engines, and other listing agencies (collectively, the "Internet Companies") with which Franchisee has Internet Web Sites and Listings: (i) to transfer all of Franchisee's Interest in such Internet Web Sites and Listings to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Internet Web Sites and Listings, Franchisee will immediately direct the Internet Companies to terminate such Internet Web Sites and Listings or will take such other actions with respect to the Internet Web Sites and Listings as Franchisor directs.

NYS Collection  
2017 Franchise Agreement  
Exhibit C to the FDD

2.3 Appointment; Power of Attorney. Franchisee hereby constitutes and appoints Franchisor and any officer or agent of Franchisor, for Franchisor's benefit under the Franchise Agreement and this Internet Listing Agreement or otherwise, with full power of substitution, as Franchisee's true and lawful attorney-in-fact with full power and authority in Franchisee's place and stead, and in Franchisee's name or the name of any affiliated person or affiliated company of Franchisee, to take any and all appropriate action and to execute and deliver any and all documents that may be necessary or desirable to accomplish the purposes of this Internet Listing Agreement. Franchisee further agrees that this appointment constitutes a power coupled with an interest and is irrevocable until Franchisee has satisfied all of its obligations under the Franchise Agreement and any and all other agreements to which Franchisee and any of its affiliates on the one hand, and Franchisor and any of its affiliates on the other, are parties, including without limitation this Internet Listing Agreement. Without limiting the generality of the foregoing, Franchisee hereby grants to Franchisor the power and right to do the following:

2.3.1 Direct the Internet Companies to transfer all Franchisee's Interest in and to the Internet Web Sites and Listings to Franchisor;

2.3.2 Direct the Internet Companies to terminate any or all of the Internet Web Sites and Listings; and

2.3.3 Execute the Internet Companies' standard assignment forms or other documents in order to affect such transfer or termination of Franchisee's Interest.

2.4 Certification of Termination. Franchisee hereby directs the Internet Companies to accept, as conclusive proof of Termination of the Franchise Agreement, Franchisor's written statement, signed by an officer or agent of Franchisor, that the Franchise Agreement has terminated.

2.5 Cessation of Obligations. After the Internet Companies have duly transferred all Franchisee's Interest in such Internet Web Sites and Listings to Franchisor, as between Franchisee and Franchisor, Franchisee will have no further interest in, or obligations under, such Internet Web Sites and Listings. Notwithstanding the foregoing, Franchisee will remain liable to each and all of the Internet Companies for the sums Franchisee is obligated to pay such Internet Companies for obligations Franchisee incurred before the date Franchisor duly accepted the transfer of such Interest, or for any other obligations not subject to the Franchise Agreement or this Internet Listing Agreement.

### 3. MISCELLANEOUS

3.1 Release. Franchisee hereby releases, remises, acquits, and forever discharges each and all of the Internet Companies and each and all of their parent corporations, subsidiaries, affiliates, directors, officers, stockholders, employees, and agents, and the successors and assigns of any of them, from any and all rights, demands, claims, damage, losses, costs, expenses, actions, and causes of action whatsoever, whether in tort or in contract, at law or in equity, known or unknown, contingent or fixed, suspected or unsuspected, arising out of, asserted in, assertable in, or in any way related to this Internet Listing Agreement.

3.2 Indemnification. Franchisee is solely responsible for all costs and expenses related to its performance, its nonperformance, and Franchisor's enforcement of this Agreement, which costs and expenses Franchisee will pay Franchisor in full, without defense or setoff, on demand. Franchisee agrees that it will indemnify, defend, and hold harmless Franchisor and its affiliates, and its and their directors, officers, shareholders, partners, members, employees, agents, and attorneys, and the successors and

assigns of any and all of them, from and against, and will reimburse Franchisor and any and all of them for, any and all loss, losses, damage, damages, claims, debts, claims, demands, or obligations that are related to or are based on this Internet Listing Agreement.

3.3 No Duty. The powers conferred on Franchisor hereunder are solely to protect Franchisor's interests and shall not impose any duty on Franchisor to exercise any such powers. Franchisee expressly agrees that in no event shall Franchisor be obligated to accept the transfer of any or all of Franchisee's Interest in any or all such Internet Web Sites and Listings.

3.4 Further Assurances. Franchisee agrees that at any time after the date of this Internet Listing Agreement, Franchisee will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the purposes of this Internet Listing Agreement.

3.5 Successors, Assigns, and Affiliates. All Franchisor's rights and powers, and all Franchisee's obligations, under this Internet Listing Agreement shall be binding on Franchisee's successors, assigns, and affiliated persons or entities as if they had duly executed this Internet Listing Agreement.

3.6 Effect on Other Agreements. Except as otherwise provided in this Internet Listing Agreement, all provisions of the Franchise Agreement and exhibits and schedules thereto shall remain in effect as set forth therein.

3.7 Survival. This Internet Listing Agreement shall survive the Termination of the Franchise Agreement.

3.8 Joint and Several Obligations. All Franchisee's obligations under this Internet Listing Agreement shall be joint and several.

3.9 Governing Law. This Internet Listing Agreement shall be governed by and construed under the laws of the State of New Jersey, without regard to the application of New Jersey conflict of law rules.

IN WITNESS WHEREOF, the undersigned have executed or caused their duly authorized representatives to execute this Agreement as of the Effective Date.

FRANCHISOR:  
NYS COLLECTION EYEWEAR, INC.

FRANCHISEE:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## TELEPHONE LISTING AGREEMENT

**THIS TELEPHONE LISTING AGREEMENT** (the "Telephone Listing Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between NYS Collection Eyewear, Inc., a Delaware corporation (the "Franchisor"), and \_\_\_\_\_, a \_\_\_\_\_ (the "Franchisee").

### **WITNESSETH:**

**WHEREAS**, Franchisee desires to enter into a Franchise Agreement with Franchisor (the "Franchise Agreement"); and

**WHEREAS**, Franchisor would not enter into the Franchise Agreement without Franchisee's agreement to enter into, comply with, and be bound by all the terms and provisions of this Telephone Listing Agreement;

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual promises and covenants contained herein, and in further consideration of the Franchise Agreement and the mutual promises and covenants contained therein, and for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto agree as follows:

#### **1. DEFINITIONS**

All terms used but not otherwise defined in this Telephone Listing Agreement shall have the meanings set forth in the Franchise Agreement. "Termination" of the Franchise Agreement shall include, but shall not be limited to, the voluntary termination, involuntary termination, or natural expiration thereof.

#### **2. TRANSFER; APPOINTMENT**

2.1 Interest in Telephone Numbers and Listings. Franchisee has, or will acquire during the term of the Franchise Agreement, certain right, title, and interest in and to those certain telephone numbers and regular, classified, yellow-page, and other telephone directory listings (collectively, the "Telephone Numbers and Listings") related to the Franchised Business or the Marks (all of which right, title, and interest is referred to herein as "Franchisee's Interest").

2.2 Transfer. On Termination of the Franchise Agreement, if Franchisor directs Franchisee to do so, Franchisee will immediately direct all telephone companies, telephone directory publishers, and telephone directory listing agencies (collectively, the "Telephone Companies") with which Franchisee has Telephone Numbers and Listings: (i) to transfer all Franchisee's Interest in such Telephone Numbers and Listings to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Telephone Numbers and Listings, Franchisee will immediately direct the Telephone Companies to terminate such Telephone Numbers and Listings or will take such other actions with respect to the Telephone Numbers and Listings as Franchisor directs.

2.3 Appointment: Power of Attorney. Franchisee hereby constitutes and appoints Franchisor and any officer or agent of Franchisor, for Franchisor's benefit under the Franchise Agreement and this Telephone Listing Agreement or otherwise, with full power of substitution, as Franchisee's true and

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lawful attorney-in-fact with full power and authority in Franchisee's place and stead, and in Franchisee's name or the name of any affiliated person or affiliated company of Franchisee, on Termination of the Franchise Agreement, to take any and all appropriate action and to execute and deliver any and all documents that may be necessary or desirable to accomplish the purposes of this Telephone Listing Agreement. Franchisee further agrees that this appointment constitutes a power coupled with an interest and is irrevocable until Franchisee has satisfied all of its obligations under the Franchise Agreement and any and all other agreements to which Franchisee and any of its affiliates on the one hand, and Franchisor and any of its affiliates on the other, are parties, including, without limitation, this Telephone Listing Agreement. Without limiting the generality of the foregoing, Franchisee hereby grants to Franchisor the power and right to do the following:

2.3.1 Direct the Telephone Companies to transfer all Franchisee's Interest in and to the Telephone Numbers and Listings to Franchisor;

2.3.2 Direct the Telephone Companies to terminate any or all of the Telephone Numbers and Listings; and

2.3.3 Execute the Telephone Companies' standard assignment forms or other documents in order to affect such transfer or termination of Franchisee's Interest.

2.4 Certification of Termination. Franchisee hereby directs the Telephone Companies that they shall accept, as conclusive proof of Termination of the Franchise Agreement, Franchisor's written statement, signed by an officer or agent of Franchisor, that the Franchise Agreement has terminated.

2.5 Cessation of Obligations. After the Telephone Companies have duly transferred all Franchisee's Interest in such Telephone Numbers and Listings to Franchisor, as between Franchisee and Franchisor, Franchisee will have no further Interest in, or obligations under, such Telephone Numbers and Listings. Notwithstanding the foregoing, Franchisee will remain liable to each and all of the Telephone Companies for the sums Franchisee is obligated to pay such Telephone Companies for obligations Franchisee incurred before the date Franchisor duly accepted the transfer of such Interest, or for any other obligations not subject to the Franchise Agreement or this Telephone Listing Agreement.

### 3. MISCELLANEOUS

3.1 Release. Franchisee hereby releases, remises, acquits, and forever discharges each and all of the Telephone Companies and each and all of their parent corporations, subsidiaries, affiliates, directors, officers, stockholders, employees, and agents, and the successors and assigns of any of them, from any and all rights, demands, claims, damage, losses, costs, expenses, actions, and causes of action whatsoever, whether in tort or in contract, at law or in equity, known or unknown, contingent or fixed, suspected or unsuspected, arising out of, asserted in, assertable in, or in any way related to this Telephone Listing Agreement.

3.2 Indemnification. Franchisee is solely responsible for all costs and expenses related to Franchisee's performance, Franchisee's nonperformance, and Franchisor's enforcement of this Agreement, which costs and expenses Franchisee will pay Franchisor in full, without defense or setoff, on demand. Franchisee agrees that it will indemnify, defend, and hold harmless Franchisor and its affiliates, and the directors, officers, shareholders, partners, members, employees, agents, and attorneys of Franchisor and its affiliates, and the successors and assigns of any and all of them, from and against, and will reimburse Franchisor and any and all of them for, any and all loss, losses, damage, damages, claims,

debts, claims, demands, or obligations that are related to or are based on this Telephone Listing Agreement.

3.3 No Duty. The powers conferred on Franchisor under this Telephone Listing Agreement are solely to protect Franchisor's interests and shall not impose any duty on Franchisor to exercise any such powers. Franchisee expressly agrees that in no event shall Franchisor be obligated to accept the transfer of any or all of Franchisee's Interest in any or all such Telephone Numbers and Listings.

3.4 Further Assurances. Franchisee agrees that at any time after the date hereof, it will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the purposes of this Telephone Listing Agreement.

3.5 Successors, Assigns, and Affiliates. All Franchisor's rights and powers, and all Franchisee's obligations, under this Telephone Listing Agreement shall be binding on Franchisee's successors, assigns, and affiliated persons or entities as if they had duly executed this Telephone Listing Agreement.

3.6 Effect on Other Agreements. Except as otherwise provided in this Telephone Listing Agreement, all provisions of the Franchise Agreement and exhibits and schedules thereto shall remain in effect as set forth therein.

3.7 Survival. This Telephone Listing Agreement shall survive the Termination of the Franchise Agreement.

3.8 Joint and Several Obligations. All Franchisee's obligations under this Telephone Listing Agreement shall be joint and several.

3.9 Governing Law. This Telephone Listing Agreement shall be governed by and construed under the laws of the State of New Jersey, without regard to the application of New Jersey conflict of law rules.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Telephone Listing Agreement as of the Effective Date.

FRANCHISOR:  
NYS COLLECTION EYEWEAR, INC.

FRANCHISEE:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "C" TO THE FRANCHISE AGREEMENT**

**TRANSFER OF FRANCHISE TO A CORPORATION  
OR LIMITED LIABILITY COMPANY**

This Transfer Agreement hereby amends that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ between NYS Collection Eyewear, Inc. ("Franchisor") and \_\_\_\_\_ ("Franchisee").

The undersigned, an Officer, Director and Owner of a majority of the issued and outstanding voting stock of the corporation set forth below, or Members of the issued and outstanding Interests of the Limited Liability Company set forth below and the Franchisee pursuant to a Franchise Agreement executed on the date set forth below, between himself or herself and Franchisor, granting him/her a franchise to operate at the location set forth below, and the other undersigned Directors, Officers and Shareholders of the Corporation, or the Members of the Limited Liability Company, who together with Franchisee constitute all of the Shareholders of the Corporation, or the Members of the Limited Liability Company, in order to induce Franchisor to consent to the assignment of the Franchise Agreement to the Corporation, or Limited Liability Company in accordance with the provisions of Article 16, agree as follows:

1. The undersigned Franchisee shall remain personally liable in all respects under the Franchise Agreement and all the other undersigned Officers, Directors and Shareholders of the Corporation, or the Members of the Limited Liability Company, intending to be legally bound hereby, agree jointly and severally to be personally bound by the provisions of the Franchise Agreement including the restrictive covenants contained in Article 15 thereof, to the same extent as if each of them were the Franchisee set forth in the Franchise Agreement and they jointly and severally personally guarantee all of the Franchisee's obligations set forth in said Agreement.

2. The undersigned agree not to transfer any stock in the Corporation, or any interest in the Limited Liability Company without the prior written approval of the Franchisor and agree that all stock certificates representing shares in the Corporation, or all certificates representing interests in the Limited Liability Company shall bear the following legend:

"The shares of stock represented by this certificate are subject to the terms and conditions set forth in a Franchise Agreement dated \_\_\_\_\_, 20\_\_ between \_\_\_\_\_ and NYS Collection Eyewear, Inc."

or

"The ownership interests represented by this certificate are subject to the terms and conditions set forth in a Franchise Agreement dated \_\_\_\_\_, 20\_\_ between \_\_\_\_\_ and NYS Collection Eyewear, Inc."

3. \_\_\_\_\_ or his designee shall devote his best efforts to the day-to-day operation and development of the Franchised Business.

4. \_\_\_\_\_ hereby agrees to become a party to and to be bound by all of the provisions of the Franchise Agreement executed on the date set forth below between Franchisee and Franchisor to the same extent as if it were named as the Franchisee therein.

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Date of Franchise Agreement: \_\_\_\_\_

Approved Location: \_\_\_\_\_

WITNESS:

As to Paragraph 3:

\_\_\_\_\_

\_\_\_\_\_  
[Name]

As to Paragraph 4:

\_\_\_\_\_

\_\_\_\_\_  
[Name]

ATTEST:

\_\_\_\_\_  
Name of Corp. or Limited Liability Company

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Title: \_\_\_\_\_

In consideration of the execution of the above Agreement, NYS Collection Eyewear, Inc. hereby consents to the above referred to assignment on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NYS COLLECTION EYEWEAR, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **EXHIBIT "D" TO THE FRANCHISE AGREEMENT**

### **CONFIDENTIALITY AGREEMENT**

1. Pursuant to a Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "Franchise Agreement"), \_\_\_\_\_ (the "Franchisee") has acquired the right and franchise from NYS Collection Eyewear, Inc. (the "Company") to establish and operate a location to sell a proprietary line of reasonably priced sunglasses, reading glasses, and accessories (the "Franchised Business") and the right to use in the operation of the Franchised Business the Company's trade names, service marks, trademarks, logos, emblems, and indicia of origin (the "Proprietary Marks"), as they may be changed, improved and further developed from time to time in the Company's sole discretion, only at the following authorized and approved location: \_\_\_\_\_ (the "Approved Location").

2. The Company, as the result of the expenditure of time, skill, effort and resources, has developed and owns a distinctive format and system (the "System") relating to the establishment and operation of Franchised Businesses. The Company possesses certain proprietary and confidential information relating to the operation of the System, which includes certain proprietary trade secrets, methods, techniques, formats, specifications, systems, procedures, methods of business practices and management, sales and promotional techniques and knowledge of, and experience in, the operation of the Franchised Business (the "Confidential Information").

3. In consideration for my position as \_\_\_\_\_ of the Franchisee and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I hereby acknowledge and agree to the terms of this Confidentiality Agreement (the "Agreement").

4. Any and all information, knowledge, know-how, and techniques which the Company specifically designates as confidential shall be deemed to be Confidential Information for purposes of this Agreement.

5. The Company and Franchisee may disclose the Confidential Information to me via training programs, the Company's Confidential Operations Manuals (the "Manuals"), and other general assistance.

6. I will not acquire any interest in the Confidential Information, other than the right to utilize it in performing my duties for the Franchised Business and the use or duplication of the Confidential Information for any use outside the System would constitute an unfair method of competition. I covenant that I will not forward or provide the Confidential Information to any third party, nor store it on any personal or third party electronic device, disk, drive, or otherwise, unless expressly authorized to do so by the Company.

7. Any work performed by me with the Franchisee and any derivative works created by me using the Confidential Information or any proprietary information of the Company are considered "works made for hire" and I will have no ownership interest in the items created.

8. The Confidential Information is proprietary, involves trade secrets of the Company, and is disclosed to me solely on the condition that I agree, and I do hereby agree, that I shall hold in strict confidence all Confidential Information and all other information designated by the Company as confidential. Unless the Company otherwise agrees in writing, I will disclose and/or use the Confidential

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Information only in connection with my association with the Franchisee, and will continue not to disclose or use any such information even after I cease to be associated with the Franchisee, unless I can demonstrate that such information has become generally known to the public or easily accessible other than by the breach of an obligation of the Franchisee under the Franchise Agreement, a breach of the employees or associates of the Franchisee, or a breach of my own duties or the duties hereunder.

9. I agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. In the event any provision of this Agreement is ever deemed to exceed the limits permitted by any applicable law, the provisions set forth herein will be reformed to the extent necessary to make them reasonable and enforceable. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of the remaining provisions, all of which are severable and will be given full force and effect.

10. I understand and acknowledge that the Company shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Agreement, or any portion thereof, without my consent, effective immediately upon receipt by me of written notice thereof; and I agree to comply forthwith with any covenant as so modified.

11. The Company is a third-party beneficiary of this Agreement and may enforce it, solely and/or jointly with the Franchisee. I am aware that my violation of this Agreement will cause the Company and the Franchisee irreparable harm; therefore, I acknowledge and agree that the Franchisee and/or the Company may apply for the issuance of an injunction preventing me from violating this Agreement, in addition to any other remedies available to them, and I agree to pay the Franchisee and the Company all the costs it/they incur(s), including, without limitation, legal fees and expenses, if this Agreement is enforced against me. Due to the importance of this Agreement to the Franchisee and the Company, any claim I have against the Franchisee or the Company is a separate matter and does not entitle me to violate, or justify any violation of this Agreement.

12. This is not a contract for employment and does not guaranty my employment for any set period of time. I agree and understand that I have no employment relationship with the Company.

13. Subject to the rights of the Franchisee and the Company in Section 11, if a dispute arises under this Agreement, it is agreed that all disputes, controversies, or claims shall be submitted to binding arbitration before the American Arbitration Association. It is acknowledged, understood and agreed that any such arbitration will be final and binding and that by agreeing to arbitration, the parties are waiving their respective rights to seek remedies in court, including the right to a jury trial. The parties waive, to the fullest extent permitted by law, any right they may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement, whether based in contract, tort, statute (including any federal or state statute, law, ordinance or regulation), or any other legal theory. **It is expressly acknowledged, understood and agreed that: arbitration is final and binding; the parties are waiving their right to seek legal remedies in court including the right to a trial by jury; pre-arbitration discovery generally is more limited than and different from that available in court proceedings; the arbitrator's award is not required to include factual findings or legal reasoning; and any party's right to appeal or vacate, or seek modification of, the arbitration award, is strictly limited by law.** It is understood, acknowledged and agreed that

in any such arbitration, each party will be solely responsible for payment of his/her/its own counsel fees, with the costs of arbitration borne equally by the parties. Any such arbitration shall be governed by, and construed in accordance with, the law of the state of New Jersey and shall take place in New Jersey.

14. Any dispute in the meaning, understanding, effect, interpretation or validity of this Agreement will be resolved in accordance only with the laws of the State of New Jersey. The only way this Agreement can be changed is in writing signed by the Company, Franchisee and me.

15. This Agreement will be binding upon and inure to the benefit of all parties including my heirs, personal representatives, successors and assigns and Franchisee's and Company's officers, directors, executives, employees, representatives, successors, agents and assigns.

16. I understand that this Agreement may and will be assigned or transferred to, and will be binding upon and will inure to the benefit of, any successor of the Company, and any successor will be deemed substituted, for all purposes, as the "Company" under the terms of this Agreement. As used in this Agreement the term "successor" will mean any person, firm, corporation, or business entity which at any time, whether by merger, purchase or otherwise, acquires all or substantially all of the assets of the business of the Company. I acknowledge that the services to be rendered by me in my employment are unique and personal. Accordingly, I may not assign any of my rights nor delegate any of my duties or obligations under this Agreement.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

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

Address: \_\_\_\_\_

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

**ACKNOWLEDGED BY FRANCHISEE**

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

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

**ACKNOWLEDGED BY COMPANY**

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

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

## **EXHIBIT "E" TO THE FRANCHISE AGREEMENT**

### **CONTINUING GUARANTY**

(To be used to guaranty the obligations of a corporate or limited liability company franchisee  
or to guaranty the obligations of a franchisee other than the guarantor)

\_\_\_\_\_ (hereinafter referred to as "Guarantor") whose  
address is \_\_\_\_\_, as a material inducement to  
and in consideration for NYS COLLECTION EYEWEAR, INC. (hereinafter referred to as "Franchisor")  
entering into a Franchise Agreement (the "Franchise Agreement") with  
\_\_\_\_\_ (hereinafter referred to as "Franchisee"), dated \_\_\_\_\_,  
20\_\_\_\_, unconditionally guarantees and promises to and for the benefit of Franchisor that Franchisee shall  
perform faithfully and completely all of the provisions, obligations and duties that Franchisee has agreed  
to perform under the Franchise Agreement and/or any other obligations undertaken or to be undertaken by  
Franchisee in favor of Franchisor or Franchisor's parent, subsidiary, or affiliated corporation,  
corporations, individuals or other entities.

If Guarantor is more than one (1) person, Guarantor's obligations are joint and several.  
Guarantor's obligations are also independent of Franchisee's obligations. A separate action may be  
brought or prosecuted against any Guarantor whether or not the action is brought or prosecuted against  
any other Guarantor or against Franchisee, or any or all of them, or whether any other Guarantor or  
Franchisee is or are jointed in the action.

Guarantor waives the benefit of any statute of limitations or other provision of law which in any  
way affects or limits Guarantor's liability under this Guaranty.

The provisions of the Franchise Agreement or other obligation involving Franchisee may be  
changed between Franchisor or other concerned party or entity and Franchisee at any time and in any  
manner, either by written or oral agreement, by operation of law, by course of conduct, or otherwise,  
without the consent of or notice to Guarantor. This Guaranty shall continue to guaranty the performance  
of Franchisee under the Franchise Agreement and/or other obligation as so modified without further  
agreement or act of Guarantor being required.

Assignment by Franchisee or by Franchisor of the Franchise Agreement or other obligation as  
permitted in that Agreement or other obligation shall not affect this Guaranty and the obligations of  
Guarantor hereunder shall carry over to the transferee of either party to the Franchise Agreement or other  
obligation.

This Guaranty shall not be affected nor the obligations of Guarantor hereunder limited in any way  
by Franchisor's delay in enforcement or failure to enforce any of its rights under the Franchise  
Agreement, other guaranteed obligation, or under this Guaranty.

If Franchisee commits a breach of the Franchise Agreement, or other guaranteed obligation,  
Franchisor can proceed immediately against Guarantor or Franchisee, or both, or Franchisor can enforce  
against Guarantor or Franchisee, or both, any rights which it has under the Franchise Agreement, other  
obligation, or pursuant to applicable law, or both. If the Franchise Agreement or other obligation  
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terminates, Franchisor can enforce any rights it has following such termination against Guarantor, Franchisee, or both, without giving prior notice to Guarantor, Franchisee, or either, and/or without making demand on Guarantor, Franchisee, or either.

Guarantor waives the right to require Franchisor to proceed against Franchisee before proceeding against Guarantor, to proceed against or exhaust any security that Franchisor holds from Franchisee, Guarantor, or any other source, and/or to pursue any other remedy available to Franchisor prior to proceeding against Guarantor, Franchisee, or either. Guarantor further waives any defense available to Guarantor, Franchisee, or either, by reason of any disability of Franchisee, and further waives any other defense based on the termination or limitation of Franchisee's liability by reason of any cause, event, term or condition, including any defense or limitation available by operation of law.

Until all of Franchisee's obligations to Franchisor have been satisfied and discharged in full, Guarantor waives any right of subrogation against Franchisee. Guarantor waives any right it may have to enforce any remedies that Franchisor may now have against Franchisee, or may have at a later time. Guarantor further waives all presentments, protests, demands of any type, notices of any type, including notices of protest, notices of dishonor, and notices of acceptance of this Guaranty. Guarantor waives the foregoing as to present and/or future obligations and specifically waives any and all notices of the existence, creation or incurrence of any new or additional obligations of Franchisee to Franchisor.

If Franchisor is required, in its discretion, to enforce Guarantor's obligations under this Guaranty by legal proceedings, and/or by the employment of an attorney, or is required to take any other or additional collection or other action to enforce its rights hereunder, Guarantor agrees to pay to Franchisor all costs incurred by Franchisor in such proceedings, action and/or employment, including court costs, costs of suit, and attorneys' fees. The undersigned agree that the governing law and methods for resolution of disputes which govern this Guaranty shall be the same as those outlined in the Franchise Agreement.

This Guaranty shall be binding upon Guarantor, and each and all of them, if more than one (1), and upon his, her, its or their successors, representatives and assigns.

Executed at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

**EXHIBIT "F" TO THE FRANCHISE AGREEMENT**

**ELECTRONIC FUNDS TRANSFER AUTHORIZATION**

**AUTHORIZATION TO HONOR CHARGES DRAWN BY AND  
PAYABLE TO NYS COLLECTION EYEWEAR, INC. ("COMPANY")**

Depositor hereby authorizes and requests \_\_\_\_\_ (the "Depository") to initiate debit and credit entries to Depositor's ☐ checking or ☐ savings account (select one) indicated below drawn by and payable to the order of NYS Collection Eyewear, Inc. by Electronic Funds Transfer, provided there are sufficient funds in said account to pay the amount upon presentation.

Depositor agrees that the Depository's rights with respect to each such charge shall be the same as if it were a check drawn by the Depository and signed by Depositor. Depositor further agrees that if any such charge is dishonored, whether with or without cause and whether intentionally or inadvertently, the Depository shall be under no liability whatsoever.

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Transit/ABA Number: \_\_\_\_\_ Account Number: \_\_\_\_\_

This authority is to remain in full force and effect until Company has received written notification from me (or either of us) of its termination in such time and in such manner to afford Company and Depository a responsible opportunity to act on such request.

Depositor: (Please Print)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date Signed

\_\_\_\_\_

\_\_\_\_\_

Signature(s) of Depositor, as Printed Above

**Please attach a voided blank check, for purposes of setting up Bank and Transit Numbers.**

**EXHIBIT "G" TO THE FRANCHISE AGREEMENT**

**FRANCHISEE DISCLOSURE ACKNOWLEDGMENT STATEMENT**

As you know, NYS Collection Eyewear, Inc. (the "Franchisor") and you are preparing to enter into a franchise agreement (the "Franchise Agreement") for the establishment and operation of a NYS Collection business (the "Franchised Business"). The purpose of this Questionnaire is to determine whether any statements or promises were made to you by employees or authorized representatives of the Franchisor, or by employees or authorized representatives of a broker acting on behalf of the Franchisor ("Broker") that have not been authorized, or that were not disclosed in the Disclosure Document or that may be untrue, inaccurate or misleading. The Franchisor, through the use of this document, desires to ascertain (a) that the undersigned, individually and as a representative of any legal entity established to acquire the franchise rights, fully understands and comprehends that the purchase of a franchise is a business decision, complete with its associated risks, and (b) that you are not relying upon any oral statement, representations, promises or assurances during the negotiations for the purchase of the franchise which have not been authorized by Franchisor.

In the event that you are intending to purchase an existing Franchised Business from an existing Franchisee, you may have received information from the transferring Franchisee, who is not an employee or representative of the Franchisor. The questions below do not apply to any communications that you had with the transferring Franchisee. Please review each of the following questions and statements carefully and provide honest and complete responses to each.

1. Are you seeking to enter into the Franchise Agreement in connection with a purchase or transfer of an existing Franchised Business from an existing Franchisee?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. I had my first face-to-face meeting with a Franchisor representative on \_\_\_\_\_, 20\_\_\_\_.

3. Have you received and personally reviewed the Franchise Agreement, each addendum, and/or related agreement provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Do you understand all of the information contained in the Franchise Agreement, each addendum, and/or related agreement provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

If no, what parts of the Franchise Agreement, any Addendum, and/or related agreement do you not understand? (Attach additional pages, if necessary.)

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5. Have you received and personally reviewed the Franchisor's Disclosure Document that was provided to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. Did you sign a receipt for the Disclosure Document indicating the date you received it?

Yes \_\_\_\_\_ No \_\_\_\_\_

7. Do you understand all of the information contained in the Disclosure Document and any state-specific Addendum to the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No, what parts of the Disclosure Document and/or Addendum do you not understand? (Attach additional pages, if necessary.)

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8. Have you discussed the benefits and risks of establishing and operating a Franchised Business with an attorney, accountant, or other professional advisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No, do you wish to have more time to do so?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Do you understand that the success or failure of your Franchised Business will depend in large part upon your skills and abilities, competition from other businesses, interest rates, inflation, labor and supply costs, location, lease terms, your management capabilities and other economic, and business factors?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise concerning the actual or potential revenues, profits or operating costs of any particular Franchised Business operated by the Franchisor or its franchisees (or of any group of such businesses), that is contrary to or different from the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_



11. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise regarding the amount of money you may earn in operating the franchised business that is contrary to or different from the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_

12. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise concerning the total amount of revenue the Franchised Business will generate, that is contrary to or different from the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise regarding the costs you may incur in operating the Franchised Business that is contrary to or different from the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_

14. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement or promise concerning the likelihood of success that you should or might expect to achieve from operating a Franchised Business?

Yes \_\_\_\_\_ No \_\_\_\_\_

15. Has any employee of a Broker or other person speaking on behalf of the Franchisor made any statement, promise or agreement concerning the advertising, marketing, training, support service or assistance that the Franchisor will furnish to you that is contrary to, or different from, the information contained in the Disclosure Document or franchise agreement?

Yes \_\_\_\_\_ No \_\_\_\_\_

16. Have you entered into any binding agreement with the Franchisor concerning the purchase of this franchise prior to today?

Yes \_\_\_\_\_ No \_\_\_\_\_

17. Have you paid any money to the Franchisor concerning the purchase of this franchise prior to today?

Yes \_\_\_\_\_ No \_\_\_\_\_

18. Have you spoken to any other franchisee(s) of this system before deciding to purchase this franchise? If so, who? \_\_\_\_\_

If you have answered No to question 9, or Yes to any one of questions 10-17, please provide a full explanation of each answer in the following blank lines. (Attach additional pages, if necessary, and refer to them below.) If you have answered Yes to question 9, and No to each of questions 10-17, please leave the following lines blank.

NYS Collection  
2017 Franchise Agreement  
Exhibit C to the FDD

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I signed the Franchise Agreement and Addendum (if any) on \_\_\_\_\_, 20\_\_\_\_, and acknowledge that no Agreement or Addendum is effective until signed and dated by the Franchisor.

Please understand that your responses to these questions are important to us and that we will rely on them. By signing this Questionnaire, you are representing that you have responded truthfully to the above questions. In addition, by signing this Questionnaire, you also acknowledge that:

A. You recognize and understand that business risks, which exist in connection with the purchase of any business, make the success or failure of the franchise subject to many variables, including among other things, your skills and abilities, the hours worked by you, competition, interest rates, the economy, inflation, franchise location, operation costs, lease terms and costs and the marketplace. You hereby acknowledge your awareness of and willingness to undertake these business risks.

B. You agree and state that the decision to enter into this business risk is in no manner predicated upon any oral representation, assurances, warranties, guarantees or promises made by Franchisor or any of its officers, employees or agents (including the Broker or any other broker) as to the likelihood of success of the franchise. Except as contained in the Disclosure Document, you acknowledge that you have not received any information from the Franchisor or any of its officers, employees or agents (including the Broker or any other broker) concerning actual, projected or forecasted franchise sales, profits or earnings. If you believe that you have received any information concerning actual, average, projected or forecasted franchise sales, profits or earnings other than those contained in the Disclosure Document, please describe those in the space provided below or write "None".

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

- (i) a person or entity listed in the Annex to the Executive Order;

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

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

(iv) owned or controlled by terrorists or sponsors of terrorism.

You further covenant that neither you nor any of your employees, agents or representatives, nor any other person or entity associated with you, will during the term of the Franchise Agreement become a person or entity described above or otherwise become a target of any Anti-Terrorism Measure.

Acknowledged this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Sign here if you are taking the franchise as an  
INDIVIDUAL

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name of Legal Entity

\_\_\_\_\_  
Print Name

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

## **EXHIBIT "H" TO THE FRANCHISE AGREEMENT**

### **GENERAL RELEASE AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between NYS Collection Eyewear, Inc., a Delaware corporation having its principal place of business located at 4 Timber Lane, Suite E, Marlboro, NJ 07746 (the "Franchisor"), and \_\_\_\_\_, a \_\_\_\_\_ with a principal address at \_\_\_\_\_ (hereinafter referred to as "Franchisee").

FOR AND IN CONSIDERATION of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, the parties agree and covenant to fully and mutually release the other as follows:

1. The Franchisee and its shareholders, partners, members, managers, officers, and directors do hereby release and forever the Franchisor, its, successors, agents, assigns, officers, directors, shareholders, employees, representatives, and any and all other persons, firms and corporations whatsoever, from any and all claims, demands, damages, actions, causes of action, or suits of any kind or nature whatsoever, both known and unknown, breach of contract, defamation, and any claims whatsoever. This Full and Final General Release (the "Release") shall apply to all agreements or contracts heretofore existing or entered into by and between Franchisee and Franchisor.

2. Franchisee hereto represents and warrants that no portion of any claim, right, demand, obligation, debt, guarantee, or cause of action released hereby has been assigned or transferred by Franchisee party to any other party, firm or entity in any manner including, but not limited to, assignment or transfer by subrogation or by operation of law. In the event that any claim, demand or suit shall be made or institute against any released party because of any such purported assignment, transfer or subrogation, the assigning or transferring party agrees to indemnify and hold such released party free and harmless from and against any such claim, demand or suit, including reasonable costs and attorneys' fees incurred in connection therewith. It is further agreed that this indemnification and hold harmless agreement shall not require payment to such claimant as a condition precedent to recovery under this paragraph.

3. The consideration expressly mentioned herein is the only consideration paid or to be paid by said parties hereby released. The parties acknowledge that no other party, or agent, or attorney of any other party, has made any promise, or representation or warranty to induce this Release, not herein expressly set forth, and no such promises, representations or warranties are relied upon as a consideration for this Release, or otherwise, but any and all of the parties' respective claims, of whatever nature are hereby fully and forever released, compromised and settled. Full and complete compromise, settlement, and accord and satisfaction are hereby acknowledged, and it is expressly agreed by the undersigned parties never to sue any of the other parties hereby released on any alleged promise, representation or warranty for this Release not herein expressly set forth.

4. This Agreement contains the entire agreement and understanding between the parties as to the matters specified herein and supersedes and replaces all agreements on this subject matter, whether written or oral. The terms contained herein may not be modified or amended except in writing signed by the parties. The terms of this Release are contractual and not a mere recital.

5. The undersigned further state that they have carefully read the foregoing instrument; that they know the contents thereof; that they understand and agree to each and every term and condition contained herein; that they signed the same as their own free act and deed; and that they have not assigned any rights released hereunder to any person or organization, private or governmental.

6. The terms of this Release arose from discussions between the parties. Accordingly, no claimed ambiguity in this Release shall be construed against any party claimed to have drafted or proposed the language in question.

7. This Release shall be governed by and construed pursuant to the laws of the State of New Jersey.

8. This Agreement is binding upon and inures to the benefit of the respective assigns, successors, heirs and legal representatives of the parties hereto.

9. This Release may be executed in two copies, each of which shall be deemed an original.

10. All releases given by the Franchisee are intended to constitute a full, complete, unconditional and immediate substitution for any and all rights, claims, demands and causes of action whatsoever which exist, or might have existed, on the date of this document. Franchisee represents and warrants that they it, he or she has made such independent investigation of the facts, law and otherwise pertaining to all matters discussed, referred to or released in or by this document.

11. This Agreement may be signed in counterparts, each of which shall be binding against the party executing it and considered as the original.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this agreement effective as of the date first above.

Witness:

\_\_\_\_\_

RELEASOR:

\_\_\_\_\_  
(Name)

Witness:

\_\_\_\_\_

NYS COLLECTION EYEWEAR, INC.:

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

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

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

**EXHIBIT "I" TO THE FRANCHISE AGREEMENT**

**STATEMENT OF OWNERSHIP INTEREST**

**Effective Date:** This Exhibit "I" is current and complete  
as of \_\_\_\_\_, 20\_\_

**Franchisee Owners**

1. **Form of Owner.** (Choose (a) or (b))

(a) **Individual Proprietorship.** List individual(s):

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

(b) **Corporation, Limited Liability Company, or Partnership.** (CIRCLE ONE)  
You were incorporated or formed on \_\_\_\_\_, under the laws of the State of  
\_\_\_\_\_. You have not conducted business under any name other than your corporate,  
limited liability company, or partnership name. The following is a list of your directors, if  
applicable, managers, if applicable, and officers as of the effective date shown above:

**Name of Each Director/Manager/Officer**

**Position(s) Held**

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. **Owners.** The following list includes the full name of each person who is one of your owners (as defined in the Franchise Agreement), or an owner of one of your owners, and fully describes the nature of each owner's interest (attach additional pages if necessary).

|     | <b><u>Owner's Name</u></b> | <b><u>Percentage/Description of Interest</u></b> |
|-----|----------------------------|--------------------------------------------------|
| (a) | _____                      | _____                                            |
| (b) | _____                      | _____                                            |
| (c) | _____                      | _____                                            |
| (d) | _____                      | _____                                            |

3. **Identification of Operating Principal.** Your Operating Principal as of the Effective Date is \_\_\_\_\_ (must be one of the individuals listed in paragraph 2 above). You may not change the Operating Principal without Franchisor's prior written approval. The Operating Principal is the person to receive communications from Franchisor and Notice for Franchisee.

Address: \_\_\_\_\_  
\_\_\_\_\_

E-mail Address: \_\_\_\_\_

[Signatures on following page.]

**FRANCHISEE**

**(IF YOU ARE TAKING THE FRANCHISE  
AS A CORPORATION, LIMITED  
LIABILITY COMPANY, OR  
PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Franchisee Entity]

By: \_\_\_\_\_  
[signature of person signing on behalf of entity]

Title of Signer: \_\_\_\_\_

**DATED:** \_\_\_\_\_

**(IF YOU ARE TAKING THE FRANCHISE  
INDIVIDUALLY AND NOT AS A LEGAL  
ENTITY):**

\_\_\_\_\_  
[signature of individual franchisee]

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

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
[signature of individual franchisee]

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

**DATED:** \_\_\_\_\_



# **Exhibit D**

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## **LIST OF FRANCHISEES**

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NYS Collection Eyewear, Inc.

## LIST OF FRANCHISEES

Ali Rakshanifar  
RAKH, Inc.  
4783 Pinemont Drive  
Campbell CA 95008  
408-410-1084  
Number of Units = 2

Navid Zeighami  
272 E. Via Rancho Pkwy  
Escondido, CA 92025  
858-353-4143  
Number of Units=1

Unique Eyewear  
Salim Nawaey  
2 Del Vincente  
Irvine, CA 92606  
949-981-6092  
Number of Units = 11

Serkan Kanar Co  
Serkan Kamar  
369 Columbia Avenue - Apt 222  
Los Angeles, CA 90017  
949-302-8262  
Number of Units = 3

A.K.A Sunglasses (W)  
Ami Baig  
39214 Chantilly Ln  
Palmdale CA 93551  
661-714-5017  
Number of Units = 1

Arsdat, Inc  
R. J. Farajollahi  
7717 Briza Placida  
San Diego, CA 92127  
858-342-4166  
Number of Units = 7

Teymour, Inc.  
Ali Farajollahi  
743 Costa Del Sur  
San Marcos, CA 92078  
909-228-2672  
Number of Units = 5

NYS Collection FDD 2017  
Exhibit E

Shade 4 You Inc.  
Nazmul Howlander  
13423 Burkbank Blvd #17  
Van Nuys CA 91401  
818-720-9510  
Number of Units = 2

Journey Shades, LLC  
Scott Morris  
1 W Flatiron Crossing Dr.  
Broomfield, CO 80021  
Number of Units = 1

The Creative Company, LLC  
Asi Shlomo  
5115 Tuscany Court  
Highlands Ranch, CO 80130  
720-917-4307  
Number of Units = 6

Rakshit Enterprises  
Sanjoy Rakshit  
1412 Valley Stream Drive  
Newark, DE 19702  
414-324-1211  
Number of Units = 1

NY Styles Corp.  
Adriana Boggess  
9140 B SW 23<sup>rd</sup> Street  
Davie, FL 33324  
954-559-3000  
Number of Units = 1

Maoz, Inc.  
Maoz Druskin  
2920 SW 46th Court  
Fort Lauderdale, FL 33312  
954-560-9724  
Number of Units = 5

VSL Sunglasses LLC  
Veronica Lopez  
14472 SW 20<sup>th</sup> Street  
Miami, FL 33175  
786-510-0914  
Number of Units = 2

Quest Enterprise Orlando  
Sergio Lopez  
315 East Yale Street  
Orlando FL 32804  
407-595-1781  
Number of Units = 7

UG, LLC  
1728 English Ivey Lane NW  
Kennesaw GA 30144  
770-596-2166  
Number of Units = 2

Isaac Rivera  
94-790 Lumiaina St.  
Waipahu, HI 96797  
808-205-6070  
Number of Units=1

Jewelry World  
Trey Babin  
3425 Edenborn Avenue – Apt. 122  
Metairie, LA 70002  
504-450-3528  
Number of Units = 2

Olympic Supply, Inc.  
Terry & Sandy Roberts  
Baltimore-Washington International Airport  
7062 Elm Rd.  
Baltimore, MD, 21240  
202-347-9700  
Number of Units=1

The Creative Eyewear  
Tal Gru  
4575 Dean Martin Drive - #3011  
Las Vegas, NV 89103  
720-435-0218  
Number of Units = 6

EDF2 LLC (F)  
3575 W. Post Road  
Las Vegas NV 89118  
702-808-1690  
Number of Units = 2

DubiTal, LLC  
Tal Bloch  
3500 S. Las Vegas Blvd  
Las Vegas, NV 89109  
702-720-9450  
Number of Units=2

JP AlexiEli, Inc.  
Luis Jara  
651 Kapkowski Rd,  
Elizabeth, NJ 07201  
917-341-3356  
Number of Units = 2

JPBL&J Ent. LLC  
Peggy Rossi  
46 Berkshire Drive  
Howell NJ 07731  
732-691-1751  
Number of Units = 1

A & R I-Wear, Inc.  
Mohammad Chowdury  
141-72 85<sup>th</sup> Road -- Apt. 3C  
Briarwood, NY 11435  
917-291-6730  
Number of Units = 2

New Sufia 's I Wear Inc  
Shahid Islam  
Mall at Bay Plaza  
200 Baychester Ave .Sunglass cart by Red Robin  
Bronx NY 10475  
917-231-7031  
Number of Units = 1

Edeals US LLC  
Zuyu Wu  
1642 West 9th St  
Apt 6D  
Brooklyn NY 11223  
646-789-1648  
Number of Units = 1

JP AlexiEli, INc.  
143 44 97 Avenue  
Jamaica, NY 11435  
917-341-3356  
Number of Units = 3

Triple I-Wear, Inc  
Shelly Nauth  
46 Cedar Street  
Valley Stream, NY 11580  
516-668-3215  
Number of Units = 2

MS Square, LLC  
Umair Munir  
43-18 68th St  
Woodside, NY 11377  
585-406-8471  
Number of Units = 1

Ibrahim Halil Akyol  
5601 Fairview Road – Apt. 26  
Charlotte, NC 28209  
704-819-0714  
Number of Units = 2

Berk Inc.  
Ali Arpacay  
9942 Caldwell Depot Road  
Cornelius, NC 28031  
704-743-7920  
Number of Units = 1

Edwin Enterprise Inc  
Kai & Princess Park  
12507 Mooredale Ln  
Houston TX 77024  
713-816-0472  
Number of Units = 1

Maeder Investments  
Mike Maeder  
5738 Upper Lake Drive  
Humble, TX 77346  
281-808-1638  
Number of Units = 2

Sonia Afzaal  
2000 Willowbrook Dr.  
Houston, TX 77070  
581-890-5232  
Number of Units=1

Consumer Enterprises Inc.  
Kuldeep Gyani II  
1204B Zaragoza st.  
Laredo TX 78041  
956-206-7171  
Number of Units = 1

Sunglass Warehouse  
Eddie Busch  
3031 Whisper Fern  
San Antonio, TX 78230  
210-479-7812  
Number of Units = 3

DTL Ventures  
Therena Morrill  
11498 N. 3119 W.  
Roosevelt, UT 84066  
435-724-3013  
Number of Units = 1

Jalal Din  
20329 Ashcroft Terrace  
Sterling, VA 20165  
202-528-9868  
Number of Units = 2

Dhiraj Baksmi  
2700 Potomac Mills Circle  
Woodbridge VA 22192  
703-200-5657  
Number of Units = 2

Hakan & Alysha Kaplan  
11407 34 Ave E  
Tacoma WA 98446  
253-332-4333  
Number of Units = 1

**LIST OF FRANCHISEES WHO HAVE SIGNED BY NOT YET OPENED**

None

# Exhibit E

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## LIST OF FRANCHISEES THAT HAVE LEFT THE SYSTEM

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NYS Collection Eyewear, Inc.



**LIST OF FRANCHISEES WHO HAVE LEFT THE SYSTEM**

Remagination, LLC  
Kyle Hoffner  
PO Box 12282  
Glendale, AZ 85318  
303-520-8796  
Number of Units = 4

Boutique de Lunettes, LLC  
Fatma Melbus  
1200 Riverside Drive  
Burbank, CA 91506  
786-281-3696  
Number of Units = 4  
(had 1, opened 3 and closed all 4 during the year)

Sajjad Mukul  
370 F Street - Apt. 331  
Colma, CA 94014  
408-767-8786  
Number of Units = 1

JM Create, LLC  
Jacky Meshulam  
930 Button Rock Drive, #39  
Longmont, CO 80504  
719-388-3669  
Number of Units = 1

Tiffany Jackson  
2901 North Dale Mabry Highway - #2105  
Tampa, FL 33607  
813-802-3346  
Number of Units = 2

UG, LLC  
1728 English Ivey Lane NW  
Kennesaw GA 30144  
770-596-2166  
Number of Units = 1  
(had 2, closed 1 and then opened a new 1 from a transfer)

Sunglass Heaven  
Benhrang Moini  
94-590 Kupuohi Street  
Unit # 22G  
Waipahu HI 96797  
408-420-1742  
Number of Units = 1

Jewelry World  
Trey Babin  
3425 Edenborn Avenue – Apt. 122  
Metairie, LA 70002  
504-450-3528  
Number of Units = 1

The Creative Eyewear  
Tal Gru  
4575 Dean Martin Drive - #3011  
Las Vegas, NV 89103  
720-435-0218  
Number of Units = 1

Andre Briley  
5850 S. Polaris Avenue - Suite #1600  
Las Vegas, NV 89118  
702-300-4553  
Number of Units = 1

EDF2 LLC (F)  
3575 W. Post Road  
Las Vegas NV 89118  
702-808-1690  
Number of Units = 1

Berk Inc.  
Ali Arpacay  
9942 Caldwell Depot Road  
Cornelius, NC 28031  
704-743-7920  
Number of Units = 2

Texas Sunglasses Company LLC  
3839 McKinney Ave. #155-249  
Dallas TX 75204  
979-676-0123  
Number of Units = 2

DTL Ventures  
Therena Morrill  
11498 N. 3119 W.  
Roosevelt, UT 84066  
435-724-3013  
Number of Units = 2  
(had 2, closed 2 and opened 1)

Tyson Cunningham  
1592 N. 4700 W.  
West Point, UT 84015  
801-499-4209  
Number of Units = 1

**Transfer:**

MC Eyewear, LLC  
Marc Cherabie  
5412 S. Bahama Court  
Centennial, CO 80015  
720-280-3132  
Number of Units = 1

Six Mile Trading Co  
6125 Windjammer PT  
Cumming GA 30041  
770-826-6100  
Number of Units = 1

Maeder Investments  
Mike Maeder  
5738 Upper Lake Drive  
Humble, TX 77346  
281-808-1638  
Number of Units = 1

# Exhibit F

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## TABLE OF CONTENTS- OPERATIONS MANUAL

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NYS Collection Eyewear, Inc.

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## APPENDICES:

FORMS

POS

TRAINING PACKET

## RECEIPT

### (KEEP THIS COPY FOR YOUR RECORDS)

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If NYS Collection Eyewear, Inc. offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York and Rhode Island require that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If NYS Collection Eyewear, Inc. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the appropriate state agency listed on Exhibit A.

The franchisor is NYS Collection Eyewear, Inc., located at 4 Timber Lane, Suite E, Marlboro, NJ 07746. Its telephone number is (732) 429-1500.

Issuance Date: April 19, 2017 (Effective dates of this Disclosure Document in states requiring registration can be found on the State Effective Date page).

The name, principal business address and telephone number of the franchise sellers for this offering are:

Salvatore Babbino, 4 Timber Lane, Suite E, Marlboro, NJ 07746; (732) 429-1500

---

NYS Collection Eyewear, Inc. authorizes the agents listed in Exhibit A to receive service of process for it.

I have received a disclosure document dated April 19, 2017 that included the following Exhibits:

|                                                  |                                                  |
|--------------------------------------------------|--------------------------------------------------|
| A – State Agencies/Agents for Service of Process | E – List of Franchisees Who Have Left the System |
| B – Multi-State Addendum                         | F – Table of Contents of Operations Manual       |
| C – Franchise Agreement                          | G – Financial Statements                         |
| D – List of Franchisees                          |                                                  |

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

Please execute and return this document immediately via the method prescribed by the Franchisor.

**RECEIPT**

**(RETURN THIS COPY TO US)**

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Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

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