

# Franchise Purchase Agreement

THIS AGREEMENT (the "Agreement") is made on \_\_\_\_\_ by and between Creative Gatherings ('Franchisor'), 2384 Solidago Dr, Plainfield, Indiana 46168 and \_\_\_\_\_ (the 'Franchisee'), \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ on the basis of the following understandings and agreements:

## 1. Basis for Agreement

The Franchisor has developed methods for establishing, operating and promoting businesses engaged in the business of wood sign parties using the service mark and related trade names and trademarks ("Marks") and the Franchisor's proprietary methods of doing business (the "Licensed Methods"). The Franchisor grants the right to others to develop and operate a Creative Gatherings franchise, under the Marks and pursuant to the Licensed Methods.

The Franchisee desires to establish a Creative Gatherings franchise to be managed by the identified herein, and the Franchisor desires to grant the Franchisee the right to operate a Creative Gatherings franchise under the terms and conditions which are contained in this Agreement.

## 2. Grant of Franchise

The Franchisor grants to the Franchisee, and the Franchisee accepts from the Franchisor, the right to use the Marks and Licensed Methods in connection with the establishment and operation of a Creative Gatherings franchise, described in Article 3 of this Agreement. The Franchisee agrees to use the Marks and Licensed Methods, as they may be changed, improved, and further developed by the Franchisor from time to time, only in accordance with the terms and conditions of this Agreement.

The Franchisee agrees at all times to faithfully, honestly and diligently perform the Franchisee's obligations hereunder, and to continuously exert best efforts to promote the Creative Gatherings franchise. The Franchisee agrees to utilize the Marks and Licensed Methods to operate all aspects of the business franchised hereunder in accordance with the methods and systems developed and prescribed from time to time by the Franchisor, all of which are a part of the Licensed Methods. The Franchisee shall offer such products and services as the Franchisor shall designate and shall be restricted from manufacturing, offering or selling any products or services not previously approved by the Franchisor in writing. The Franchisee's Creative Gatherings must feature Creative Gatherings brand items manufactured by the Franchisor or its designated suppliers and related non-primary items ("Items") approved by the Franchisor in writing.

## 3. Franchise Fee

The Franchisee agrees to pay the Franchisor an amount of \$299.00 as Franchisee Fee. The payment of franchise fee enables the franchisee to enjoy the use of the franchisor's system, name as well as assistance for a limited time.

## 4. Franchised Location and Designated Area

The Franchisee is granted the right and franchise to own and operate one Creative Gatherings franchise that can be managed by \_\_\_\_\_ (owner's name.)

The rights that are granted to the Franchisee under this Agreement are for the specific Franchised Location and cannot be transferred to any person without the prior written approval of the Franchisor.

## 5. Initial Franchise Fee

In consideration for the right to develop and operate one Creative Gatherings' franchise, the Franchisee agrees to pay to the Franchisor an initial franchise fee, which is due and payable as of the date of execution of this Agreement. The initial franchise fee represents payment for the initial grant of the rights to use the Marks and

Licensed Methods, that the Franchisor has earned the initial franchise fee upon receipt thereof and that the fee is non-refundable except as otherwise specifically set forth in this Agreement.

## **6. Training**

After the Franchisee executes payment for the Franchise, the person designated by the Franchisee to assume primary responsibility for the management of the Creative Gatherings franchise ("Owner") is required to attend and/or successfully complete the initial training program which is offered by the Franchisor.

The Franchisor's initial training program shall consist of approximately 4 hours of instruction at a location designated or online by the Franchisor; provided, however, that the Franchisor reserves the right to waive a portion of the Franchisor's training program or alter the training schedule, if in the Franchisor's sole discretion, the Franchisee or General Manager has sufficient prior experience or training.

From time to time, the Franchisor may present seminars, or continuing development programs or conduct meetings for the benefit of the Franchisee.

## **7. Development Assistance**

In addition to the Franchisor's initial training, equipment list, design services, Operations Manual, and other pre-opening services described elsewhere in this Agreement, Franchisor will always provide the Franchisee prior to opening with a list of approved and designated suppliers and an advertising plan.

In addition to the other operational assistance and advice provided by the Franchisor pursuant to other provisions of this Agreement, the Franchisor shall continually provide the services of a representative to assist the Franchisee and provide further on-site training in connection with the operation of the Franchisee's Store.

## **8. Handbook**

The Franchisor agrees to loan to the Franchisee one or more manuals, technical bulletins and other written materials.

The Franchisee agrees to use the Marks and Licensed Methods only as specified in the Handbook and How To Book. The Handbook and How To Book is the sole property of the Franchisor and shall be used by the Franchisee only during the term of this Agreement and in strict accordance with the terms and conditions hereof. The Franchisee shall not duplicate the or disclose its contents to persons other than its employees or officers who have signed the form of Confidentiality and Non-Disclosure Agreement. The Franchisee shall return destroy or delete the Handbook and How To Book upon the expiration, termination or transfer of this Agreement. The Franchisor reserves the right to revise the Handbook and How To Book from time to time as it deems necessary to update or change operating and marketing techniques, standards and specifications for all components of the Licensed Methods. Promptly after receiving any update from the Franchisor, the Franchisee shall update his copy of the Handbook or How To Book as instructed by the Franchisor and shall conform Store operations with the updated provisions within a reasonable time after receipt of such updated information.

The Franchisee shall at all times during the term of this Agreement own and control the Creative Gatherings franchise authorized hereunder. The Franchisee shall not operate any other business that would be considered a competitor. If the Franchisee is an entity, the entity shall only operate the Creative Gatherings franchise governed by this Agreement and no other business, unless the Franchisee receives the Franchisor's prior written approval. Upon request of the Franchisor, the Franchisee shall promptly provide to the Franchisor proof, reasonably acceptable to the Franchisor of such ownership.

## **9. Royalties**

Throughout the term of this Agreement, the Franchisee agrees to pay to the Franchisor for processing orders, party scheduling and manufacturing products sold.

The Franchisee agrees that payment will be made by customers as orders are processed and products are purchased. The Franchisor will be responsible for collecting their service fee from customers.

## **10. Advertising**

The Franchisee shall obtain the Franchisor's prior written approval of all advertising or other marketing or promotional programs published by any method, including print, broadcast and electronic media, regarding the Creative Gatherings franchise, including, without limitation, "Yellow Pages" advertising, newspaper ads, flyers, brochures, coupons, direct mail pieces, specialty and novelty items, radio, television, and Internet advertising. The Franchisee acknowledges and agrees that the Franchisor may disapprove of any advertising, marketing or promotional programs submitted to the Franchisor for any reason in the Franchisor's sole discretion. The Franchisee shall also obtain the Franchisor's prior written approval of all promotional materials provided by vendors. The proposed written advertising or a description of the marketing or promotional program shall be submitted to the Franchisor before publication, broadcast or use.

## **11. Quality Control**

The Franchisee agrees to maintain and operate his Creative Gatherings franchise strictly in compliance with this Agreement and the standards and specifications contained in the Handbook, as the same may be modified from time to time by the Franchisor in accordance with this Agreement. The Franchisee is prohibited from offering or selling any products or services not authorized by Franchisor.

If the Franchisee proposes to offer, conduct or utilize any products, services, materials, forms, items or supplies for use in connection with or sale through Creative Gatherings which are not previously approved by the Franchisor as meeting its specifications, the Franchisee shall first notify the Franchisor in writing requesting approval. The Franchisor may, in its sole discretion, for any reason whatsoever, elect to withhold such approval. In order to make such determination, the Franchisor may require submission of specifications, information, or samples of such products, services, materials, forms, items or supplies. The Franchisor will advise the Franchisee within a reasonable time whether such products, services, materials, forms, items or supplies meet its specifications.

## **12. Term**

The term of this Agreement begins on the date this Agreement is fully executed and will continue until termination of the Franchisee, unless sooner terminated as provided herein. Either party may terminate upon 30 days' notice or as required by law.

## **13. Default and Termination**

The Franchisor shall have the right, at its option, to terminate this Agreement and all rights granted the Franchisee hereunder, without affording the Franchisee any opportunity to cure any default (subject to any state laws to the contrary, where state law shall prevail), effective upon receipt of notice by the Franchisee, upon the occurrence of any of the following events:

- a. Abandonment. If the Franchisee ceases to operate the Creative Gatherings franchise or otherwise abandons the Creative Gatherings franchise for a period of 90 consecutive days, or any shorter period that indicates an intent by the Franchisee to discontinue operation of the Creative Gatherings franchise.
- b. Criminal Conviction. If the Franchisee is convicted of a felony, a crime involving moral turpitude, or any crime or offense that is reasonably likely, in the sole opinion of the Franchisor, to materially and unfavorably affect the Licensed Methods, Marks, goodwill or reputation thereof;
- c. Misuse of Marks. If the Franchisee misuses or fails to follow the Franchisor's directions and guidelines concerning use of the Franchisor's Marks and fails to correct the misuse or failure within ten days after notification from the Franchisor;

d. Unauthorized Disclosure. If the Franchisee intentionally or negligently discloses to any unauthorized person the contents of or any part of the Franchisor's Handbook or any other trade secrets or confidential information of the Franchisor;

e. Repeated Non-Compliance. If the Franchisee has received two previous notices of default from the Franchisor and is again in default of this Agreement at any time during the term of this Agreement, regardless of whether the previous defaults were cured by the Franchisee.

f. Others. Any other covenant that the parties feel is sufficient cause to terminate this Agreement.

#### **14. Restrictive Covenants**

The Franchisee acknowledges that, in addition to the license of the Marks hereunder, the Franchisor has also licensed commercially valuable information which comprises and is a part of the Licensed Methods, including without limitation, operations, marketing, advertising and related information and materials and that the value of this information derives not only from the time, effort and money which went into its compilation, but from the usage of the same by all the franchisees of the Franchisor using the Marks and Licensed Methods. The Franchisee therefore agrees that other than the Creative Gatherings franchise licensed herein, neither the Franchisee nor any of the Franchisee's officers, directors, shareholders or partners, nor any member of his or their immediate families, shall during the term of this Agreement: a. have any direct or indirect controlling interest as a disclosed or beneficial owner in a "Competitive Business."

The Franchisee shall treat all information it receives which comprises or is a part of the Licensed Methods licensed hereunder as proprietary and confidential and will not use such information in an unauthorized manner or disclose the same to any unauthorized person without first obtaining the Franchisor's written consent. The Franchisee acknowledges that the Marks and the Licensed Methods have valuable goodwill attached to them, that the protection and maintenance thereof is essential to the Franchisor and that any unauthorized use or disclosure of the Marks and Licensed Methods will result in irreparable harm to the Franchisor.

#### **15. Governing Law**

This Agreement shall be interpreted under the laws of the state of Indiana and any disputes between the parties shall be governed by and determined in accordance with the substantive laws of the state of Indiana which laws shall prevail in the event of any conflict of laws.

#### **16. Modification.**

The Franchisor and/or the Franchisee may modify this Agreement only upon execution of a written agreement between the two parties. The Franchisee acknowledges that the Franchisor may modify its standards and specifications and operating and marketing techniques set forth in the Operations Manual unilaterally under any conditions and to the extent in which the Franchisor, in its sole discretion, deems necessary to protect, promote, or improve the Marks and the quality of the Licensed Methods, but under no circumstances will such modifications be made arbitrarily without such determination.

#### **17. Entire Agreement.**

This Agreement contains the entire agreement between the parties and supersedes any and all prior agreements concerning the subject matter hereof. The Franchisee agrees and understands that the Franchisor shall not be liable or obligated for any oral representations or commitments made prior to the execution hereof or for claims of negligent or fraudulent misrepresentation based on any such oral representations or commitments and that no modifications of this Agreement shall be effective except those in writing and signed by both parties. The Franchisor does not authorize and will not be bound by any representation of any nature other than those expressed in this Agreement. The Franchisee further acknowledges and agrees that no representations have been made to it by the Franchisor regarding projected sales volumes, market potential, revenues, profits of the

Franchisee's Creative Gatherings franchise, or operational assistance other than as stated in this Agreement or in any disclosure document provided by the Franchisor or its representatives.

**18. Effective Date.**

This Agreement shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor.

**19. Attorneys' Fees.**

In the event of any dispute between the parties to this Agreement, the non-prevailing party will pay the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in any legal action, arbitration or other proceeding as a result of such dispute.

**20. Notices.**

All notices required to be given under this Agreement shall be given in writing, by certified mail, return receipt requested, or by an overnight delivery service providing documentations of receipt, at the address set forth in the first paragraph of this Agreement or at such other addresses as the Franchisor or the Franchisee may designate from time to time, and shall be effectively given when deposited in the United States mail, postage prepaid, or when received via overnight delivery, as may be applicable.

**21. Payment of Taxes.**

The Franchisee shall not be responsible for the annual income tax owed by the Franchisor on goods furnished by the Franchisor to the Franchisee. It is the Franchisee's responsibility to follow tax laws of the United States Federal Government and the state in which they operate.

Sales tax of 7% will be collected for the product and paid by the Franchisor in the state of Indiana. These records are available upon request.

**22. Signatures.**

This Agreement shall be signed on behalf of Creative Gatherings by Ann Zinyemba and on behalf of \_\_\_\_\_ by \_\_\_\_\_.

INTENDING TO BE BOUND, the parties have executed this Agreement as of the date first above set forth.

FRANCHISOR:

Signed \_\_\_\_\_ Date \_\_\_\_\_

FRANCHISEE:

Signed \_\_\_\_\_ Date \_\_\_\_\_