

JUST BETWEEN FRIENDS FRANCHISE SYSTEM, INC.
MUTUAL CONFIDENTIALITY AGREEMENT

This Mutual Confidentiality Agreement ("Agreement") is entered into and effective _____, 200_ by and between **JUST BETWEEN FRIENDS FRANCHISE SYSTEM, INC.** ("JBF") and _____ ("Franchisee").

WHEREAS, JBF is a franchiser for children's clothing and furniture consignment sales; and

WHEREAS, JBF has spent substantial time, effort and expense in creating its franchise system ("System"), and much of the information which comprises the System, including specifically its FTC Disclosure Document, its Franchise Agreement, its Operations Manual, its Training index and materials, is proprietary, confidential and competitively sensitive; and

WHEREAS, the Franchisee is considering purchasing a JBF franchise; and

WHEREAS, JBF requires that Franchisee disclose certain personal financial, business and other information concerning Franchisee's background and experience, some of which is personal and proprietary to Franchisee; and

WHEREAS, each of the parties desires to exchange with the other certain business, financial and other information upon the terms and conditions of this Agreement.

FOR GOOD and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definition of Confidential Information.** The term "Confidential Information" means all Technical Information, all Business and Commercial Information, and all Miscellaneous Information (as defined below) which is confidential or proprietary or competitively sensitive and which is disclosed by a party to the other party, including without limitation, the following:

- (i) "Technical Information" means all trade secrets, inventions, discoveries, know-how, formulas, formulations, compositions, specifications, patents, patent applications, copyrights, software and applications, drawings, schematics, processes, process technologies and techniques, tests, test results, research and development and similar technical information; and
- (ii) "Business and Commercial Information" means all information concerning the financial condition, business and financial results of operations, marketing strategies, financial projections, contracts with customers, prospective business operations, lists of customers and their representatives and their expected requirements, lists of prospective customers and their expected requirements, costs, pricing, margins, sales, quantities, product plans, market information, purchase orders, sources of supply, projections, confidential personnel information, all contracts or agreements concerning fitness centers and personal fitness equipment and training; and

- (iii) “Miscellaneous Information and Documentation” means all records, reports, analyses, memoranda, notes, analyses, compilations, studies, reports and copies and extracts thereof, however and whenever arising, containing any Confidential Information with respect to any of the foregoing in every recordable form; and
- (iv) Other JBF Confidential Information. In addition to the general description of materials defined above to be “Confidential Information,” the JBF FTC Disclosure Document, the JBF Franchise Agreement, the JBF Operating Manual, the JBF Training Program, the JBF Website and all related exhibits, schedules, indexes and attachments to the foregoing, together with all information regarding the JBF Franchise System and its franchisees, are deemed to be “Confidential Information” for the purposes of this Agreement.

The term “party” includes that party and its affiliates, managers, directors, officers, agents, accountants, attorneys or other representatives.

2. **Exclusions from Confidential Information.** “Confidential Information” does not include:

- (i) Information which is or becomes known to the general public through no fault of the receiving party; and
- (ii) Information which was rightfully in the possession receiving party prior to its disclosure by or on behalf of the other party hereto; and
- (iii) Information which comes into the possession of receiving party without violation of any contractual or legal obligation; and
- (iv) Information which is in fact not confidential or proprietary or competitively sensitive.

Even if an exception to the confidential nature of any specific item of information applies, the receiving party is required to maintain the confidential nature of the remaining items of information in accordance with the terms of this Agreement. The receiving party shall have the burden of proving the existence of any exception to the confidential nature of any specific item of Confidential Information.

3. **Duty of Confidentiality.** The receiving party agrees to hold the Confidential Information of the disclosing party in strict confidence and not to communicate, disclose, divulge, disseminate, publish or transfer the Confidential Information to any person or entity without the prior written consent of the disclosing party.

4. **Prohibition of Use of Confidential Information.** The receiving party agrees to use the Confidential Information solely in connection with proposed business relationship with the disclosing party and for no other purpose whatsoever.

5. **Ownership of Confidential Information.** The receiving party agrees that the Confidential Information constitutes information owned exclusively by the disclosing party or by its affiliates or their customers or prospects.

6. **Permitted Disclosures of Confidential Information.** The receiving party may disclose the Confidential Information, solely for the purposes permitted by this Agreement, to its managers, directors, officers, employees, agents, attorneys, accountants and other representatives and advisors strictly on a need-to-know basis; provided that the receiving party agrees to inform each person to whom the Confidential Information is disclosed of the terms and conditions of this Agreement; and further provided that the receiving party remains liable to disclosing party for any violation of this Agreement by reason of the actions or inactions on the part of any other person who acquires access to the Confidential Information by, from or through the receiving party.

7. **No Duty of Mark Confidential.** The disclosing party may but shall not be required to furnish Confidential Information in documentary or tangible form marked as "Confidential". The failure to mark as "Confidential" any information disclosed in any form which is in fact Confidential Information hereunder shall not eliminate, reduce or otherwise alter the obligations of confidentiality hereunder with respect to that Confidential Information.

8. **No Implied Right of Use.** Nothing contained in this Agreement shall be construed as granting or implying any right or license to use the Confidential Information, except solely for the permitted purposes as set forth herein.

9. **No Representation as to Accuracy.** The disclosing party makes no representation or warranty as to the accuracy or completeness of the Confidential Information disclosed to the other party. The receiving party expressly agrees that neither the disclosing party nor its members, directors, officers, employees, agents, advisors, attorneys, accountants, or representatives shall have any liability to the receiving party or to anyone else for any unauthorized use of Confidential Information or by reason of the incompleteness or inaccuracy of any Confidential Information disclosed by reason of this Agreement.

10. **Return of Confidential Information.** The receiving party agrees to return to the disclosing party all Confidential Information not later than 10 days after the termination of this Agreement and/or upon receipt of a written request for the return of the Confidential Information from the disclosing party.

11. **No Implied Waiver of Rights.** No failure or delay by the disclosing party in exercising any right, remedy, power or privilege hereunder shall be deemed for any purpose to be a waiver thereof, nor shall any single or partial exercise of any right of the disclosing party preclude the exercise of any other right, remedy, power or privilege hereunder or as permitted by law or in equity. No rights hereunder shall be waived without the express written waiver thereof.

12. **Non-Competition Agreement.** Franchisee agrees that JBF has created a unique system for the consignment sale of children's clothing, children's furniture, toys, prom dresses, bride's and bride's maid dresses or similar items ("JBF Business") after the expenditure of significant time, effort and expense. Franchisee agrees that Franchisee has received and will receive JBF Confidential Information and special training in the business of JBF by reason of JBF's reliance upon the representations, covenants and agreements of Franchisee in this Agreement. Franchisee agrees not to engage in, own, manage, operate, franchise or organize, individually or with others, a consignment sale for children's clothing, children's furniture, toys, prom dresses, bride's and bride's maid dresses for a period of 3 years following the date of this

Agreement. Franchisee also agrees not to compete with the JBF Business, directly or indirectly, in any way, whether as an employee, consultant, officer, director, agent, principal, owner, sponsor, partner or representative of any person, firm or entity for a period of 3 years after the date of this Agreement. Franchisee understands and agrees that the purpose of the covenants contained in this is to protect the legitimate business interests of JBF without which JBF would not have disclosed to Franchisee any JBF Confidential Information. The restrictions contained herein shall apply only to the JBF Business.

13. **Injunctive Relief.** Each party agrees that no adequate remedy at law exists and that it would be irreparably injured in a manner for which money damages would not be adequate and would be extremely difficult to quantify if the receiving party or any person acting by, through, or under authority of the receiving party does not strictly perform its obligations of confidentiality in accordance with this Agreement. Accordingly, the receiving party agrees that the disclosing party shall be entitled to injunctive and other relief to prevent the unauthorized disclosure, dissemination, publication, transfer or use of any of the Confidential Information. This injunctive relief is in addition to all other rights or remedies to which the disclosing party may be entitled at law or in equity. The existence of this Agreement does not replace or diminish the full force and effect of any other rights or remedies available to the disclosing party, at law or in equity, including actual, special, punitive, exemplary and consequential damages, lost profits or the loss of business opportunities arising from a breach of this Agreement.

14. **Term.** The term of this Agreement is 3 years from the date of this Agreement or the date upon which Confidential Information is disclosed, whichever is later.

15. **No Assignment without Consent.** The rights, duties and obligations of the parties cannot be assigned without the prior written consent of all interested parties.

16. **No Duty to Agree.** This Agreement does not obligate any of the parties hereto to enter into any transaction or agreement and does not obligate any party to purchase or sell equipment or to provide services.

17. **Jurisdiction and Enforcement.** This Agreement was entered into by JBF in Tulsa, Oklahoma and shall be governed by and construed in accordance with the laws of the State of Oklahoma. Each party consents to and agrees not to object to personal jurisdiction and venue in the courts located in Tulsa County, Oklahoma. Each party appoints the Oklahoma Secretary of State as its agent for service of process solely for purposes of enforcing this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the date first written above.

**JUST BETWEEN FRIENDS
FRANCHISE SYSTEM, INC.**

By _____
Name: _____ Title: _____

By _____
Name: _____ Title: _____