1980

Franchise Law Compliance: Before the Logo Hits the Streets

Ronald M. Shapiro
*University of Baltimore School of Law*

Howard T. Carolan Jr.
*University of Baltimore School of Law*

Follow this and additional works at: [http://scholarworks.law.ubalt.edu/ublr](http://scholarworks.law.ubalt.edu/ublr)

Part of the Advertising and Promotion Management Commons, and the Law Commons

**Recommended Citation**


Available at: [http://scholarworks.law.ubalt.edu/ublr/vol10/iss1/2](http://scholarworks.law.ubalt.edu/ublr/vol10/iss1/2)

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Review by an authorized administrator of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.
FRANCHISE LAW COMPLIANCE: BEFORE THE LOGO HITS THE STREETS

Ronald M. Shapiro†
Howard T. Carolan, Jr.† †

The increasing popularity of franchising as a method of doing business has led to substantial regulation aimed at safeguarding existing and potential franchisees. This article discusses the registration and disclosure requirements of the Maryland Franchise Act. The authors analyze the steps to be taken by a practitioner in achieving compliance with the franchise laws in Maryland and in jurisdictions governed by statutes similar to that of Maryland.

I. INTRODUCTION

During the past fifty years, American entrepreneurial and consumer appetites have been whetted by a variety of forms of commercial transactions. New stock issues and trading on the traditional securities markets, mutual funds, options and commodities trading, tax shelter limited partnerships, condominium and time share offerings, and franchised businesses have all captured the public's desire for high flying opportunities to acquire property and wealth. That same half century has also been characterized by the enactment of laws and the adoption of governmental regulations in response to each particular species of business opportunity. Each response—the securities laws of the New Deal,1 commodities trading regula-

† B.A., Haverford College, 1964; J.D., Harvard University, 1967; State of Maryland Securities Commissioner, 1972—74; Senior Attorney, Shapiro, Vettori & Olander, P.A.; Lecturer, University of Baltimore School of Law and University of Maryland School of Law; Chairman, Maryland Franchise Advisory Task Force; Member, Maryland Bar.
† † B.G.S., University of Maryland, 1974; J.D., University of Baltimore School of Law, 1977; Franchise Administrator/Special Assistant Attorney General, Maryland Division of Securities; Member, North American Securities Administrators Association Merit Subcommittee on Franchising; Member, Maryland Bar.

tions, horizontal property laws, securities and Internal Revenue regulation of tax shelters, and consumer protection laws — has been implemented in traditional regulatory fashion, that is, a few steps behind the emergence of the abuse to which it is directed. Franchise laws and rules enacted during the last decade seek to control methods of marketing franchised business opportunities and to elevate the level of understanding of prospective franchisees regarding businesses they may seek to acquire.

Similar to others engaged in a regulated business, franchisors have had to come to grips with complying initially with state laws and more recently with federal regulations. This compliance responsibility has expanded the role of counsel who represent franchisors. Prior to the 1970's, such counsel concerned himself basically with securing trademark, trade name, and similar protection, drafting the franchise agreement, and qualifying the franchisor to do business in the desired jurisdiction. With the advent of regulation, franchisor's counsel must supplement the above-mentioned efforts with registration application, prospectus preparation, and full disclosure due diligence investigations that previously had guided only the issuance of securities. Due to these compliance requirements, the cost of doing business for franchisors has increased. For large or well-established franchisors such expense may be easily absorbed as a cost of doing business or it may be added to the price of the franchise. For small or less-established franchisors, however, such cost coupled with franchise fee escrow requirements may make entering the franchise field prohibitive.

Maryland has enacted a franchise registration and disclosure law which is similar to a number of other states' laws. This article will use the Maryland law as the basis for setting forth and analyz-

7. See note 35 infra.
11. In Maryland, experience demonstrates that legal and registration fees generally incurred for franchise registration and related matters range from $8,000 to $15,000. This does not include possible additional direct offering expenses such as accountant's fees.
12. See text accompanying notes 82—98 infra.
14. These states include California, Illinois, Indiana, Michigan, New York, North Dakota, Oregon, Rhode Island, Virginia, and Wisconsin. See note 35 infra.
Franchise Registration

ing the steps to be taken by the practitioner in achieving franchise law compliance. An examination and analysis of that process should guide counsel in determining whether franchising is feasible for prospective franchisors in Maryland or in those jurisdictions governed by statutes similar to that of Maryland. If the determination is affirmative, then counsel may refer to the discussion in this article of the prerequisites for lawfully offering the franchise package and to the sample prospectus, which is set forth in the appendix as a guide for preparing a franchise offering circular.

II. SEARCH FOR A DEFINITIONAL BASIS

A. A Background Perspective

Although the term franchise may evoke images of golden arches or spiral-shaped soft ice cream cones, it is not susceptible to a clear legal definition. Considering the innumerable arrangements to which the term has been applied, the difficulty in defining franchise is understandable.

Originally, a franchise was associated with a privilege conferred on an individual by a sovereign such as collecting revenues in return for services or consideration. In eighteenth and nineteenth century England, franchising evolved into the acceptance of specific obligations on the part of a grantee in return for certain privileges granted by the Crown or Parliament, which were usually of a long term and monopolistic nature. Thus, the term has its origins in a European governmental framework.

Franchise has assumed essentially two major meanings in the United States. First, in the governmental context, it continues as a

15. This article will examine registration and disclosure laws only. It does not address laws dealing exclusively with disclosure, e.g., Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 C.F.R. §§ 436-436.3 (1980), termination, e.g., DEL. CODE ANN. tit. 6, §§ 2551—2556 (1974 & Supp. 1978), or business opportunities, e.g., FLA. STAT. ANN. §§ 559.80—.815 (West Supp. 1980).
16. See note 14 supra.
17. See D. THOMPSON, FRANCHISE OPERATIONS AND ANTITRUST 5 (1971) [hereinafter cited as THOMPSON].
19. THOMPSON, supra note 17, at 5.
21. THOMPSON, supra note 17, at 5.
special privilege conferred upon an individual or a business entity.\textsuperscript{22} Second, in the private business sector, franchise described a method of distribution in which a business grants a right to another to distribute its goods or services, often within a given territory.\textsuperscript{23} These definitions remained imprecise until measures were taken to regulate franchising. Such regulations emerged during the last decade, a period during which the franchisor came to be associated with the inventor or original producer of a proto-type business enterprise.

Although franchising in the United States dates back over a hundred years,\textsuperscript{24} only within the past thirty years has the franchise become a popular means of doing business.\textsuperscript{25} During this period, a variety of products and services have been franchised, ranging from the omnipresent fast food and ice cream establishments to the more unusual wedding consulting clinics\textsuperscript{26} and house-cleaning services,\textsuperscript{27} and even to the sale of cemetery stones,\textsuperscript{28} crematoriums,\textsuperscript{29} and talking bible records.\textsuperscript{30}

Concomitant with the increasing popularity of franchising as a method of doing business was an awareness of the lack of a system for safeguarding potential and existing franchisees from franchisor abuse.\textsuperscript{31} Regulatory interest, however, was slowed by an apparent

\textsuperscript{22} Demonstrative of the "privilege" aspect of franchising is Md. Ann. Code art. 25, \$ 3C (Supp. 1980), which provides as follows:

(a) The county commissioners of each county in this State shall have the power to grant to any person a franchise for a community antenna television system, provided that nothing herein contained shall be construed to authorize or empower the county commissioners of any county to enact laws or regulations for any incorporated town, village, or municipality in said county.

(b) The county commissioners may establish the rates, rules, and regulations for those franchises granted under the provisions of subsection (a) above.\textsuperscript{Id.} (emphasis supplied).


\textsuperscript{24} Id.


\textsuperscript{26} E.g., American Heritage Agency, Inc.

\textsuperscript{27} E.g., Domesticare, Inc.

\textsuperscript{28} E.g., W armaico, Inc.

\textsuperscript{29} E.g., Telophase Society.

\textsuperscript{30} E.g., Luis A. Martin-Lally. For additional examples of types of franchises, see Note, \textit{Theories of Liability For Retail Franchisors: A Theme and Four Variations}, 39 Md. L. Rev. 264, 264—65 (1979).

hesitancy on the part of some legislators to infringe upon the rights of individuals and firms to assume bona fide business risks. Finally, in 1971, the California Franchise Investment Law, sometimes referred to as the “grandeaddy” of state disclosure laws, was enacted.\(^3\) It required that franchise offerings be registered with the state and be made on the basis of disclosure of all material facts. The primary legislative intent of the California law was expressed as being “to assure the person interested in purchasing a franchise that he has received a full and forthright disclosure of all material terms of the contract he will be asked to sign.”\(^3\) The concepts and techniques chosen by the California legislature to regulate franchising — specifically registration and disclosure — were borrowed from four decades of experience with regulating the offer and sale of securities by issuers.\(^3\)

Since 1971, fourteen additional states have passed franchise disclosure laws\(^3\) which govern the establishment of the franchisor-franchisee relationship.\(^3\) Maryland’s franchise law,\(^3\) like most of the statutes in this area, is primarily directed toward full disclosure of relevant facts by the franchisor at the inception of the franchise relationship.

36. Although the registration and disclosure laws regulate the establishment of the franchisor-franchisee relationship, the ongoing franchise relationship usually comes within the purview of the federal antitrust laws (15 U.S.C. §§ 1–33 (1976 & Supp. 11 1979)), under which courts may examine the reasonableness of the controls and restrictions imposed by the franchisor in the franchise agreement. See generally Comment, Antitrust Barriers to Franchising, 61 GEO. L.J. 189 (1972); Comment, Franchising and the Antitrust Laws: An Overview, 41 TENN. L. REV. 535 (1974); Note, Regulations of Franchising, 59 MINN. L. REV. 1027 (1975). In some instances, certain state enactments may govern the ongoing franchise relationship. See generally id. The termination of the franchise may also occasionally be regulated by state laws. See [1980] BUS. FRANCHISE GUIDE (CCH) ¶ 800.
B. A Definition For Regulation

Although different approaches have been used to regulate the franchise relationship, a definitional provision is characteristic of all franchise statutes. Such provisions, considered together with jurisdictional limitations, define the type of business relationship that will be subjected to the compliance provisions of a particular franchise law.

The California Franchise Investment Law defines franchise on the basis of the substantial control exercised by the franchisor and the substantial association with his trademark. This approach, referred to as a "captive marketing plan" definition, is essentially the same as the one adopted in the Maryland Franchise Act (hereinafter referred to as the Act). Like its California predecessor, the Act's definition contains three conjunctive components:

"Franchise" means a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which:

(1) A franchise or distributorship granting the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; and

(2) The operation of the franchisee's and distributee's business pursuant to a plan or system is substantially asso-
Franchise Registration

associated with the franchisor's or distributor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or distributor or their affiliate; and

(3) The franchisee is required to pay directly or indirectly, a franchise fee in excess of $100.42

Because the first two definitional elements require that the franchisor's involvement be substantial, a prospective franchisor theoretically could create a system beyond the scope of the statutory definition by limiting its control over the party to whom it grants rights.43 Nevertheless, experience dictates that if a marketing sys-

42. MD. ANN. CODE art. 56, § 345(d) (1979). Unlike the California law, the Maryland law addresses franchises or distributorships. The reference to distributorship seems broad enough to encompass department store leases and some forms of cooperative advertising ventures. See 15 BUSINESS ORGANIZATIONS — GLICKMAN, FRANCHISING § 2.01 (1980).

Even if a determination is made that a business enterprise is not a "franchise" within the Act, care must be exercised to ascertain if it is a "business opportunity" governed by the Maryland Business Opportunities Sales Act. MD. ANN. CODE art. 56, §§ 401-415 (Supp. 1980). Section 401(b) of the Business Opportunities Sales Act provides as follows:

"Business Opportunity" means the sale or lease of any products, equipment, supplies, or services which are sold to the purchaser upon payment of an initial required consideration of $100 or more for purpose of enabling the purchaser to start a business, and in which the seller represents:

(1) That the seller will provide or will assist in obtaining for the purchaser accounts or retail outlets for the use or operation of vending machines, racks, display cases, currency-operated amusement machines, or other similar devices to be located on premises neither owned nor leased by the seller or purchaser;

(2) That the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser using in whole or in part, the supplies, services, or chattels sold to the purchaser;

(3) That the seller guarantees that the purchaser will derive income from the business opportunity, which exceeds the price paid for the business opportunity; or that the seller will refund all or part of the price paid for the business opportunity, or repurchase any of the products, equipment, supplies, or chattels supplied by the seller, if the purchaser is unsatisfied with the business opportunity; or

(4) That upon payment by the purchaser of a fee or sum of $100 to the seller, the seller will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity which exceeds the price paid for the business opportunity, provided that this subsection shall not apply to the sale of a marketing program made in conjunction with the licensing of a registered trademark or service mark.

It is important to note that the Business Opportunities Sales Act exempts the offer or sale of a registered franchise. Id. § 404(3). If the enterprise is not exempt, a disclosure statement must be prepared, id. § 408, and possibly a surety bond obtained, id. § 409. Prior to advertising in the state, the seller of a business opportunity must file a copy of the disclosure statement. Id. § 410. A final requirement of the Business Opportunities Sales Act relates to the form and contents of business contracts. Id. § 411.

tem keyed to a well-developed idea and identifiable product name is to operate successfully, the grantor of the system must exercise considerable control over the method of marketing and the quality of the goods and services the grantee offers. A key factor which has made franchising successful has been the delivery of a uniform and uniquely identifiable product or service to consumers in different geographical areas. Consequently, the use of "substantial" in a definitional provision does not provide a viable means of escaping statutory coverage.

Regulations promulgated by the Maryland Securities Commissioner have sought to expound upon the definition of franchise. With respect to the Act's first definitional component, the Code of Maryland Regulations (hereinafter referred to as COMAR) states that certain provisions of a franchise agreement or representations made in offering such an agreement may cause a marketing plan or system to be characterized as one "prescribed in substantial part by a franchisor or a distributor." Such characteristics include: a suggestion or requirement that the franchisee purchase a substantial portion of its goods solely from sources designated or approved by the franchisor; a termination provision in the franchise agreement that could be activated by the franchisor if the franchisee fails to follow an operating plan, standard procedure, training manual, or its substantial equivalent; a limitation on the franchisee as to the type, quantity, or quality of any product or service it may sell or as to the persons or accounts to which it may sell; a training, site selection, or marketing program imposed upon the franchisee; or a franchise agreement termination, buy-back, or renewal provision that operates substantially at the will of the franchisor.

Regarding the Act's second definitional component, a marketing plan or system may be found to be substantially associated with the franchisor's business and trademark or other commercial symbol when the identification of the franchisor's business or use of any of these symbols are utilized by either the franchisor or franchisee to enhance the chances of the franchisee's success. The threshold of the Act's second definitional component is also met when it is suggested or required that the franchisee contribute a portion of its operating revenue to the franchisor for advertising.

45. Id. at 1039.
46. COMAR § 02.02.10.01C (1979) (quoting MD. ANN. CODE art. 56, § 345(d)(1) (1979)).
47. COMAR § 02.02.10.01C(1) (1979).
49. COMAR § 02.02.10.01D(1) (1979).
50. Id. § 02.02.10.01D(2).
The last statutory definitional element, concerning the payment of a franchise fee, is the most ambiguous of the three. The Act defines "franchise fee" as a payment or agreement to pay by a franchisee or subfranchisor for the right to enter into a business under a franchise agreement, including any payment for goods or services. COMAR describes this fee in the broadest sense. A franchise fee may be a payment to the franchisor that is made before, upon, or after execution of a distribution or franchise agreement. Further, such fee may be made in the form of a lump sum payment, installments, periodic royalties, profits, or cash flow, or may be reflected in the price of goods, services, equipment, inventory, or real estate sold by the franchisor or the franchisee. Thus, a franchise fee is not limited to an initial fee, but may be in the form of various types of periodic payments to the franchisor, inflated wholesale prices, or rents set above market prices.

The concept of franchise fee on its face is broad enough to bring within its scope transactions that the legislature has determined should be precluded from such coverage. The Act, therefore, expressly excludes nine types of transactions from treatment as payment of a franchise fee. These are: (1) the purchase or agreement to purchase goods at a bona fide wholesale price; (2) the payment of a service charge to the issuer of a credit card by an establishment honoring such credit cards; (3) fees paid to trading stamp companies by a person issuing trading stamps in connection with the retail sale of merchandise or service; (4) the purchase or agreement to purchase goods on consignment, if the proceeds remitted by the franchisee from the sale reflect only the bona fide wholesale price of the goods; (5) the repayment by the franchise of a bona fide loan made to the franchisee from the franchisor; (6) the purchase or agreement to purchase goods at a bona fide retail price subject to a bona fide commission or compensation plan that in substance reflects only a bona fide wholesale transaction; (7) the purchase or agreement to purchase at fair market value supplies or fixtures necessary to enter into or continue the business under the franchise agreement; (8) the purchase or lease, or agreement to purchase or lease, at fair market value, real property necessary to enter into or continue the business under the franchise agreement; and (9) amounts paid for the purchase of sales

52. A "subfranchisor" is defined in the Act as a person to whom an area franchise or distributorship is granted. Id. § 345(i).
53. Id. § 345(j).
54. COMAR § 02.02.10.01A(1) (1979).
55. Id. § 02.02.10.01A(2).
demonstration material and equipment, sold at no profit by the
seller, which are for use in making a sale and not intended for resale.\

Although most of the transactions described in these exceptions
are self-defining, the phrase "bona fide wholesale price" used in cer-
tain exceptions requires elaboration. For example, if the considera-
tion paid is solely for the purchase of goods, equipment, inventory, or
real estate, rather than for the right to continue the purchases or the
business, then it is likely to be considered the payment of a bona fide
wholesale price. COMAR suggests a similar conclusion if the goods,
services, equipment, inventory, or real estate are required in
connection with the subject agreement, or if the cost of such items
to the seller is reasonably related to the price of the same to the fran-
chisee, taking into account market conditions as they affect both
buyer and seller.

The definition of franchise in the Act, therefore, like the Cali-
ifornia law and its progeny, builds upon the confluence of three
distinct characteristics — a system or plan, a trademark or similar
commercial symbol, and a franchise fee. The application of these
elements and the determination of whether a franchise exists within
the Act's scope are aided both by clarifications within the Act itself
and by COMAR.

III. THE JURISDICTIONAL SCOPE AND
STATUTORY EXEMPTIONS

A transaction may be squarely within the Act’s definition of
franchise and still not be subject to the Act’s registration require-
ments. For instance, Section 345(j)(9) of the Act was suggested
by the Direct Selling Association so that salespersons such as the “Fuller Brush man” would not
be construed as franchisees. Letter from W. A. Luce, Vice President, Legal and Consumer
Affairs, Direct Selling Association, to Vernon Boozer, Delegate to the Maryland House of
Delegates (Feb. 27, 1976). The same idea was suggested in a letter from R. M. Harwith,

COMAR § 02.02.10.01E(1) (1979). Note, the exceptions from the definition of franchise fee
contained in art. 56, § 345(j)(1)—(9) do not include consideration paid for services. See Md.
ANN. CODE art. 56, § 345(j)(1)—(9). The inclusion of “services” in COMAR is more com-
prehensive than the underlying legislation. COMAR § 02.02.10.01 A(a).

See also MD. ANN. CODE art. 56, §§ 401—415 (Supp. 1980) (Maryland Business Opportuni-
ties Sales Act).
Franchise Registration

The transaction may fall either outside the scope of the Act’s jurisdictional provisions or within one of its exemptive provisions.

A. Jurisdiction

The jurisdictional threshold of the Act’s requirements may be analyzed by two methods. The first method concerns what part of a transaction will effectuate the Act’s requirements and the second concerns where transactions must occur or participants are located. The what threshold is crossed in the same fashion as under securities laws. Briefly, an “offer,” as well as a “sale,” constitutes a transaction that triggers application of the Act’s registration and anti-fraud provisions.

Geographically, the Act’s jurisdictional requirements are satisfied if: (1) the offeree is a Maryland resident; (2) the contemplated franchise will be or is operated in the state; (3) an offer to sell is made

---

62. The Act’s jurisdictional requirements are contained in art. 56, § 345(m) of the Maryland Code, which reads as follows:

(m)(1) “Offer” or “offer to sell” includes every attempt to offer to dispose of, or solicitation of an offer to buy, a franchise or interest in a franchise for value, but does not include the renewal or extension of an existing franchise if there is no interruption in the operation of the franchised business by the franchisee.

(2) This subtitle applies to an offer or a sale of a franchise if:

(i) The offeree or franchisee is a Maryland resident;
(ii) The franchised business contemplated by the offer or franchise will be or is operating in Maryland;

(iii) An offer to sell is made in this State; or
(iv) An offer to buy is accepted in this State.

(3) An offer to sell is made in this State when the offer either originates from this State or is directed by the offeror to this State and received at the place to which it is directed. An offer to buy is accepted in this State when acceptance is communicated to the offeror in this State; and acceptance is communicated to the offeror in this State when the offeree directs it to the offeror in this State reasonably believing the offeror to be in this State and it is received at the place to which it is directed.

(4) An offer to sell is not made in this State because the franchisor circulates or there is circulated on his behalf in Maryland an advertisement in:

(i) A bona fide newspaper or other publication of general, regular, and paid circulation which has two thirds of its circulation outside this State during the past 12 months; and
(ii) A radio or television broadcast originating outside this State which is received in Maryland.

MD. ANN. CODE art. 56, § 345(m) (Supp. 1980).

63. It is open to question whether an “offer” must be an “offer” in the strictest sense of contract law. In Martin Investors, Inc. v. Vander Bie, 269 N.W.2d 868 (Minn. 1978), the fact that a sample franchise agreement sent into Minnesota was marked “sample” did not preclude a finding that an offer was made by sending the sample to the prospective franchisee. Id. at 874. Given the similarity in the definition of “offer” in MINN. STAT. ANN. § 80C.01(16) (West Supp. 1980) and MD. ANN. CODE art. 56, § 345(m)(1) (Supp. 1980), counsel would be wise to forewarn clients against making any direct or indirect solicitations of potential franchisees without first complying with the Act’s requirements because such solicitations could be swept into the wide net of “offer” terminology.
in the state; or (4) an offer to buy is accepted in the state. Thus, on
the face of the Act, the where criteria are concerned not merely with
transactions within the state’s borders, but also with transactions
outside the state involving those who reside within its borders.

Although the first and second categories of the Act’s jurisdic-
tional limits pose little difficulty in application, the third and fourth
categories regarding the geographical implications of offers to buy
and sell require further elaboration. The recent amendment to the
Act’s definitional provisions focuses on what constitutes an “offer to
sell” in Maryland and an “offer to buy” accepted in Maryland.

An offer to sell is deemed made in Maryland if it either
originates from the state or is directed by the offeror to this state
and received at the place to which it is directed. An offer to sell is
not made in Maryland, however, if the franchisor or someone on his
behalf circulates an advertisement in a bona fide newspaper or other
general, regular, and paid publication that had two-thirds of its cir-
culation during the previous twelve months outside the state.
Likewise, a radio or television broadcast that originates outside of
Maryland does not constitute an offer to sell in Maryland even
though the broadcast is received within the state. By way of illus-
tration, if a franchisor in California placed an advertisement in a Bal-
timore newspaper soliciting offers to buy a retreaded tire franchise,
this would constitute an “offer to sell” in accordance with category
(3) and would thus subject the franchisor to the Act’s requirements.
If the same franchisor, however, advertised on a Washington, D.C.
television station with the specific intent to reach potential fran-
chisees in Maryland, jurisdiction under the Act would probably not
be present inasmuch as the Act excludes broadcasts originating out-
side of the state.

An offer to buy is deemed accepted in Maryland when there is
communicated from the offeree to the offeror an acceptance of the
offer, and the offeree directs the acceptance to the offeror in
Maryland, reasonably believing him to be in Maryland where it is in
fact received. For example, if a prospective franchisee in Maryland
offers to buy a franchise from a California franchisor who later mails
an acceptance to the potential franchisee’s home in Maryland, the
California franchisor would be subject to the Act’s requirements.

64. MD. ANN. CODE art. 56, § 345(m)(2) (Supp. 1980).
65. Id. § 345(m)(3).
66. Id. § 345(m)(4)(i).
67. Id. § 345(m)(4)(ii). Although a broadcast originating outside of Maryland is not subject to
   the Act’s jurisdiction of an offer to sell, subsequent communications with prospective pur-
chasers responding to the broadcast probably would be.
68. Id. § 345(m)(3).
It is evident that the Maryland jurisdictional requirements are extremely comprehensive and reach a range of transactions that have limited contact with Maryland. Still, even if a business and its activities are within the statutory definitional and jurisdictional provisions, the business may escape the registration (but not disclosure) requirements.

B. Exemptions

The Act describes certain types of activities as exempt from registration. Among these are a franchisee's or subfranchisor's sale, for their own account, of a franchise or an entire area franchise, a transaction by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian, or conservator, and an offer or sale of a franchise that is substantially similar to a franchise owned by the offeree. It is apparent that these exemptions are narrow and therefore rarely affect the majority of franchisors.

The Maryland Securities Commissioner may also grant an exemption for any transaction that he determines is not within the purpose of the Act. As of the writing of this article, the Commissioner has promulgated exemptions in only two instances. First, he has exempted any offer or sale of a franchise to a nonresident of Maryland if the franchised business is not to be wholly or partially operated in Maryland, if the sale of the franchise is not in violation of any law of the foreign state, territory, or country concerned, and if, to the knowledge of the seller, the nonresident is neither domiciled nor actually present in Maryland. Second, an exemption has been accorded any offer or sale of a franchise that would be subject to registration solely because the franchisee is required to pay, directly or indirectly, a nominal franchise fee not exceeding $100 on an annual basis. This exemption would exclude from registration a franchise in which the franchisee has agreed to pay, at the creation of the franchise, a fee of less than $100 on an annual basis, but which may aggregate in excess of that amount during the life of the franchise.

Notably absent from the Act is the exemption accorded by California for transactions by franchisors who satisfy certain minimum

69. See id. § 348 (1979).
70. See note 52 supra.
71. MD. ANN. CODE art. 56, § 348(1) (1979). An "area franchise" is defined in § 345(g) of the Act as a contract or agreement between a franchisor and subfranchisor whereby the subfranchisor is granted the right to sell or negotiate the sale of franchises in the name or on behalf of the franchisor. Id. § 345(g).
72. Id. § 348(2).
73. Id. § 348(3).
74. Id. § 348(4).
75. COMAR § 02.02.10.04A (1979).
76. Id. § 02.02.10.04B.
financial criteria. Underlying this exemption is the view that franchisors with extensive franchise business experience and size are not likely to expose potential purchasers to the risk of noncompliance with contractual expectations as do newer and smaller franchisors. This exemption, however, is controversial in California and has been criticized for giving an unfair, unnecessary, and anti-competitive advantage to such franchisors. Although a similar exemption was proposed to the Maryland General Assembly, the legislature chose not to adopt it.

Franchise statutes in general do not employ the wide range of exemptions available in their forerunner securities registration statutes. Therefore, if the Act’s definitional and jurisdictional criteria are present in a transaction, then it is likely that counsel and client will spend time assembling and drafting material to comply with franchise registration and disclosure requirements. Absent special exemptive provisions such as the favored “private” or “small” offering exemptions of securities laws, the franchise registration requirements discussed below are likely to deny franchise marketing opportunities to firms that on the one hand have legitimate objectives and worthwhile business systems, but on the other are in incipient stages of development and without the capital to finance legal compliance with those requirements. Even if a prospective franchisor can achieve the disclosure required to satisfy registration, its embryonic stage may still deter it from successful registration. The developing company may suffer still another handicap because of escrow if it temporarily loses the use of the franchise fee as a source of capital.

IV. ESCROW REQUIREMENTS

Counsel may analyze jurisdictional and exemptive criteria for the purpose of avoiding registration. By contrast, his approach to escrow requirements will be to determine whether such requirements

---

77. See Cal. Corp. Code § 31101 (West 1977 & Supp. 1980). Exempt from the registration requirements are certain franchising companies with a five million dollar net worth, a five-year track record in franchising, or at least 25 existing franchises. Id.
79. On two separate occasions, Carl Zwisler, III, of the International Franchise Association, suggested this exemption to the Chairman of the Maryland House Economic Matters Committee; once in a letter to Martin S. Becker (Mar. 2, 1976) and a second time in a letter to John W. Wolfgang (Sept. 10, 1976).
81. See text accompanying notes 99-154 infra.
present any obstacles to registration that are insurmountable.\(^{82}\)

Escrow, in the context of franchise regulation, requires that franchise fees or similar payments made by the franchisee be placed in an account and be withheld from the franchisor until certain events take place.\(^{83}\) Conceptually, if a franchisor fails to deliver goods, services, or rights financed by the franchise fee, then all or a portion of the escrowed fees may be distributed to the franchisee because this fee serves as a consideration for these goods, services, and rights. Fourteen of the fifteen states that have franchise registration and disclosure laws\(^{84}\) address the matter of escrow or impoundment\(^{85}\) of franchise fees. All of the statutory provisions that address the issue leave the ultimate decision of actually requiring the escrow of fees to the discretion of the administering authority.

Under section 351 of the Act,\(^{86}\) escrow or impoundment is not imposed on a mandatory basis. The only express statutory standard to guide the Maryland Securities Commissioner in a particular escrow decision is whether “the applicant has failed to demonstrate that adequate financial arrangements have been made to fulfill the franchisor’s obligations to provide real estate, improvements, equipment, inventory, training or other items included in the offering.”\(^{87}\)

---

82. An escrow account requires the entire franchise fee and other funds to be on deposit with an escrow agent. If a bank is the escrow agent there is a charge for bank services usually of at least several hundred dollars, depending upon the level of responsibility the bank undertakes (i.e., the amount of money involved, whether it is to be invested, and, if so, how complicated an investment). An attorney may be an escrow agent if the parties agree and the attorney is willing to assume the responsibility.


Of the fifteen states that have franchise registration and disclosure laws, only Oregon has no escrow or impoundment provision.

85. In this article the terms “escrow” and “impoundment” are used synonymously.

86. Section 351 of the Act provides as follows:

If the Commissioner finds that it is necessary and appropriate for the protection of prospective franchisees or subfranchisors because the applicant has failed to demonstrate that adequate financial arrangements have been made to fulfill the franchisor’s obligations to provide real estate, improvements, equipment, inventory, training, or other items included in the offering, he may require the escrow by rule or regulation or impound the franchisee fees and other funds paid by the franchisee or subfranchisor until these obligations have been satisfied. At the option of the franchisor, he may furnish an adequate surety bond as provided by rule of the Commissioner. The aggregate liability of the surety may not exceed the penal sum of this bond.


This general standard would seem to afford the Commissioner a wide degree of latitude in exercising his discretion in requiring escrow. In practice, this statutory provision presents the Commissioner with a concrete question of whether a particular franchisor is able to meet its pre-opening contractual obligations to its franchisee. If it appears to the Commissioner that a franchisor may not be able to provide the resources it promised the franchisee in the franchise agreement, the state will aid the franchisee by withholding the consideration for the agreement—the franchise fee—until the day the franchise opens.\textsuperscript{88}

This escrowing of the funds provides an extra incentive for the franchisor to complete its end of the agreement, at least insofar as the franchisor has contracted to perform prior to the opening of the franchise. If it appears to the Commissioner that the franchisor's assets, less its short-term liabilities, are adequate to ensure the availability of the minimum funds necessary to open a fully operational franchise, then an escrow should not be required.\textsuperscript{89}

Financial statement requirements under the Act\textsuperscript{90} and COMAR\textsuperscript{91} have an impact on escrow determinations. First, if the franchisor has been in business for more than three years and cannot furnish audited financial statements for that period,\textsuperscript{92} then the franchisor may be subjected to escrow. The Commissioner, however, has waived this audited statement requirement and has not required escrow when audited statements are available for the two most recent fiscal years and the information set forth in the statements satisfies the Commissioner as to the ability of the franchisor to satisfy pre-opening obligations.\textsuperscript{93} Second, certain companies in existence for less than three years may be permitted to use unaudited financial statements if those companies can demonstrate adequate financial ability and agree to submit audited financial statements for

\textsuperscript{88} Interview with David L. Bortz, Former Franchise Administrator for the State of Maryland, in Baltimore, Maryland (Sept. 18, 1980).
\textsuperscript{89} A question may arise as to how an escrow could be required if all that is being delivered are intangibles, \textit{i.e.}, commercial symbols and services such as advice and training. The answer is that an escrow will probably not be required unless it appears that the franchisor will soon be dissolved.
\textsuperscript{90} MD. ANN. CODE art. 56, § 349 (1979 & Supp. 1980).
\textsuperscript{91} COMAR § 02.02.10.02C (1979).
\textsuperscript{92} The financial statements required to be filed by a franchisor include a balance sheet as of a date 90 days prior to the date of the application and profit and loss statements for each of the three fiscal years preceding the date of the balance sheet and for the period, if any, between the close of the last of such fiscal years and the date of the balance sheet. MARYLAND FRANCHISE REGISTRATION APPLICATION, Item 21A. set out at COMAR § 02.02.10.02C (1979).
\textsuperscript{93} See note 86 supra.
succeeding fiscal years. It is possible, however, under certain very limited circumstances, that neither audit nor escrow will be required.

If a franchisor is subject to an escrow condition and desires to pursue alternatives to escrow, it may use the statutory privilege afforded the franchisor of posting a surety bond. Although there may be some difficulty in finding a source, most national insurance companies will write such a bond. It should be noted, however, that COMAR limits the authority to issue a surety to those corporate sureties admitted to transact business in Maryland. In contrast to an escrow account, a surety bond does not require that the monies actually be on deposit. A bond, however, may be expensive.

A second alternative to escrow is an arrangement between the two parties whereby a franchisor agrees not to collect any fees until its pre-opening contractual obligations are met. By choosing this alternative, the franchisor avoids the cost of an escrow agreement or surety bond and avoids compliance with administrative details. This alternative is not authorized in the Act or COMAR. The policy of the Commissioner, however, under limited circumstances, has been to allow franchisors to defer receipt of the franchise fee.

Whether a franchisor decides to fulfill the escrow requirement or chooses one of the alternatives depends upon the amount of time remaining until the opening of the franchise, other investment opportunities lost because of funds frozen in the escrow account, and the cost of surety bonds. The escrow requirement generally will not be imposed upon an established franchisor because such a franchisor will have attained sufficient financial strength to avoid escrow. A company embarking upon a franchising program, however, may have neither audited financial statements for a sufficient number of years nor otherwise be able to obtain a favorable no-escrow ruling.

94. COMAR § 02.02.10.06M(4) (1979).
95. For example, a franchisor may avoid having to submit audited financial statements if it is merely a subsidiary of a controlling company and that company submits audited financial statements and guarantees to assume the duties and obligations of the franchisor should the franchisor default. MARYLAND FRANCHISE REGISTRATION APPLICATION, Item 21B, set out at COMAR § 02.02.10.02C (1979).
96. See Md. Ann. Code art. 56, § 351 (1979). COMAR describes the surety bond alternative as follows:

In lieu of the imposition of an impound condition, a franchisor may post a surety bond in such amount as will be required by the Commissioner. This bond shall be issued by a corporate surety admitted to transact business in the State, conditioned upon the completion by the franchisor of his obligations under the franchise contract to provide real estate, improvements, equipment, inventory, training, or other items included in the offering.

COMAR § 02.02.10.05E (1979).
97. COMAR § 02.02.10.05E (1979).
98. Generally, $1,000 of surety costs between $15 and $20. Hence, a $50,000 bond would cost between $750 and $1,000.
from the Commissioner. Such a franchisor will either have to resort to a surety bond or temporarily relinquish its claim to an escrow fee. It should be emphasized that if the franchisor can show that its actual pre-opening obligations are nominal compared to the franchise fee, then it should be able to avoid escrow for all or substantially all of the franchise fee.

V. REGISTRATION DOCUMENTS AND PROCESS

A. Preparation and Description of Prospectus

Prior to the offer (through advertisement or otherwise) or sale of any franchise, the franchise offering must be registered with the Maryland Division of Securities.99 The crux of registration is the filing of a disclosure document that contains information required by the Act and COMAR.100 This document, the prospectus, is filed as part of a franchise registration application101 and must be furnished to each prospective franchisee on a timely basis.102

Before the actual drafting of the prospectus takes place, counsel should conduct a thorough investigation of his franchisor-client and its principals and should document his findings. This investigation and documentation parallels the due diligence of a securities issuer and includes extensive analysis and internal cross examination of the franchisor’s principal stockholders, chief operating and financial personnel, and directors.103 At the outset of the investigative process, corporate records, including minute books, trademark and patent files, material agreements, union and employment contracts,

---

100. Section 349 of the Act prescribes the information that must be contained in the franchise registration application. See Md. Ann. Code art. 56, § 349 (1979 & Supp. 1980). COMAR describes the prospectus and other related documents that together constitute a Maryland Franchise Registration Application. See COMAR § 02.02.10.02 (1979). A sample prospectus is set out in the appendix to this article and should be referred to in connection with the discussion of prospectus requirements.
102. See id. § 357 (Supp. 1980). Section 357 of the Act provides:
   It is unlawful to sell any franchise in this State which is subject to registration under this subtitle without first providing to the prospective franchisee, at the earlier of: (1) the prospective franchisee’s first personal meeting with the franchisor which is held for the purpose of discussing the sale or possible sale of a franchise, or (2) 10 business days prior to the execution of a contract or payment of any consideration relating to the franchise relationship, a copy of the prospectus, together with a copy of all proposed agreements relating to the sale of the franchise.
103. For a discussion of the preparation of a prospectus for a securities offering, see R. Shapiro, A. Sachs & C. Olander, Securities Regulation Forms; Compliance—Practice §§ 1.05—.08 (rev. ed. 1979).
and litigation files, among other things, should be carefully reviewed. In addition, the product and its sources, training and delivery assurances, and business track record should be analyzed. Further, biographical information should be obtained from the franchisor’s principals, salespersons, and financial advisors. A questionnaire directed at educational and business background could be devised to initiate the process of obtaining this information. Suffice it to say that the object of these investigative efforts is to ascertain all material facts regarding the franchisor and the franchise being offered. A substantial amount of time will be spent assembling and verifying the material that will comprise the disclosure set forth in the prospectus.

Concurrent with the investigation process, counsel should become familiar with the substantive and stylistic requirements for a Maryland franchise prospectus. Because franchise offerings are frequently made in more than one state, and inasmuch as the substance and style of disclosure prescribed by the states and Federal Trade Commission (FTC) vary, counsel will want to develop a prospectus acceptable in Maryland that substantially complies with disclosure format standards imposed by the federal rule and by other states.

To satisfy the diversity, a prospectus must incorporate all Maryland requirements and should also include matters or materials mandated in other jurisdictions. In those states that permit the use of the Uniform Franchise Offering Circular (hereinafter referred to as the U.F.O.C.), the Maryland prospectus should be satisfactory because it covers all items required by the U.F.O.C. and even adds material to one item. Therefore, because the U.F.O.C. is acceptable in a number of states, a franchise offering prepared for registration in Maryland should, with minimum revision, permit a multijurisdictional offering. Moreover, even though the FTC prescribed its own

---

104. Id.
105. See FTC Trade Regulation Rules, 16 C.F.R. §§ 436—436.3 (1980).
106. The U.F.O.C. and guidelines for its preparation were developed by the Midwest Securities Commissioners Association. This circular substantially complies with the format standards of the FTC and other states. The U.F.O.C. and guidelines for its preparation, with slight editing, are reproduced in [1980] BUS. FRANCHISE GUIDE (CCH) ¶¶ 5700—5851.
107. The one additional item that must be included in a Maryland prospectus relates to disclosure of whether the franchise contract contains a binding arbitration provision and, if so, the history of all arbitration proceedings involving the franchisor. The policy of the Maryland Division of Securities is to require the disclosure to be made at Item 3, the litigation disclosure item, in the prospectus of the Maryland Franchise Registration Application. See COMAR § 02.02.10.02C (1979).
108. In the introduction to the guidelines for preparation of the U.F.O.C., it is recognized that in some instances differences in state franchise statutes exist and therefore total uniformity could not be achieved. In addition, it is pointed out that special attention must be given to the state differences both before filing an application in a state and in regard to continual compliance with state laws while offering franchises in each state. [1980] BUS. FRANCHISE GUIDE (CCH) ¶ 5793.
format subsequent to the U.F.O.C., the FTC now accepts the U.F.O.C. as satisfying the requirements of the FTC format.\textsuperscript{109} Therefore, because Maryland and the U.F.O.C. are essentially the same, and because the FTC accepts the U.F.O.C. format, a prospectus prepared for use in Maryland would not require substantial alteration in order to make it acceptable in other states or to the FTC.

After the information is gathered and the stylistic and substantive requirements for the prospectus are understood, financial statements and related offering documents, such as the franchise agreement, must be prepared for inclusion as part of the prospectus. At this stage, counsel must begin the task of drafting the prospectus.\textsuperscript{110} Prospectuses of similar franchise businesses may be of assistance in drafting. Counsel may make written requests to any franchise registration state for copies of prospectuses of registered franchisors whose operations resemble that of the client’s proposed business. Prospectuses prepared by competent counsel should provide insight into the type of disclosure that has been deemed material in a particular industry or business. The wholesale lifting of boiler plate language, however, may be dangerous and therefore other prospectuses should be looked to only as a guide.\textsuperscript{111}

Another way to gain insight useful in drafting the required documents is for counsel to ask certain principals of the franchisor to prepare outlines or summaries of certain prospectus sections in conformity with guidelines supplied by counsel. Although this information usually provides only a starting point for further analysis, it enables counsel to focus on that information which may be deemed material by those experienced in the franchisor’s operations.

The prospectus format and specific disclosure requirements for Maryland are set forth in the Act\textsuperscript{112} and in COMAR.\textsuperscript{113} Twenty-three

\textsuperscript{111} See also 1980 Bus. Franchise Guide (CCH) ¶ 5793 (guidelines for preparation of the U.F.O.C. and related documents).
\textsuperscript{113} COMAR § 02.02.10.02C (1979).
1980] Franchise Registration

separate items,114 in addition to certain disclaimers and exhibits, must be set forth in the prospectus on an item-by-item basis.115 The information contained in the prospectus must be clearly and concisely stated in narrative form, setting forth details regarding the franchisor, its business, the franchise agreement, and related matters116 in a style somewhat analogous to a securities prospectus.

B. Filing, Processing, and Effectiveness

After the prospectus has been drafted in final form, counsel must be certain that other requirements are met before the application is filed. Several documents must be obtained and reviewed, such

---

114. See Md. Ann. Code art. 56, § 349 (1979 & Supp. 1980); COMAR § 02.02.10.02C (1979). The following is a summary of the most significant items included in a prospectus in a Maryland Franchise Registration Application: item one requires information regarding the identity of the franchisor and its principals as well as the business form in which the franchisor operates; items three and four focus on the litigation and bankruptcy history of the franchisor and its key personnel; items five, six, and seven concentrate on the amount of money the franchisee must pay initially and on an ongoing basis in regard to franchise fees thereby projecting the franchisee's total investment commitment picture; items eight, nine, and twelve deal with the possibility of anti-trust violations, specifically focusing on those situations in which franchisors require franchisees to purchase or lease certain goods or supplies as a condition precedent to acquiring the franchise; items thirteen and fourteen are meant to reveal information regarding ownership or incidences of ownership as to use of trademarks, trade names, and logos; item nineteen is concerned with the projected actual or average forecasted franchise fee sales or earnings; and item twenty-one requires that the financial statements of the franchisor be included with the prospectus. Id.

Items eight, nine, and twelve, which deal with anti-trust, are of particular importance because many franchisors, whether in response to their perceived duty to protect the quality of their trademark or their desire to limit competition, or both, have required franchisees to purchase certain products as a condition precedent to the purchase of a franchise. The sale of a franchise conditioned upon the purchase of a separate product constitutes a tying arrangement and may run afoul of anti-trust laws. In a tying arrangement, a seller agrees to sell one product (the tying product) only on the condition that the buyer also purchase a second product (the tied product). See generally Kentucky Fried Chicken Corp. v. Diversified Packaging Corp., 549 F.2d 368 (5th Cir. 1977); Siegel v. Chicken Delight, Inc., 448 F.2d 43 (9th Cir. 1971), cert. denied, 405 U.S. 955 (1972); Susser v. Carvel Corp., 332 F.2d 505 (2d Cir. 1964), cert. dismissed, 381 U.S. 125 (1965).

Other anti-trust problems may also arise as a result of controls employed by franchisors for the distribution of goods. For example, a franchisor that restricts its franchisee's freedom as to where and to whom the franchisee can resell products may be found guilty of imposing unreasonable restraints. See, e.g., Continental T.V., Inc. v. GTE Sylvania, Inc., 433 U.S. 36 (1977); United States v. Arnold, Schwinn & Co., 388 U.S. 365 (1967). Counsel must examine not only the controls the franchisor has over the franchisee under the franchise agreement, but also the controls the franchisor exercises in the operation of the franchise business. Especially in the case of a client's entry into the franchising business, counsel must draft the franchise agreement and prospectus in a manner that affords the franchisor the degree of control necessary to protect its trademark, but which will not unreasonably restrain competition in the marketplace. For an excellent commentary on anti-trust laws and their impact on franchising, see H. Brown, Franchising:

115. See COMAR § 02.02.10.02C (1979).

116. See id.
as the consent of the accountant for use of financial statements,\textsuperscript{117} consent of service of process by the franchisor,\textsuperscript{118} corporate, partnership, or individual acknowledgement of the authority of the signatory,\textsuperscript{119} verification of the truth and accuracy of the application,\textsuperscript{120} and copies of advertising used to solicit franchisees.\textsuperscript{121} When the final proofs of the registration application are printed (or typed), counsel should then assemble the principals of the franchisor and the accountant for a final review meeting. At this meeting, the proposed franchise filing should be carefully reviewed and the persons involved interrogated in order to make certain that the information is in all respects accurate and up-to-date.

The remaining steps include the coordination of the final printing (or typing) of the registration application, including the prospectus, and preparation of a transmittal letter\textsuperscript{122} if one is to be used. At the time of filing, counsel should instruct the franchisor and its principals that, although the registration application is filed, no offers or solicitations may be made until the registration is effective.

Generally, a registration application automatically becomes effective thirty business days after its filing.\textsuperscript{123} If the application is found to be deficient, the franchisor-applicant will receive a deficiency letter or letter of comments prepared by a staff member of the Maryland Division of Securities indicating specific items that have been found to be in need of revision.\textsuperscript{124} Accompanying the letter will

\textsuperscript{117} The Maryland Franchise Registration Application instructions require that each application “be accompanied by manually signed consent of the independent public accountant for the use of their audited financial statements as such statements appear in the offering circular.” \textit{Id.}
\textsuperscript{118} \textit{Id.}
\textsuperscript{119} \textit{Id.}
\textsuperscript{120} \textit{Id.}
\textsuperscript{121} MD. ANN. CODE art. 56, § 350A (Supp. 1980); COMAR § 02.02.10.03 (1979).
\textsuperscript{122} For an example of a transmittal letter used in connection with securities offerings, see R. SHAPIRO, A. SACHS & C. OLANDER, SECURITIES REGULATION FORMS; COMPLIANCE — PRACTICE § 1-228.23 (rev. ed. 1979).
\textsuperscript{123} Section 354 of the Act describes the effective date of franchise registration as follows:
If a stop order is not in effect under this subtitle, registration of the offer of franchises automatically becomes effective at 12 o’clock noon of the thirtieth business day after the filing of the application for registration or the last amendment to it, or at an earlier time as the Commissioner determines.
MD. ANN. CODE art. 56, § 354 (Supp. 1980).
\textsuperscript{124} \textit{Id.} § 355 (1979).
be a stop order\textsuperscript{125} which ceases the automatic effectiveness\textsuperscript{126} of the registration application. The stop order will remain in effect until the comments of the Division have been responded to either by revision of the documents or otherwise to the satisfaction of the Division.

Prior to receiving a comment letter from the Division, counsel should be cautious of the automatic effective date. In contrast to securities practice, the Act does not provide for delaying amendments,\textsuperscript{127} which postpone the effectiveness of the registration until the application has been approved. Therefore, a situation could arise in which the application becomes automatically effective, with no stop order in effect because the Division has not completed its review of the application, and deficiencies are not found until after the automatic effective date. A stop order suspending the effectiveness of the registration could then be issued. The effect of a stop order issued at such time would be not only to cut off the offering but to damage the franchisor's reputation as well. To avoid this possibility, the Division generally will allow the applicant to request that the automatic effective date be waived until a review has been made by the Division and the registration has been declared effective.

An application may also become effective sometime within the thirty business days after filing, and therefore before the automatic

\textsuperscript{125.} \textit{Id.} \textsuperscript{126.} § 353 (Supp. 1980). Section 353 of the Act specifies that a stop order may be issued if the Maryland Securities Commissioner finds any of the following:

1. There has been a failure to comply with any of the provisions of this law or the rules and regulations of the Commissioner;
2. The offer or sale of the franchise would constitute misrepresentation to, or deceit or fraud of the purchasers;
3. Any person identified in the application has been convicted of an offense under subsection (5) of § 349, or is subject to an order, or has had a civil judgment entered against him as described in subsection (5) of § 349, and the involvement of this person in the sale or management of the franchise creates an unreasonable risk to prospective franchisees;
4. The prospectus or any amendment thereto is incomplete or inaccurate in any material respect;
5. The prospectus or any amendment thereto includes any false or misleading statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading;
6. Any person in this State is engaging in or about to engage in false, fraudulent, deceptive practices, or any device, scheme, or artifice to defraud in connection with the offer or sale of the franchise;
7. The financial condition of the franchisor affects or would affect the ability of the franchisor to fulfill obligations under the franchise or other agreement and the franchisor is unable or unwilling to comply with, or has failed to comply with, any rule, order, or administrative determination of the Commissioner issued under the provisions of § 351.

\textit{Id.} \textsuperscript{127.} See note 123 \textit{supra.}

The Securities Exchange Commission (SEC) permits the filing of a delaying amendment which postpones the automatic effective date of registration. This practice allows the registrant to file necessary pre-effective date amendments and gives the SEC sufficient time to review the application. \textit{See} 17 C.F.R. § 230.473 (1980).
effective date, if the Division determines that the application complies with the requirements of the Act and is not deficient on its face. It is therefore possible that a well-prepared application can become effective as early as two to three weeks after it has been filed.

Summarizing, once the application has been filed, franchise registration will become effective either when the Commissioner orders an effective registration date or automatically thirty business days after the filing of an application unless either a stop order is in effect or the franchisor waives the automatic effective date. Not until the registration is effective can the franchisor legally commence the offer and sale of its franchise.

C. Post-Effective Registration Matters

1. Maintaining Records and Reporting

The franchisor’s obligations under the Act do not abate once the initial registration becomes effective. It is up to the franchisor to then supervise and review the offer and sale of franchises and, when circumstances dictate, update the registration application. Moreover, franchisors are required to maintain a complete set of books, records, and accounts of franchise sales. COMAR does not specify what these documents must contain. It has been suggested, however, that the acknowledgement of receipt demonstrating that the franchisor has complied with delivery of prospectus time requirements, as well as receipts evidencing payments made from franchisee to franchisor, should be included in these records. COMAR also requires the filing of a quarterly sales report commencing ninety days after the effective date of the original registration application. Information required in the report includes the name, address, and telephone number of each franchise purchaser and the selling price of each franchise. Attached to the sales report must be a geographical description of any exclusive area or territory sold. Counsel should note that this report must be filed in blank even if no sale has taken place in the reporting period.

128. See Md. Ann. Code art. 56, § 357 (Supp. 1980). The policy of the Division is to grant an order of registration prior to the running of the automatic effective date if the application fully complies with both the Act and COMAR.


130. The franchisor must file amendments whenever there is a material change to the information contained in the registration application. Id. § 361 (1979). See text accompanying notes 138–47 infra. In addition to the amendment requirement, the Act requires an annual filing for the renewal of the registration application. Md. Ann. Code art. 56, § 359 (Supp. 1980). See text accompanying notes 148–54 infra.


132. Interview with David L. Bortz, Former Franchise Administrator for the State of Maryland, in Baltimore, Maryland (Sept. 18, 1980).

133. See COMAR § 02.02.10.02H (1979).

134. Id.

135. Id.

136. Id.
Aside from records of sales, the franchisor would also be well advised to maintain records regarding offers of franchises. Maintaining records of offers as well as sales should enable the franchisor to provide the Commissioner with accurate compliance information if a question arises regarding the propriety of a transaction.  

2. Post-Effective Amendments

The franchisor must submit applications to amend the registration when there is any material change in the information contained in the application or prospectus as originally submitted, amended, or renewed. The Act and COMAR do not specifically stop, suspend, or revoke current effectiveness of a franchisor’s registration even though a material change occurs that necessitates the filing of an amendment. Nevertheless, franchisors that continue to offer and sell franchises prior to effectively amending the information in the then-current prospectus face potential sanctions or liabilities for using a prospectus that may be misleading. For example, if the franchisor intends to increase the initial cost of the franchise, an application to amend should be submitted to reflect such change before the cost is actually increased. In those cases in which a material change occurs prior to the amendment becoming effective, the franchisor’s registration will still remain in effect, but offers and sales should be curtailed pending the effectiveness of the amendment. COMAR provides examples of material changes. These include: terminations, closings, or failure to renew franchises; changes in control, corporate name, or state of incorporation of the franchisor; purchase by the franchisor of more than five percent of its franchises in any given three-month period; commencement of a new product, service, or model line requiring the franchisee to make an additional investment; and discontinuation or modification of the marketing plan or system of certain products of the franchisor. Because only examples are provided as opposed to a definition, counsel may have to put changes of any consequence to a test of materiality in order to determine whether a revision of the franchise offering documents is necessary. In questionable cases, the opinion of the Commissioner can be requested.

138. Id. § 361 (1979).
139. See COMAR § 02.02.10.06Q(1) (1979). It is important to note that the franchisor cannot use an amended prospectus in offers or sales of franchises until the amendment to the registration application becomes effective, usually 15 business days after receipt by the Division. Id.
140. Id. § 02.02.10.01B.
141. Md. Ann. Code art. 56, § 364(a)(1) (Supp. 1980). As a practical matter, the Maryland Division of Securities will deem a matter a material change when there is a substantial likelihood that a reasonable prospective franchisee would consider the change significant in making the decision to purchase the franchise.
The application to amend should contain only information being amended and must be identified by item number in accordance with the registration format. A verification page, confirming the truth and accuracy of the amendment, and a filing fee must be submitted with the amendment. The amendment automatically will become effective fifteen business days after it is filed unless a stop order is in effect. A stop order may be issued and subsequently vacated or modified in response to the filing of an application for amendment on the same grounds and through the same procedures as those issued in response to an application for registration. Accordingly, unless a stop order has been issued within fifteen business days from the date of filing, the amendment will become effective. When a stop order has been issued, the amendment will become effective upon the vacating of the stop order at the earlier of fifteen business days after the order is vacated or when the franchisor is notified by the Commissioner that the amendment is effective.

3. Renewing the Registration

Franchisors are required to renew the registration on an annual basis by filing a renewal application no later than fifteen business days prior to the expiration of the registration. The renewal period continues for one year unless the Commissioner, by rule, regulation, or order, specifies a different period. In several instances, the Commissioner has extended or shortened the renewal period if franchisors so request, but only when the purpose for extension or renewal is to coordinate the filing of the renewal application with the preparation and completion of the franchisor’s annual audited financial statements. Like applications for amendment, renewal applications become effective fifteen business days after they are filed unless a stop order is in effect. Grounds for issuance and procedures for vacating a stop order in response to a renewal application are the same as those relating to the filing of an original application or amendment.

142. COMAR § 02.02.10.02B (1979).
143. Id.
144. Id. § 350 (1979).
145. COMAR § 02.02.10.06Q(1) (1979).
146. Id.
147. Id.
148. MD. ANN. CODE art. 56, § 359 (Supp. 1980).
149. Id. § 358 (1979).
150. Id. § 359 (Supp. 1980).
151. Id.
152. Id. See also id. § 353.
153. Id. § 353.
As long as the franchisor wishes to continue offering and selling franchises in Maryland, it must first effect registration and second comply with the continual post-effective requirements. Failure to register or comply with post-effective requirements could lead to one or all of the sanctions imposed under the Act.\(^{154}\) Moreover, the fact that the franchisor obtains an effective registration in Maryland and complies with all post-effective filing requirements does not mean that the franchisor is free from sanctions or insulated from liabilities or penalties that attach under the Act. Registration does not constitute approval or truthfulness of the information contained in the registration materials. Thus, counsel must not only advise the franchisor as to compliance procedures regarding registration and post-effective filing requirements, but he also must assist in developing a system to assure full and truthful disclosure.

VI. CONCLUSION

An entrepreneur who has developed a product or business idea which he desires to distribute and exploit through franchising may encounter difficulties in complying with the numerous state and federal regulatory requirements. Registration and disclosure laws like those of Maryland require the filing of a prospectus as a part of a registration application and the dissemination of the prospectus prior to the offer and sale of the franchise. Noncompliance with such procedural requirements or the making of material misstatements or omissions in connection with the franchise offering exposes the franchisor not only to the risk of civil liabilities and injunctive relief, but also to the possibility of criminal prosecution. Thus, it is evident that a franchise offering subject to laws such as that promulgated in Maryland cannot be implemented without counsel first educating his franchisor-client in much the same manner as he would advise a client wishing to embark upon a securities offering.

In an effort to escape the constraints of laws such as the Maryland Franchise Act, a potential franchisor may choose to take his marketing efforts to jurisdictions without such laws, or he may try to eliminate franchise characteristics from his distribution program. Neither of these efforts may prove successful, however, because he may find himself confronted with other regulations, such as business opportunities laws, that mandate efforts analogous to those of the Act. Whichever distribution scheme is utilized, a substantial amount of legal compliance must, therefore, take place before the logo hits the streets.

154. See id. (stop orders); id. § 363(a)(1) (cease and desist orders); id. § 363(a)(2) (injunctions); id. § 363A (civil liabilities); id. § 365 (criminal penalties).
APPENDIX

The franchise offering in this prospectus is made by the “sub-franchisor” Century 21 Real Estate of Virginia. The list of franchisees (Item 20 (c)) and the financial statements (Item 21) have been excised from the prospectus.*

FRANCHISE OFFERING CIRCULAR FOR PROSPECTIVE FRANCHISEES REQUIRED BY THE STATE OF MARYLAND

CENTURY 21 REAL ESTATE CORPORATION OF VIRGINIA

THIS OFFERING CIRCULAR IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS OFFERING CIRCULAR AND ALL CONTRACTS OR AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

A FEDERAL TRADE COMMISSION RULE MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE WITHOUT FIRST PROVIDING THIS OFFERING CIRCULAR TO THE PROSPECTIVE FRANCHISEE AT THE EARLIER OF (1) THE FIRST PERSONAL MEETING, OR (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF ANY FRANCHISE OR RELATED AGREEMENT; OR (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT. THE PROSPECTIVE FRANCHISEE MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE SIGNING OF THE FRANCHISE AGREEMENT.

IF THIS OFFERING CIRCULAR IS NOT DELIVERED ON TIME, OR IF IT CONTAINS A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE MARYLAND COMMISSION OF SECURITIES, ONE SOUTH CALVERT STREET, BALTIMORE, MARYLAND 21202.

These franchises are offered by Century 21 Real Estate Corporation of Virginia, a Virginia Corporation, (the “Company”) as subfranchisor, 8130 Boone Boulevard, Vienna, Virginia 22180, tel. no. (703) 821-3121, under an area license agreement between the Company, as subfranchisor, and Century 21 Real Estate Corporation, a Delaware corporation, (the “Area Franchisor”), as franchisor, with headquarters at 18872 MacArthur Boulevard, Irvine, California 92715, tel. no. (714) 752-7521.

In Maryland the subfranchisor maintains an Area Director with offices at 793 Elkridge Landing Road, Number 17 North, Linthicum, Maryland 21090, tel. no. (301) 796-7821. The franchise consists of a system for promotion and operation of individual real estate brokerage offices using the name “CENTURY 21”, including centralized advertising programs, sales training, recruiting and inter-office referral programs, office management training and broker advisory councils.

The initial franchise fee is $12,000, payable to the Company upon execution of the franchise agreement, subject to financing arrangements which the Company may offer.

The Franchisee's initial investment will consist of the cost of converting an existing or establishing a new real estate office, including the purchase of a CENTURY 21 outdoor display sign. It is estimated that the cost of converting an existing real estate office will be $2,000 to $4,000. In addition, the Franchisee must purchase CENTURY 21 stationery and stake signs, the cost of which will depend upon the quantity ordered.

The effective date of this Offering Circular is January 17, 1981.

Area Franchisor’s registered agent in Maryland, authorized to receive service of process is United States Corporation Company, 1300 Mercantile Bank & Trust Building, 2 Hopkins Plaza, Baltimore, Maryland 21201. The Company’s registered agent in Maryland authorized to receive service of process is Barry A. Zaslav, 9605 Culver Street, Kensington, Maryland 20786.

*The authors wish to express their appreciation, for authorization to reprint the Century 21 Real Estate Corporation of Virginia prospectus, to Barry A. Zaslav, of the law firm of Statland and Zaslav, 1101 Seventeenth Street, N.W., Washington, D.C. 20036.
TO PROTECT YOU, WE’VE REQUIRED YOUR FRANCHISOR TO GIVE YOU THIS INFORMATION. WE HAVEN’T CHECKED IT, AND DON’T KNOW IF IT’S CORRECT. IT SHOULD HELP YOU MAKE UP YOUR MIND. STUDY IT CAREFULLY. WHILE IT INCLUDES SOME INFORMATION ABOUT YOUR CONTRACT, DON’T RELY ON IT ALONE TO UNDERSTAND YOUR CONTRACT. READ ALL OF YOUR CONTRACT CAREFULLY. BUYING A FRANCHISE IS A COMPLICATED INVESTMENT. TAKE YOUR TIME TO DECIDE. IF POSSIBLE, SHOW YOUR CONTRACT AND THIS INFORMATION TO AN ADVISOR, LIKE A LAWYER OR AN ACCOUNTANT. IF YOU FIND ANYTHING YOU THINK MAY BE WRONG OR ANYTHING IMPORTANT THAT’S BEEN LEFT OUT, YOU SHOULD LET US KNOW ABOUT IT. IT MAY BE AGAINST THE LAW.

THERE MAY ALSO BE LAWS ON FRANCHISING IN YOUR STATE. ASK YOUR STATE AGENCIES ABOUT THEM.

FEDERAL TRADE COMMISSION
WASHINGTON, D.C.

CENTURY 21 REAL ESTATE CORPORATION OF VIRGINIA
SUBFRANCHISOR (THE "COMPANY")

CENTURY 21 REAL ESTATE CORPORATION
FRANCHISOR (THE "AREA FRANCHISOR")
1. THE FRANCHISOR AND ANY PREDECESSORS

The Company

Century 21 Real Estate Corporation of Virginia, (the "Company"), subfranchisor of Century 21 Real Estate Corporation (the "Area Franchisor"), was incorporated under Virginia law on March 21, 1973, for the purpose of selling and servicing CENTURY 21 real estate franchises under an exclusive area franchise agreement (the "Area Franchise") with Century 21 Real Estate Corporation. The Company does business only under the name Century 21 Real Estate Corporation of Virginia.

These franchises consist of a business system, developed by the Area Franchisor, for the promotion and assistance of separately owned real estate brokerage offices and has policies, procedures and techniques designed to enable such offices to compete more effectively in the real estate market. The system includes common use and promotion of the trade name CENTURY 21, cooperative advertising programs, recruiting and sales training programs, inter-office referral programs, office management and training programs, investment real estate training programs, and membership in brokers' councils at the local, regional and national level. Franchisees are also authorized to use trademarks, service marks, advertising and other commercial symbols developed by the Area Franchisor for use in connection with a real estate brokerage business. All right and title to the CENTURY 21 trademarks and goodwill remain the property of the Area Franchisor.

Franchisees are required to be licensed real estate brokers under the laws of the jurisdiction in which their brokerage office is located. The services to be provided by Franchisees are those relating to the real estate brokerage industry, which usually include, but are not limited to: residential property brokerage, property management, investment property syndication and brokerage, and real and related personal property auctions. Franchisees are required to render their services in compliance with the CENTURY 21 Policy and Procedure Manual. Franchisees are not restricted from providing any real estate service which a real estate brokerage office lawfully may provide. Nor are Franchisees limited from lawfully serving any real property buyer, seller, investor, owner, lessor or lessee. Usually, the market for Franchisees' services will be primarily sellers of residential or investment real estate.

Franchisees will compete with other real estate brokerage businesses located in the same general area including, in most instances, other CENTURY 21 franchisees and other franchised real estate brokerage office.

The Company has been in the business of selling and servicing real estate franchises in Maryland since April, 1973. The Company is
also authorized to sell and service franchises in the District of
Columbia (since June, 1973) and in the states of Virginia, (since
March, 1973) and Delaware (since July, 1976). Although the Com-
pany itself has not operated a real estate brokerage business, it is, in
accordance with local requirements, registered as a broker in
Virginia and Maryland. In addition Mr. George Kettle, the Com-
pany’s principal officer and shareholder, has been active in real
estate sales, brokerage, recruiting, training and management since
1963. (See “Identity and Business Experience of Persons Affiliated
with the Company and the Area Franchisor”). Since 1973 the Com-
pany has granted and sold franchises for the type of business to be
operated under the franchises offered hereby. Neither the Company
nor Mr. Kettle has sold franchises of any type prior to 1973, and
neither has sold franchises for any other type of business. The Com-
pany’s principal address is 8130 Boone Boulevard, Vienna, Virginia
22180. Its Area Offices are located at 793 Elkridge Landing Road,
Number 17 North, Linthicum, Maryland 20190. The Company is
qualified to do business in Maryland and its agent for service of pro-
cess in this state for all purposes is Barry A. Zaslav, 9605 Culver
Street, Kensington, Maryland 20795.

The Area Franchisor

CENTURY 21 Real Estate Corporation (the “Area Franchisor”) was
originally incorporated under California law on July 28, 1971, for the
purposes of distributing area franchises. On October 31, 1979, the
Area Franchisor was merged into a wholly owned subsidiary of
Trans World Corporation, a Delaware Corporation. The successor
company, a Delaware Corporation, has adopted the same name: Cen-
tury 21 Real Estate Corporation. The parent company, Trans World
Corporation, maintains its principal offices at 605 Third Avenue,
New York, New York 10016. It has no experience in real estate fran-
chising or in the real estate brokerage business, although other sub-
sidiaries of Trans World Corporation engage in franchising other
lines of business.

The Area Franchisor does not presently grant subfranchises in
any state, including Maryland. Generally, the Area Franchisor has
never engaged in the business of acting as a real estate broker. No
franchises or subfranchises have been granted by it in any other line
of business. The Area Franchisor does business only under the name
Century 21 Real Estate Corporation.

The Area Franchisor’s principal business address is 18872
MacArthur Boulevard, Irvine, California 92715, and its telephone
number is (714) 752-7521. It is qualified to do business in the State of
Maryland and its agent for service of process in this state for all pur-
poses is United States Corporation Company, 1300 Mercantile Bank
and Trust Building, 2 Hopkins Plaza, Baltimore, Maryland 21201.
The Area Franchisor has no ownership interest in Century 21 Real Estate Corporation of Virginia (the "Company"), the subfranchisor, and purchasers of the franchises offered hereunder by the Company will have a contractual relationship only with the Company and may look only to the Company for performance of the franchise agreement. In the event that the Area Franchisor terminates its Area Franchise with the Company, however, the Area Franchisor will perform the obligations due from the Company to each of the Company's franchises in the State of Maryland under their franchise agreements if such agreements are in the form provided herein and the franchisee is not then in default.

2. **IDENTITY AND BUSINESS EXPERIENCE OF PERSONS AFFILIATED WITH THE COMPANY AND THE AREA FRANCHISOR**

The Company's principal officers and directors with management responsibility and their principal occupations and employers during the past five years are as follows:

*George F. Kettle* — President and Director of Century 21 Real Estate Corporation of Virginia since 1973; Regional Director, April, 1980 until December 31, 1980. Prior thereto Mr. Kettle was president of George F. Kettle Real Estate, Inc. since 1970; Mr. Kettle has been a licensed real estate broker in Virginia since 1963.

*Janice C. Kettle* — Secretary-Treasurer and Director since 1973. From 1970 to 1973 Mrs. Kettle was Secretary-Treasurer of George F. Kettle, Inc., Realtor. Her functions were bookkeeping, administrative assistant to the President. Prior thereto she was a legal secretary for the law firm of Harrel, Campbell, Lawson and O'Brien.

*Mark Bates* — Regional Director since January 1, 1981. Regional Marketing Director of Century 21 Real Estate Corporation of Virginia from 1978 through 1980. Director since 1980. Mr. Bates was Regional Marketing Representative of Century 21 Real Estate Corporation of Virginia from November, 1977, until he became Regional Marketing Director. From January, 1976 to November, 1977, he was a self-employed Real Estate Investor. From 1967 to 1975 Mr. Bates was President of Tex Ritters' Chuck Wagon System, Inc. (Restaurant Chain).

*Ronald Largent* — Regional Marketing Director of Century 21 Real Estate Corporation of Virginia since January 1, 1981. Prior thereto he was a District Director of Century 21 Real Estate Corporation of Virginia since November, 1979. In 1978 and 1979 Mr. Largent was an associate real estate broker and salesman with Long and Foster, a real estate
broker in the Washington, D.C. area and an office manager with Better Homes and Gardens, Holley-Hargett and Spain, a real estate broker in Tysons Corner, Virginia. In 1975 he owned Ron Largent Realty Co. in California and formed Ron Largent Development Co. for new home construction. In 1976 he formed Agustini - Largent Land Development Corp. for land subdivision projects.

Robert E. Williams — Director of Communications since January 1, 1981; Director of Special Projects from April 1, 1980 to December 31, 1980. Prior to April 1, 1980, Mr. Williams was Assistant Regional Director, Vice President and Director until August, 1977. Then Regional Administrative Director. Mr. Williams served with the Federal Energy Office and Treasury Department from November, 1973 to January, 1975, as a policy planner. He served as an energy consultant with the National Petroleum Disarmament Agency until June, 1976. Retired Naval officer, 1972.

Martin J. Rueter — Regional Director of Sales and Management Development of Century 21 Real Estate Corporation of Virginia since April, 1978; Vice President and Director of Broker Services of Century 21 Real Estate Corporation of Pennsylvania, Inc., since August, 1977, responsible for supervision of training for Sales Managers and Sales Associates. From 1971 to August, 1977, he was Secretary and Sales Manager of the Rueter Realty Co. in Philadelphia, Pennsylvania.

Donald R. Jackson — Director of Finance and Special Projects of Century 21 Real Estate Corporation of Virginia since August, 1980. From 1975 until 1980, Mr. Jackson was with the Barlow Corporation of Maryland, initially as Executive Vice President and thereafter as President and Chief Operating Officer and member of its Board of Directors.

Lawrence M. Lisk — Controller of Century 21 Real Estate Corporation of Virginia since September 1, 1980. From October, 1977 until August, 1980 he was the Controller and Assistant Treasurer of Century 21 Real Estate Franchising Corporation of New York. From 1974 until 1977 he was Controller of Interco Systems, Inc. of Rochester, New York.

The Area Franchisor's principal officers and directors with management responsibility and their principal occupations and employers during the past five years are as follows:

Arthur E. Bartlett — Chairman of the Board of Area Franchisor and Director of Trans World Corporation. Mr. Bartlett has been a Director and Chairman of the Board of Area Franchisor since its organization in 1971. He was Chief
Executive Officer of Area Franchisor from 1971 to March, 1980. He was President of Area Franchisor from 1971 to July, 1979. His real estate experience includes employment with Forest E. Olson, Inc., in Los Angeles and Orange Counties, California, from 1960 to 1964. In 1964, he co-founded Four Star Realty, Inc. of Santa Ana, California, and he served as Vice President and Secretary until August, 1971. In 1967, he co-founded Comps, Inc., of Orange, California, which applied computerization to real estate reportings supplied to banks, savings and loans, appraisers, real estate brokers, and state and city agencies. He served as President of Comps, Inc., until September, 1971.

James E. Cummings, Jr. — President, and Chief Executive Officer and Director. Mr. Cummings was appointed Chief Executive Officer in March, 1980 and President in July, 1979 after having served as Executive Vice President and Director from September, 1978. Between October, 1976 and September, 1978, Mr. Cummings served as President and Director of CENTURY 21 Real Estate Franchising Corporation of New York, in Rochester, New York, a Century 21 franchisor owned by Area Franchisor. From June, 1975 to October, 1976, Mr. Cummings was employed by the Area Franchisor as a Vice President. Mr. Cummings served as Executive Vice President and Secretary to CENTURY 21 of Texas, Inc., in Houston, Texas, a Century 21 franchisor owned by Area Franchisor from February, 1974 to June, 1975. For more than four years prior to 1974, Mr. Cummings was employed in real estate sales with Cooper Development Company of Bentonville, Arkansas.

William L. McQuerry — Director since September, 1980. Executive Vice President and Operating Officer. Mr. McQuerry joined CENTURY 21 in August, 1972 and became Executive Vice President-Operations in September, 1979. He served as chief executive officer of the Company-owned Orange County, California Region until August, 1973, when he became a Vice President of the Company. He also served as a Director from October, 1975 to March, 1977, and from August, 1978 to December, 1979.

Wayne Wyles—Executive Vice President—Franchise Services. Mr. Wyles has served as Director since September, 1980 and Executive Vice President — Franchise Services since May, 1980. Prior to that he was President of Century 21 of Northern Ohio, Inc., a Century 21 Regional Subfranchisor, since its organization in 1975. From January, 1975 to April, 1975 Mr. Wyles was President and a shareholder of Wyles and Associates, Inc., a real estate brokerage business
in Middleburg Heights, Ohio. For more than 2 years prior to 1975, Mr. Wyles was general manager of Bishop Realty, Inc. with responsibilities in real estate sales and agency management.

Michael Evans — First Vice President — Regional Planning. Mr. Evans joined Area Franchisor in October, 1976, after serving as Director of Broker Services for Century 21 Orange County, Inc., a subfranchisor located in Santa Ana, California, since July, 1976. From November, 1975, to June, 1976, Mr. Evans was General Manager of Oakleaf Properties, Inc., of Thousand Oaks, California. Mr. Evans served as Residential Sales Manager of Forest E. Olson, Inc., in Costa Mesa, California, (May, 1973 to June, 1974) and Thousand Oaks (June, 1972 to May, 1973). Between March, 1967 and June, 1972, he was a Sales Associate at the Canoga Park, California, office of Forest E. Olson, Inc.

John P. Moravek — First Vice President and General Counsel. Mr. Moravek has served as First Vice President and General Counsel of Area Franchisor since February, 1980. Mr. Moravek was appointed Vice President in March, 1977, after serving one year as an Assistant Vice President. Mr. Moravek has been employed by Area Franchisor since receiving his J.D. Degree from Pepperdine University School of Law, Santa Ana, California, in May, 1975. Before attending law school, he worked with the U.S. Peace Corps in Ethiopia from January, 1969 to June, 1971, and prior to that received his B.A. Degree from California State University at Long Beach. California.

L. Edwin Smart — Director and Chairman of the Executive Committee. Mr. Smart has been Director and Chairman of the Board and President and Chief Executive Officer of Trans World Corporation since 1979; Chairman of the Board of Trans World Airlines since 1977; Chief Executive Officer of Trans World Airlines from 1977-1978; Vice Chairman of the Board of Trans World Airlines from 1976-1977; Senior Vice President — Corporate Affairs of Trans World Airlines from 1971 to 1975; and he presently serves as director of other non affiliated companies.

Frank L. Salizzoni — Director; Mr. Salizzoni is a Director and Senior Vice President-Finance, Trans World Corporation; Senior Vice President-Finance & Treasurer of Trans World Airlines from 1976 to 1978; Vice President and Treasurer of Trans World Airlines since prior to 1975.

Robert L. Thomas — Vice President-Regional Development. Mr. Thomas joined the Area Franchisor in May, 1978 as Vice President for Investments. In September, 1980, he was made Vice President for Regional Development. From
January, 1978 until May, 1978 he was President of Robert L. Thomas & Associates, an independent commercial investment broker in Atlanta, Georgia. From February, 1971 to December, 1977, he was a real estate Salesman/Broker with Barton and Ludwig of Atlanta, Georgia.

John J. O'Keefee—Secretary; Corporate Secretary & Assistant General Counsel of Trans World Corporation since August, 1978; Corporate Secretary & Assistant General Counsel of Trans World Airlines since April, 1977; Corporate Secretary of Canteen Corporation and of Hilton International Hotels since April, 1977; Corporate Secretary of Spartan Industries since July, 1979; General Attorney of Trans World Airlines from 1974 to 1977.

Cornelius M. Ryan — Treasurer; Mr. Ryan has served as Vice President and Treasurer of Trans World Corporation since January, 1979; Vice President and Treasurer of Trans World Airlines since 1979; Vice President of Canteen Corporation since February, 1973; Vice President and Treasurer of Spartan Industries since July, 1979.

Barbara T. R. Zimet — Secretary; Ms. Zimet has served as a Senior Attorney and Assistant Secretary of Trans World Corporation since January, 1979, and has served as a Staff Attorney and then Senior Attorney of Trans World Airlines, Inc., since September, 1976. From February, 1976 to September, 1976, Ms. Zimet served as a Corporate Attorney and Assistant Secretary to the Interbank Card Association. From August, 1974 to February, 1976, Ms. Zimet served as a Staff Attorney of Eastern Airlines, Inc.

William Mosley — Vice President, Advertising and Convention Sales. Mr. Mosley has served as Vice President-Advertising of Area Franchisor since November, 1979. From 1976 to November, 1979 he served as Vice President, Management Supervisor, of Cunningham and Walsh, Inc. From 1975 to 1976 he served as Senior Vice President, Account Management Supervisor, of Creamer Colarossi Basford, Inc.

Gary W. Cooper — Director, First Vice President, Chief Financial Officer. Mr. Cooper has served as a Director since December, 1980 and as a First Vice President, Chief Financial Officer since September, 1980. Prior to that time, Mr. Cooper served as First Vice President-Corporate Development since March, 1980. From September, 1979 to March, 1980 he served as a Vice President in the Corporate Development Department of Franchisor. From March, 1979 to September, 1979, he served as Vice President-Financial Planning for Franchisor. From January, 1978 to March, 1979 he served as Controller for Schick Sunn Classic Pro-
ductions, Inc., and subsidiaries. For four years prior to that he served as a certified public accountant with the firm of Price, Waterhouse & Co.

3. LITIGATION

Neither the Area Franchisor, the Company nor any of the above named individuals:

(A) Has any administrative, criminal or material civil action (or a significant number of civil actions irrespective of materiality) pending against it or him alleging a violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations.

(B) Has during the 10 year period immediately preceding the date of this Offering Circular been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such felony, civil action, complaint or other legal proceeding involved violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations, except as follows:

Langford Associates, Inc. v. CENTURY 21 Orange County, Inc., Superior Court, Orange County, California, No. 248 560; Second Amended Complaint filed February, 1977. Plaintiffs alleged fraud, misrepresentation, breach of contract, emotional pain and suffering associated with the sale of a franchise by Area Franchisor, a subsidiary subfranchisor and two of its employees. The complaint was dismissed without prejudice on December 23, 1976, with respect to Area Franchisor. On January 31, 1979, Plaintiffs and the remaining Defendants settled the action, with Plaintiffs receiving approximately their alleged actual damages, and the action being dismissed with prejudice as to all parties.

(C) Is the subject to any currently effective order of injunction or restrictive order or decree relating to the franchise or under any federal state or Canadian franchise, securities, anti-trust, trade, regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency.

Area Franchisor has been named as a party to the following lawsuits:

Davis v. Northside Realty Associates, Inc., et al. This is a lawsuit filed in the United States District Court for the Northern District of Georgia (Civil Action File No. C80-508A) on March 24, 1980. In essence, the plaintiff alleges that various real estate brokers in the greater Atlanta area including one CENTURY 21 franchisee conspired to raise and maintain commission rates. The Plaintiff
alleges without statement of any specific facts that the Area Franchisor somehow participated in this alleged conspiracy. The plaintiff claims to represent a class of persons who have sold residential real estate (excluding sales of new homes or homes sold on behalf of third parties who contracted with employers to dispose of homes of transferred employees) within the greater Atlanta area during the relevant time period. The complaint demands payment of treble damages and costs and attorneys fees, all in unspecified amounts, and an order enjoining the defendants from conspiring to raise and maintain commission rates for the sale of residential real estate in the greater Atlanta area. Area Franchisor was only recently served in this litigation and has not yet filed its answer but intends to deny all material allegations of the complaint with respect to it. Area Franchisor knows of no facts which would sustain a judgment against it in this case.

Century 21 Beverly, Inc. v. Century 21 Real Estate of Louisiana, Inc., et al, U.S. District Court for the Eastern District of Louisiana — Civil Action File No. 79-3015, Section 1(4). This is an action by a former franchisee who has sued two of the Area Franchisor's subsidiaries (wholly-owned Regional subfranchisors) and the Area Franchisor. Although the former franchisee's petition is somewhat confusing, it appears to allege that the Area Franchisor and its subsidiaries, through some type of unspecified joint action, refused to allow plaintiff to move her office and terminated the franchise. The former franchisee claims that these acts constituted a breach of contract and a violation of certain antitrust statutes. The petition also claims that certain unspecified acts of the defendants constitute tying. Damages are claimed in a total amount of $620,000, which the plaintiff asks the court to treble, plus reasonable attorney's fees. The defendants have answered the petition by denying all material allegations, as well as stating that the petition fails to set forth a claim upon which relief can be granted and that the court lacks jurisdiction, that any damages were the results of the plaintiff's actions and that the plaintiff failed to take reasonable steps to minimize damages.

In addition to the foregoing the Area Franchisor and/or the Company were involved in the below stated actions regarding regulations affecting the use of the CENTURY 21 name in conjunction with the franchisee's name:

Century 21 Real Estate Corporation, et al. v. The Nevada Real Estate Advisory Commission, et al., U.S. District Court, District of Nevada, Civ. No. R 76-136-BRT. (Filed July 19, 1976). The complaint for injunction asked that the Court declare unconstitutional a rule adopted by the Nevada Real Estate Advisory Commission regarding a 50-50 ratio between the surface area of the broker's name and the surface area of the trade name of logotype. Judgment was granted in
favor of the Defendant Real Estate Commission. Plaintiffs appealed to the U.S. Supreme Court. In March, 1979, the United States Supreme Court summarily affirmed the judgment of the lower court in Nevada.

*Century 21 Real Estate Corporation v. Alabama Real Estate Commission,* U.S. District Court for the Southern District of Alabama, No. 78-436-P (Filed August 11, 1978). Judgment was entered in favor of Defendant Real Estate Commission on the basis of the ruling in the aforesaid Nevada case. As a result of this judgment, an action was subsequently filed against the Alabama Real Estate Commission in a state court by Century 21 franchisees in Alabama. [page reference to a description of that action omitted].

The Company was a plaintiff in *Century 21 Real Estate Corporation of Virginia v. Virginia Real Estate Commission,* Circuit Court of the City of Richmond, Division I, Chancery No. G-2850-3 (Complaint filed 12/1/78). The Company filed suit seeking an injunction against the enforcement of certain regulations adopted by the Virginia Real Estate Commission on the grounds that the regulations violate Virginia law. The Virginia Real Estate Commission had adopted a regulation, effective January 1, 1979, requiring that in written non-institutional advertising, the franchisee’s name must appear in size of letters and contrast with background in a manner substantially identical to or more conspicuous than that of the franchised name. A final injunction was entered on August 27, 1979, permanently enjoining the Virginia Real Estate Commission from enforcing said regulation on the grounds that the Virginia Real Estate Commission was without the authority to adopt such a regulation. The Virginia Real Estate Commission appealed the judgment and on May 29, 1980, the Supreme Court of Virginia refused their petition for appeal. On June 5, 1980, the Virginia Real Estate Commission voted to readopt the provisions which had been enjoined in the aforesaid action, purportedly on the basis of newly enacted legislation. On July 7, 1980 the Company as a plaintiff filed a Bill of Complaint in *Century 21 Real Estate Corporation of Virginia, et al v. Virginia Real Estate Commission,* Circuit Court of the City of Richmond, Division I, Chancery No. G-5073-3, seeking to enjoin enforcement of that regulation. The matter is still pending before the Circuit Court where the Company filed a Motion for Summary Judgment and a Memorandum in Support thereof. No hearing date has yet been set. The Company has also filed a Notice and Petition of Appeal pursuant to Rule 2A of the Rules of the Supreme Court of Virginia challenging the adoption of this regulation.

Similar litigation involving Area Franchisor, the Company and franchisees, as plaintiffs, is pending in Alabama, (*Century 21 Preferred Properties, et al v. Alabama Real Estate Commission,* Circuit Court of Montgomery County, Alabama, Case No. CV79-1406-G; Complaint filed in late 1979); Arkansas, (*Century 21 Real Estate of
The central issue underlying these cases is the adoption of rules by the State Real Estate Commissions that typically attempt to regulate the size of a franchised trade name relative to the size of the broker's own name when used on signs, stationery and other advertising materials. Generally, these rules have required that the broker's name be as equally prominent (50:50 ratio) as the franchised trade name. The registered trademark of CENTURY 21 calls for a format in which the franchised trademark is on a 5:1 ratio with the broker's name. This type of rule has been considered by Real Estate Commissions in numerous other states, which commissions have rejected the proposed rule on constitutional and other grounds.

The aforesaid actions against the Alabama and Arkansas Real Estate Commissions were recently decided in favor of the respective Commissions. However, timely appeals have been noted and the trial courts have issued injunctions staying enforcement of these rules pending the outcome of the appeals. If these actions are not reversed on appeal, CENTURY 21 brokers in Alabama and Arkansas will have to adopt new sign formats consistent with these state rules.

[Area Franchisor has the right to adopt new sign and print formats consistent with the foregoing regulations and to require franchisees, at their expense, to comply with such formats or guidelines. (See Paragraph 14J of the Franchise Agreement and Section 7 of this Offering Circular)].

Century 21 Real Estate Corporation v. Century 21 Construction Company, Inc., United States v. Century 21 Construction Company, Inc., United States District Court, Maryland, Civil Action No. K-78-2048 (Complaint filed 10/19/78). The plaintiff therein, Area Franchisor asked that a declaratory judgment be issued, holding that the use of the "CENTURY 21" name and mark by Area Franchisor and its licensees did not infringe upon any rights of the defendant, Century 21 Construction Company, Inc. (Century 21 Construction). Century 21 Construction filed a counterclaim against both Area Franchisor and the Company, alleging that their use of the CENTURY 21 name and mark was an infringement entitling Century 21 Construction to both treble actual damages and punitive damages. In November, 1978, Century 21 Construction filed an action against a Maryland Franchisee of the Company. In this action (Century 21 Construction Company, Inc. v. Severna Park Realty, United States District Court, Maryland, Civil Action No. K-78-2359) Century 21 Construction claimed the use of the CENTURY 21 name by Severna Park Realty was an unauthorized infringement, entitling
Century 21 Construction Company to injunctive relief, treble actual damages and punitive damages.

In May, 1980, a written settlement between the parties was entered into whereby all actions by Century 21 Construction against the Area Franchisor, the Company and Severna Park Realty, and the action by the Area Franchisor against Century 21 Construction were dismissed. In addition the principals of Century 21 Construction agreed that they will no longer use or make claim to the CENTURY 21 trade name and service mark.

4. BANKRUPTCY

Neither the Company nor the Area Franchisor nor any predecessor or principal officer of either has been during the last fifteen years, adjudicated a bankrupt or reorganized due to insolvency, nor has any corporation or partnership of which he, she or it is or has been a principal officer or general partner been involved in any such proceedings during or within one year after he, she or it held such position.

5. FRANCHISEE'S INITIAL FRANCHISE FEE OR OTHER INITIAL PAYMENT

The current initial franchise fee is $12,000. It is payable to the Company upon execution of the Franchise Agreement. The fee is nonrefundable. The fee is payable in a lump sum unless installment payments are arranged on an individual basis, but no such arrangements are guaranteed. Eighty-five percent (85%) of the fee is retained by the Company and fifteen percent (15%) is remitted to the Area Franchisor. The franchise fee is applied to offset marketing costs and any remainder is applied to increase the Company's working capital.

6. OTHER FEES

A. Service Fees

A nonrefundable service fee of six percent (6%) of the franchisee's gross income derived from all transactions for which a real estate or auctioneer's license is required, except income from leases which are for terms of not more than one year (as set forth in Paragraph 9 of the Franchise Agreement), and, commencing four months after the execution of the Franchise Agreement, not less than $1200 per year is payable to the Company. If the franchisee becomes liable for such minimum fee during, rather than at the beginning of a calendar year, the $1200 yearly amount shall be prorated for only the number of months remaining in the calendar year when the franchisee first becomes liable for the minimum service fee. Such fees are to be paid by the franchisee upon receipt of income or upon settle-
ment of the real estate transaction. Within ten (10) days after the end of each month thereafter, the franchisee must pay to the Company, as a minimum service fee, the difference, if any, between the total amount of the service fee paid to date during the calendar year and the portion of the minimum annual service fee prorated to that date. If any service fee is not paid within ten days after it is due, interest at the highest legal rate or 10% per annum, whichever is lower, may be charged on the unpaid balance. (Paragraph 9, Franchise Agreement).

B. National Advertising Contributions

The franchisee is obligated to pay the Area Franchisor, as trustee of the National Advertising Fund, through the Company, a monthly, nonrefundable, National Advertising Contribution of two percent (2%) of "gross receipts", as defined in Paragraph 9 of the Franchise Agreement; but not less than $133.00 nor more than $399.00 per month. These minimum and maximum amounts will be adjusted annually on June 1, of each year during the term of the Franchise Agreement based on changes in the Consumer Price Index between January 1, 1977 and January of the then current year. The third annual adjustment was made on June 1, 1980. (Paragraph 23 of the Franchise Agreement). These fees are due and payable monthly upon receipt of billing.

The contributions are placed in a National Advertising Fund managed by Area Franchisor and used exclusively for advertising and related purposes. Restrictions on the allocations of the fund are that Area Franchisor shall spend at least eighty-five percent (85%) of the contributions on either (1) national media or (2) local or regional media which cover the area served by Franchisee's office. Area Franchisor may spend up to fifteen percent (15%) of the fund to engage in test marketing, surveys of advertising effectiveness, production of new commercials and other purposes deemed beneficial by Area Franchisor to the general recognition of the name CENTURY 21 and the success of its franchise system in the United States and other countries. Franchisee will receive a report at least annually of how the National Advertising Fund has been spent. The Company has the right to have up to twenty-five percent (25%) of contributions made through its Region returned to the Company for regional management and placement, under the same conditions and restrictions as are imposed upon Area Franchisor.

In consideration for Franchisee's contributions to the Fund, the Company will contribute ten percent (10%) of the service fees received from Franchisee to the Fund commencing when Franchisee begins making contributions.
C. **Brokers’ Council Assessments**

Additional non-refundable costs will arise through membership in the local brokers’ council of CENTURY 21 brokers, which council the franchisee is obligated to join. (Paragraph 14H of the Franchise Agreement). The primary purpose of the brokers’ council is to engage in promotional activities and to establish assessments for members to pay for such promotional activities and necessary administrative expenses incidental thereto. It also serves as an advisory body to the Company. The brokers’ council establishes its own assessments by affirmative vote of two-thirds of its members present. After establishment of the council, the Company has no right to vote therein. Brokers’ council assessments in Virginia are approximately fifty dollars ($50.00) per month and are used to defray the costs of sales rallies, awards, career nights, advertising or similar promotional costs and incidental administrative expenses. With respect to requirements for membership in the local brokers’ council, failure by the franchisee to pay the monthly assessment jeopardizes his franchise agreement and is grounds for termination proceedings. These assessments are due when billed and are paid directly to the brokers’ council.

In addition to local brokers’ council, regional or national brokers’ advisory councils may be established of elected franchisees on a representative basis at the local or regional level to engage in promotional activities. Such councils may levy assessments although no such assessments are presently planned or anticipated in the immediate future. Actions of such councils are binding on the franchisee. The Area Franchisor and the Company have no vote in the councils.

D. **Training Fees**

Training provided by the Company to franchisees and their sales associates is essentially on a non-tuition fee basis except in some cases where a charge for materials is made. For example, the newly developed national sales training program known as the “2&1 Sales Training Program” has a fee for materials which is currently $39.00 for a notebook, cassette tapes, examination material, etc. From time to time the Area Franchisor will send training teams around the country putting on special seminars on such subjects as management and investment real estate training and fees are charged for these programs. In addition the Company may schedule seminars or conferences of special interest on such topics as market conditions, sales motivation, sales aids, advertising or financing. CENTURY 21 may charge a registration fee or fees to offset costs in such cases; however, attendance is voluntary.

With each new franchise agreement there is the requirement for a broker or manager to attend the new franchise management orien-
tation program in Irvine, California. The cost of the enrollment package, which includes air fare, lodging and some meals is paid for by the Company; however, incidental costs of the trip to the participant are not borne by the Company or Area Franchisor. The cost of the enrollment package is paid to the J.L.M. Travel and Incentive Company, a majority-owned subsidiary of the Area Franchisor (See Section 9A hereof).

E. Audit Fees

When a periodic audit of a franchisee reveals that the Company has been underpaid the service fee due by said franchisee by more than five percent (5%), in any 3 month period, the Company may require that franchisee to pay the cost of that audit and any expenses incurred in collecting past due service fees. This right of the Company to demand such payment from the franchisee is in addition to any other remedy available to the Company under the Franchise Agreement or by law. (Paragraph 14B, Franchise Agreement). Any payments, contributions or charges incurred for any products, supplies or services to be furnished by the Company which are past due shall bear interest at the highest legal rate, or 10% per annum, whichever is lower.

F. Interest on Late Payments

Any payments, contributions or charges incurred for any products, supplies or services to be furnished by the Company which are past due may bear interest at the highest legal rate, or 10% per annum, whichever is lower. Additionally, National Advertising contributions more than ten (10) days late bear interest at the highest rate permitted, or 10% per annum, whichever is lower, and/or a late fee of 10% of the late payment.

G. Insurance

Franchisee is required to procure and maintain, at Franchisee’s expense general liability insurance coverage of at least $200,000.00 per person, $500,000.00 total persons per accident and $50,000.00 property damage. All such coverage is to have an endorsement naming the Area Franchisor and the Company as additional insured. The cost of such insurance varies with the size and location of Franchisee’s operations, as well as other factors, and as such cannot be estimated with any degree of accuracy. Other insurance required by law, including, but not limited to Workers’ Compensation, shall also be obtained.

7. FRANCHISEE’S INITIAL INVESTMENT

It is difficult to estimate with any degree of accuracy the initial investment by any Franchisee in a real estate office due to many
variables applicable to the individual franchisee's business situation. Thus, other than the fees described above there is no standard by which initial investment by a franchisee in a real estate office may be estimated or described. A franchisee's initial investment depends upon numerous factors, including whether he converts an existing office or equips a new office, his rating for liability insurance, whether he leases or purchases an office and its furnishings, the size of his staff, and the locale where he intends to operate. The foregoing factors may make any estimate highly speculative and conjectural.

A. For the above reasons real property costs are not estimatable. Real property is not financed by the Company or the Area Franchisor.

B. The franchisee's principal office shall have an internally lighted exterior sign approved by the Company, unless such sign is prohibited by law or an exception is made in writing by the Company. Such signs vary in cost from several hundred dollars to a few thousand dollars depending upon size, structure and mounting. Franchisees are required to purchase yard signs, business cards, and stationery conforming to "CENTURY 21" standards. Purchase of "CENTURY 21" promotional material and marketing tools is recommended.

C. Inventory of the above equipment is generally estimated at two to four thousand dollars ($2,000.00 to $4,000.00).

D. There are no security deposits, other prepaid expenses or working capital required in order to commence operations.

E. Since franchisee operates an independent real estate office, his judgment as to working capital, in light of his own circumstances, governs. The Company imposes no minimum requirement regarding the amount of working capital. However, as a general rule the Company has adopted a policy requiring that a franchisee have a minimum net worth of $10,000.00 per franchise.

F. In the event that Area Franchisor adopts new sign and print specifications, because of state regulations or otherwise, franchisee will be required to comply with such specifications. Because of the variation in sizes of office and volume of business conducted by individual brokers it is not possible to estimate to any degree of certainty the cost of franchisee to obtain new stationery, business cards, signs and other operating supplies which comply with new specifications.

G. The Area Franchisor has the right to adopt new trade names, trademarks, service marks, advertising and other commercial symbols and the Company may require Franchisees to adopt, at Franchisees' expense, and to use such symbols in the real estate brokerage business. (See Paragraph 14J of the Franchise Agreement).

THERE ARE NO OTHER DIRECT OR INDIRECT PAYMENTS IN CONJUNCTION WITH THE PURCHASE OF THE FRANCHISE.
8. **OBLIGATIONS OF FRANCHISEE TO PURCHASE OR LEASE FROM DESIGNATED SOURCES**

Franchisees are not required to purchase or lease from the Company, Area Franchisor, or their designees, goods, services, supplies, fixtures, equipment, inventory or real estate relating to the establishment or operation of the franchise business. The Company and the Area Franchisor may suggest suppliers for various items, but do not derive income from purchases or leases, except as specified in Section 9 hereof.

9. **OBLIGATIONS OF FRANCHISEE TO PURCHASE OR LEASE IN ACCORDANCE WITH SPECIFICATIONS OR FROM APPROVED SUPPLIERS**

A. While franchisees are required to purchase signs, stationery, business cards, brochures and other promotional materials bearing the CENTURY 21 logo, trademark or other designation according to the Company’s and Area Franchisor’s specifications, they are not required to purchase these from the Area Franchisor, the Company, or their designees. Nor are franchisees required to lease any such items from Area Franchisor, the Company or their designees. The Area Franchisor and Company suggest suppliers and may issue and alter specifications for such items from time to time. Supplies may be purchased from sources other than those suggested by the Company or Area Franchisor if such other sources can supply items meeting the Company’s specifications. No suggested supplier is affiliated with the Company or Area Franchisor except: the J.L.M. Travel and Incentive Company, a California Corporation, handling travel, meeting and convention arrangements; and American Sign and Advertising Services, Inc. of Florence, Kentucky, a manufacturer of illuminated business signs for whom Marquest, Inc., a subsidiary of the Area Franchisor, acts as a distributor. Marquest, Inc. also serves as a distributor of promotional items, charts, tape recordings, signs, stationery, clothing and other items which may be utilized in the real estate business. The Area Franchisor receives compensation from these companies, but franchisees are not required to use their services or products. Additionally, the Area Franchisor receives a portion of the revenues received from the sale of recorded program materials at the CENTURY 21 International Convention. The portion of the revenues so received by the Area Franchisor has amounted to less than $5,000.00 per year. The Area Franchisor produces for the use of franchisees certain demonstration charts, tape recordings, films and printed material, which are not available from other sources. These materials are not required to be purchased and are not essential to a franchisee’s business. However, franchisees are encouraged to purchase these materials as they are designed to enhance the franchisee's business.
B. The Area Franchisor has issued a publication entitled "The Logo Book-Guidelines for Using the CENTURY 21 Trade Name, Logos and Slogans". This contains specifications for use of CENTURY 21 logos, etc. in printed matter, signs, advertising and related areas. The Logo Book is amended from time to time and is available to franchisees and concerned suppliers. The process for approving suppliers is contained in the publication "Selling to CENTURY 21". The Area Franchisor will enter into license agreements permitting suppliers to state that they are CENTURY 21 suppliers after examining their financial information, marketing plans, references, samples or products, and price lists. Suppliers are approved if their products are of good quality and competitive. Approved suppliers may advertise in the CENTURY 21 Suggested Sources of Supply Manual. Suppliers may be disapproved if there are complaints as to the quality of their performance or if they refuse to conform to reasonable product changes.

C. Marquest, Inc., a subsidiary of the Area Franchisor, is a distributor of CENTURY 21 approved illuminated signs as noted above, although it is not the only approved supplier or distributor of these signs. The Area Franchisor is the only producer of certain videotapes, training films and cassettes, all used for sales and promotional purposes. While franchisees are not required to use these materials, they are encouraged to do so. The Area Franchisor is also the only producer of CENTURY 21 Procedural Manuals and "flip charts", materials used by franchisees in operating their business and in dealing with the public. (Description above in Section 9A).

D. Except as stated above, neither the Company nor the Area Franchisor derives income from purchases made from it or from other approved suppliers.

10. FINANCING ARRANGEMENTS

A. The Area Franchisor does not make any financing arrangements for franchisees. The Company may, in certain instances, offer deferred payment or financing arrangements for payment of the initial franchise fee. This may be done on an individual basis to franchisees, but the Company makes no representation that such deferred payments or financing arrangements will be offered. If offered, such financing would be on the basis of a minimum downpayment of $4500 of the initial fee with the balance payable over such period of time and at such rate of interest as is agreed upon by the parties. In most instances, the promissory note will be signed by the franchisor and personally guaranteed by his spouse; if the franchisee is a partnership, the note will be guaranteed by all parties and their spouses; if the franchisee is a corporation, the note will be guaranteed by all stockholders and their spouses. Other guarantees may also be required by the Company. The note may be prepaid without
penalty upon default, and will provide that upon default there shall be immediate payment of all outstanding principal and/or accrued interest. Financing arrangements for other purposes are not offered; the Area Franchisor does not intend to make any financing arrangements for the Company’s franchisees.

B. Promissory notes when accepted by the Company from franchisees for the purpose stated above provide that the maker waives protest, presentment for payment, demand, notice of protest, notice of dishonor, homestead and all other exemptions, and all defenses based on the grounds of extension of time of payment. The note further provides that the maker will pay all expenses incurred in collection, including twenty-five (25%) percent collection or attorneys fee.*

C. The Company has not and does not currently sell, assign or discount to a third party in whole or in part any note executed by the franchisees, but it may do so in the future.

11. **OBLIGATIONS OF THE FRANCHISOR: OTHER SUPERVISION, ASSISTANCE OR SERVICES**

After execution of the Franchise Agreement and both before and during operation of the franchisee’s business, the Company’s specific obligations are as follows:

A. Impart to franchisee all of the selling, promotional and merchandising methods and techniques developed by the Area Franchisor; provide franchisees with the CENTURY 21 operations and policy manual, and maintain a staff to give assistance and service to franchisee. (Paragraph 13, Franchise Agreement).

B. Publish supply manuals suggesting sources of supply for all forms, contracts, signs, cards, stationery and other items necessary to operate a modern real estate business. The Company may revise such manuals from time to time at its discretion. The suggested source of supply for an individual item may be either the Area Franchisor (as provided in Section 11C hereof), the Company or an independent supplier; however, the Company does not now, nor does it presently intend to, act as a supplier of the above items, (Paragraph 13, Franchise Agreement).

C. Furnish sample forms to all franchisees for use in referring business among franchisees, and establish procedures for referral business among franchisees. (Paragraph 13, Franchise Agreement).

D. Operate a sales training program without tuition fee (except as provided in Section 6D hereof) for franchisees and their sales personnel. A charge of thirty-nine dollars ($39.00) for materials such as notebook, cassette tapes and examinations will be made in connection with the “2&1 Training Program”. The course will be taught at the Company’s offices in Vienna, Norfolk and Richmond, Virginia*

* Default on the note will, at the option of the Company, be cause for the termination of franchisee’s franchise.
and Baltimore, Maryland and at public facilities leased for the pur- 
pose in areas proximate to the franchisees. Each franchisee is 
responsible for all expenses, including travel and living expense, 
incurred in connection with the training program. Although the 
training is not mandatory, the Company estimates that a majority 
of new franchisees have enrolled in the training program. The Area 
Franchisor does not intend to provide training, supervision or 
an assistance directly to franchisees. (Paragraph 13, Franchise Agree- 
ment), except as described in Sections 11G and H hereof.

E. Hold seminars and conferences of special interest, but only to 
the extent deemed necessary and advisable by the Company, and for 
which a registration or other fee may be charged. (Paragraph 13, 
Franchise Agreement).

F. Contribute ten (10%) percent of all service fees received by the 
Company to the Area Franchisor for National Advertising at such 
time as franchisees are obligated to pay the proposed National 
Advertising Fee (see “Other Fees”).

G. The Company will pay one enrollment package fee to cover 
attendance by franchisee’s responsible broker or office manager at 
the “new franchisee training program” conducted by the Area Fran-
chisor (as described herein below). The enrollment package fee 
includes the cost of the training program, round trip airfare, and 
lodging for the duration of the program (Paragraph 14J, Franchise 
Agreement).

The typical length of time between the signing of the franchise 
agreement and the opening of franchisees’ businesses as CENTURY 
21 offices has been six to eight weeks.

The Area Franchisor will be obligated to expend at least eighty-
five percent (85%) of all proposed National Advertising Contribu-
tions received for national advertising, or advertising in the area 
served by the Company’s franchisees, and may expend up to fifteen 
percent (15%) of such fees for advertising in other areas or other pro-
motional purposes as the Area Franchisor deems beneficial, when 
such proposed National Advertising Contributions are assessed (see 
“Other Fees”).

The Area Franchisor conducts a “new franchise training pro-
gram” at Irvine, California, or elsewhere in the United States, on a 
periodic basis. It is a five day program consisting of orientation to 
the CENTURY 21 System, and training in sales management con-
ducted by senior members of the Area Franchisor’s staff. Attend-
ance at this program by the responsible broker or office manager of 
new franchisees is obligatory within three months of the date of the 
Franchise Agreement; however, satisfactory completion is not 
measured or specifically required. The Company pays one enrollment 
package fee which includes the program, airfare, lodging, and some 
meals, and franchisee is responsible only for certain meals and 
miscellaneous expenses. The Area Franchisor plans no additional
mandatory training or refresher courses (Paragraph 14N, Franchise Agreement).

H. The training programs for the franchisee and his associates are conducted by both the Company and the Area Franchisor and consist of several levels of training.

1. The initial program for the new franchisee is the mandatory "new franchisee training program" described in Section 11G above.

2. The principal sales training program available to all franchisees and their associates is a franchisor developed program conducted by the Company's Training Director. It consists of lectures, films, cassettes, workshops and role playing. Cost for materials is thirty-nine dollars ($39.00). It is conducted at the Company's facilities in Baltimore, Maryland, Falls Church, Virginia, Norfolk, Virginia and at public facilities leased for the occasion proximate to the areas of concentration of franchisees. This training program is not mandatory, but it is estimated that a majority of new franchisees attend. This training is conducted by experienced instructors, experienced also in real estate sales and management. It is offered every four (4) to eight (8) weeks throughout the Region, depending upon the demand.

3. Additionally, sales training workshops and seminars, pursuing real estate subjects in greater depth are given throughout the Region at the same facilities by the same instructors and specially invited professionals on a semi-monthly to bi-monthly basis, depending upon demand. As stated in Section 6D hereof, a registration fee may be charged for such seminars to offset costs. THEY MAY BE ATTENDED AS OFTEN AS DESIRED AND ARE NOT MANDATORY. ALL FRANCHISEES SHOULD ENCOURAGE MAXIMUM PARTICIPATION BY THEIR STAFFS.

4. Management level seminars and workshops are provided by the Company at the same facilities. These are conducted by qualified members of the Company's staff or specially invited professionals. These are conducted on a monthly basis or as deemed necessary by the Company and a registration or other fee may be charged therefor. These seminars and workshops are not mandatory but are attended by most franchisees.

5. From time to time the Area Franchisor provides traveling teams to conduct management level training and investment training. These teams provide their training once, or sometimes twice a year at facilities proximate to the concentration of franchisees in principal cities of the United States. There are fees associated with these programs. These programs have been attended by a majority of franchisees. Investment training, a new program, has been attended by a smaller percentage, usually in offices with an interest in commercial properties.

6. Other than the mandatory initial management and orientation seminar for the new franchisee, the training programs may be
attended by the franchisee and his associates as OFTEN as desired. The Area Franchisor and the Company do not bear any of the travel or living expenses associated with the non-mandatory training.

I. Neither the Area Franchisor nor the Company selects the location for the franchisee's business. Normally, the franchisee is already in business at his location, which the Company has the right to approve. Where a change is indicated, the Company provides advisory assistance and exercises final approval authority for site, location and adequacy.

12. EXCLUSIVE AREA OR TERRITORY

(A) In the past a few franchisees were granted limited exclusive areas by the Company but this is no longer being done. Under the present Franchise Agreement the franchisee is not granted an exclusive area or territory. No franchisee is prohibited from lawfully obtaining listings or buyers in any area. Franchisee may operate only from the office location approved in the Franchise Agreement and MAY NOT RELOCATE TO OTHER OFFICES WITHOUT THE PRIOR CONSENT OF THE COMPANY. The Company presently does not operate any Company-owned outlets as permanent facilities under the "CENTURY 21" name that sell or lease products and service similar to those offered by CENTURY 21 franchisees (other than CENTURY 21 Relocation Centers operations). The Company has no immediate plans for the establishment of any such Company-owned outlets to be operated as permanent facilities. Furthermore, the Company has no long or short term plans for the establishment of other franchises or Company-owned outlets selling or leasing similar products or services under a different trade name or trademark that will compete with CENTURY 21 franchisees.

(B) The Area Franchisor has established certain policies affecting Franchisee's business and competition with other CENTURY 21 franchisees. Such policies require that the Company not establish more than one franchisee per 15,000 people within the States of Maryland, Virginia, Delaware and the District of Columbia. In addition, the Company may not establish a CENTURY 21 franchise within one-quarter mile of an existing CENTURY 21 franchise, without the prior consent of the Area Franchisor. These policies may be changed at the sole discretion of Area Franchisor and do not represent a continuing commitment by either the Area Franchisor or the Company, and, therefore Franchisee may not rely thereon.

13. TRADEMARKS, SERVICE MARKS, TRADE NAME, LOGOTYPES AND COMMERCIAL SYMBOLS

A reproduction of the primary CENTURY 21 commercial symbol appears in the upper left-hand corner of the cover sheet of this Offering Circular. Additional Commercial symbols have been devel-
oped and used (see Exhibit [in Section 13] hereof), and it is expected that more will be created and used in the future in connection with new advertising campaigns. All right, title and interest in such commercial symbols is held and will be held by Area Franchisor. The Company has been granted by the Area Franchisor the exclusive right to authorize the use of such symbols by franchisees in the operation of a real estate brokerage business.

The Area Franchisor may change or modify its commercial symbols and franchisees are obligated to adopt, use, and display the new or modified trade names, service marks, trademarks, and copyrighted materials. (See Paragraph 14J of the Franchise Agreement).

The following information regarding service mark applications and registrations has been supplied by Area Franchisor:

**Federal Registration Owned by Century 21 Real Estate Corporation**

<table>
<thead>
<tr>
<th>U.S. Trademark Registration No. (Principal Register)</th>
<th>Mark</th>
<th>Issue Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,104,464</td>
<td>CENTURY 21 &amp; DESIGN</td>
<td>Oct. 17, 1978</td>
</tr>
<tr>
<td>1,091,541</td>
<td>CENTURY 21 REAL ESTATE &amp; DESIGN</td>
<td>May 16, 1978</td>
</tr>
<tr>
<td>1,085,040</td>
<td>CENTURY 21 &amp; DESIGN</td>
<td>Feb. 7, 1978</td>
</tr>
<tr>
<td>1,085,039</td>
<td>CENTURY 21</td>
<td>Feb. 7, 1978</td>
</tr>
<tr>
<td>1,078,901</td>
<td>CENTURY 21 PROPERTIES</td>
<td>Dec. 6, 1977</td>
</tr>
<tr>
<td>1,071,592</td>
<td>CENTURY 21 REAL ESTATE &amp; DESIGN</td>
<td>Aug. 16, 1977</td>
</tr>
<tr>
<td>1,065,415</td>
<td>CENTURY 2100</td>
<td>May 10, 1977</td>
</tr>
<tr>
<td>1,065,416</td>
<td>CENTURY 2100 REAL ESTATE &amp; DESIGN</td>
<td>May 10, 1977</td>
</tr>
<tr>
<td>1,063,488</td>
<td>CENTURY 21</td>
<td>April 12, 1977</td>
</tr>
<tr>
<td>U.S. Trademark Registration No. (Principal Register)</td>
<td>Mark</td>
<td>Issue Date</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>-------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>963,138</td>
<td>CENTURY XXI</td>
<td>July 3, 1975</td>
</tr>
<tr>
<td>1,015,971</td>
<td>We're National, But We're Neighborly</td>
<td>July 15, 1975</td>
</tr>
<tr>
<td>1,015,971</td>
<td>We're Here For You</td>
<td>Oct. 24, 1978</td>
</tr>
<tr>
<td>Application Pending</td>
<td>We're the Neighborhood Professionals</td>
<td></td>
</tr>
<tr>
<td>App. Pending</td>
<td>Neighborhood Professionals</td>
<td></td>
</tr>
<tr>
<td>App. Pending</td>
<td>Home Buyers Kit</td>
<td></td>
</tr>
<tr>
<td>App. Pending</td>
<td>America’s Number 1 Top Seller, CENTURY 21</td>
<td></td>
</tr>
</tbody>
</table>

No agreements are currently in effect that significantly limit the rights of Area Franchisor or the Company to use or license the use of the above mentioned trademarks, service marks, trade names, logotypes, or other commercial symbols in any manner material to franchisee. There are no infringing uses actually known to the Area Franchisor or the Company that could materially affect Franchisee’s use of such trademarks, service marks, trade names, logotypes or other commercial symbols in this state (except as described in Section 3 hereof).

Area Franchisor is not specifically obligated by its agreement with the Company to protect trade names, trademarks, or similar commercial symbols. However, Area Franchisor is actively protecting its names, symbols and marks.

The Company is not specifically obligated by the Franchise Agreement or otherwise to protect trade names, trademarks or similar commercial symbols; however the Company represents that it will use its best efforts to protect franchisees in their use of the CENTURY 21 name and Area Franchisor represents it will assist and cooperate with the Company in the protection of the CENTURY 21 name whenever it is able to do so.
CENTURY 21® Commercial Symbols

Trade Name

"Trade name" means a name used as a trademark or service mark or the business name of a company. The trade name used by our entire franchise system is CENTURY 21.

Service Marks

"Service mark" means a mark (including words, names, symbols, devices, pictures and letters or any combination thereof) adopted and used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others. The CENTURY 21 service marks include the following:

Modern Building Logo

Helvetica Logos

Advertising Slogan

We’re the Neighborhood Professionals.
14. **PATENTS AND COPYRIGHTS**

Neither Area Franchisor nor Company has rights in any patent. Area Franchisor has common law copyrights on its materials, including the CENTURY 21 Policy and Procedure Manual, charts, films, tapes and printed materials, but no copyright is registered. There are no agreements currently in effect which significantly limit the rights of the Company to use or license the use of the copyrights in any manner material to franchisee.

15. **OBLIGATIONS OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

Unless otherwise approved in writing by the Company, each individual franchisee, and the present partners or officers of a franchisee if it is a partnership or corporation, are obligated to devote their full time to the management of the real estate brokerage office and to cause the Responsible Broker, if any, to so engage in a like manner. (Paragraph 14C of the Franchise Agreement).

Franchisees and their officers, directors and holders of twenty-five percent (25%) or more of any class of stock of franchisee are prohibited from operating, managing, owning or having more than ten percent (10%) interest in any real estate brokerage business located within seventy-five (75) miles of franchisee without the Company's prior written consent. (Paragraph 14C of the Franchise Agreement).

Pursuant to Paragraphs 9, 10, 11 and 14 of the Franchise Agreement, Franchisee agrees to work diligently, fairly and in good faith to perform all the obligations of the Franchise Agreement, including but not limited to:

A. Pay all fees promptly;

B. Maintain a clean and attractive office open to the public at least 6 days a week, give prompt courteous and efficient service to the public; comply with the CENTURY 21 Policy and Procedure Manual (as it may be revised from time to time); and generally operate its real estate brokerage office in compliance with the CENTURY 21 system so as to preserve and maintain and enhance the reputation and goodwill of the CENTURY 21 system;

C. Maintain and keep such records and reports as are prescribed by the Company and mail copies of such to the Company in accordance with the schedules required by the Company;

D. Allow the Company to make inspections of Franchisee's business and premises at any reasonable time, and make its books, tax returns and records available for inspection and audit by the Company during normal working hours. In the event an audit of Franchisee's books discloses that the Company has been underpaid by more than five percent in any three month period, the Company
may require Franchisee to pay the cost of the audit and any other expense incurred by the Company in collecting past due service fees;

E. Maintain its books and records in accordance with a uniform list of accounts and/or uniform bookkeeping system which may be established by the Company.

F. Advertise or publish matters relating to the sale of real estate or business transacted pursuant to the Franchise Agreement only in compliance with the latest edition of the CENTURY 21 Policy and Procedure Manual, unless prior written approval shall have been obtained from the Company.

G. Comply with all federal, state and other governmental laws, ordinances and regulations which may in any way affect the operation of Franchisee's business, including the obtaining of all required permits, certificates, and licenses, and including the prompt payment of all taxes and business expenses; and comply with the Code of Ethics of the National Association of REALTORS, the CENTURY 21 Code of Ethics (if and when adopted) and any future amendments thereto. Franchisee shall not engage in any activity or practice which results, or may be reasonably anticipated to result, in litigation with clients or public criticism of the CENTURY 21 system or the real estate brokerage profession generally;

H. Indemnify and hold Area Franchisor, the Company and other franchisees harmless from all fines, suits, proceedings, claims, losses, damages, liabilities or action of any kind or nature (including, but not limited to, costs and attorneys fees) arising or growing out of or in any way connected to the operation by Franchisee of a real estate brokerage business;

I. Maintain general liability insurance in the amounts specified in the Franchise Agreement, and carry Workmen's Compensation insurance if required by law;

J. Join and participate in any local, regional or national brokers' council which may be established by the Company or Area Franchisor and observe all actions taken by such councils (See Sections 6 and 17 of this Circular);

K. Disclose to the public, as specified in the Franchise Agreement, on office signs, letterheads, deposit receipt forms, listing agreements and other printed materials that "each CENTURY 21 real estate brokerage office is independently owned and operated";

L. Ensure that a responsible broker or office manager of Franchisee attends the CENTURY 21 New Franchisee Training Program within three months of date of execution of its Franchise Agreement. The Program is conducted by Century 21 Real Estate Corporation at its headquarters in Irvine, California. The Company will pay one enrollment package fee for each Franchisee. The enrollment package fee covers the program, lodging and airfare, round trip. Other expenses must be borne by Franchisee; and
M. Operate only a real estate brokerage business from the franchise location, unless prior written approval has been obtained from the Company.

16. **RESTRICTIONS ON GOODS AND SERVICES OFFERED BY FRANCHISEE**

Franchisee, franchisee's spouse, and all partners owning a CENTURY 21 franchise are prohibited from operating, managing, owning or having more than a ten (10%) percent interest, direct or indirect (as an officer, director, shareholder or otherwise), in any real estate brokerage business located within 75 miles of the business to be operated under the Franchise Agreement without the prior written consent of the Company. If Franchisee is a corporation, the foregoing shall apply to each officer of Franchisee and to each shareholder owning twenty-five percent or more of any class of Franchisee's stock. If a corporation is a partner in a franchise then the foregoing shall apply to each officer, director and each shareholder owning twenty-five percent (25%) or more of the corporate partner. The restriction also applies to the spouse of each of the persons subject to the above described restrictions. No Franchisee is restricted from lawfully obtaining any real estate listing or buyer. Franchisee is required to operate under a business name which includes the words “CENTURY 21” and complies with the CENTURY 21 Policy and Procedure Manual. Franchisee may not use the CENTURY 21 name, marks or symbols in any business other than the real estate brokerage business, nor may Franchisee conduct or allow to be conducted any business other than the real estate brokerage business from the same business premises without the written consent of the Company, which consent shall not be unreasonably withheld.

The franchisee is not restricted as to the goods or services it may offer for sale, nor in the customers to whom it may sell such goods or services, except that franchisees must in connection with their real estate business, comply with the code of ethics of the National Association of Realtors and of CENTURY 21 (when adopted), the by-laws of any local boards of realtors, and any future amendments thereto.

17. **RENEWAL, TERMINATION, REPURCHASE, MODIFICATION AND ASSIGNMENT OF THE FRANCHISE AGREEMENT AND RELATED INFORMATION**

**Term and Renewal**

The term of the franchise is five (5) years commencing and ending as stated in Paragraph 8 of the Franchise Agreement. Normally the initial term will begin six to eight weeks after signing the franchise agreement; however, the specific commencement date will be that set forth in the Agreement. If not in default, the franchisee may
renew the franchise for additional consecutive five (5) year periods upon terms and conditions of the then current Franchise Agreement, by giving ninety (90) days' written notice of his intention to renew. The Company cannot otherwise refuse to renew a franchise. The renewal fee, if any, shall not exceed $100.00. If the Company's area franchise with the Area Franchisor is terminated, the Area Franchisor will assume the Company's obligations to its franchisees, including its obligations to renew the franchises (Paragraphs 8 and 15, Franchise Agreement).

Termination

The franchise may be terminated by expiration of its term without renewal, or by mutual consent of the Company and the franchisee, or by the Company upon the occurrence of one or more of the following events:

A. Failure of franchisee to substantially comply with the reasonable requirements imposed on him under the Agreement or under the Policy and Procedure Manual then in effect, or requirements created by the local, regional or national franchisee's councils, including but not limited to any act or conduct by the said franchisee which materially impairs the goodwill associated with any trade name, trademark, service mark, logotype or other commercial symbol of CENTURY 21. (Paragraph 16B, Franchise Agreement).

B. Any act of franchisee or of any person employed by or working in the franchisee's office which results in revocation or suspension of the franchisee's real estate or securities license. (Paragraph 16C, Franchise Agreement).

C. Nine months after the death, insanity, or appointment of a conservator or guardian of an individual franchisee, or of a general partner of a franchisee constituted as a partnership, or of the principal officer holding a real estate brokers' license of a franchise constituted as a corporation. (Paragraph 16D, Franchise Agreement).

D. Failure of franchisee to conduct and govern its business according to the code of ethics of the National Association of Realtors or of CENTURY 21 (if and when issued), the by-laws of the local board of realtors or applicable federal, state and local laws, ordinances and regulations. (Paragraph 16E, Franchise Agreement).

E. Failure of franchisee to perform in accordance with the minimum operating standards established by the Company after notice of deficiency for a probationary period of from three to six months. The only minimum operating standard regarding volume of business done requires that the sales volume of each franchisee shall be fifty percent (50%) of the average gross income (upon which service fees are payable) done by the CENTURY 21 real estate brokerage offices in the same local council area, determined over the same six month period. (Paragraph 16F, Franchise Agreement).

F. Bankruptcy or insolvency of franchisee. (Paragraph 16G, Franchise Agreement).

H. A judgment against franchisee unsatisfied for thirty (30) days after all rights of appeal have been exhausted. (Paragraph 16G, Franchise Agreement).

I. Appointment of a receiver to take possession of franchisee's business. (Paragraph 16G, Franchise Agreement).

J. Franchisee's office becomes vacant, abandoned or deserted, or shall fail to remain open for business as required by the Policy and Procedure Manual. (Paragraph 16H, Franchise Agreement).

The Company must give Franchisee ten (10) days notice of termination or such other notice as may be required by the laws of the states in which the franchisee's office is located. Such notice shall set forth the reason or reasons for termination. The Franchise Agreement, by its terms, shall not be terminated if the reasons for termination are completely satisfied and eliminated during this ten (10) day notice period. (Paragraph 16, Franchise Agreement).

Franchisee may terminate the franchise during its term with the Company's consent and as it may be entitled to do so in law or equity.

Following termination for any reason, or refusal to extend or renew by the Company or the franchisee, the franchisee shall cease to be an authorized CENTURY 21 franchisee and shall be obligated to:

1. Promptly pay all sums owed to the Company. (Paragraph 17A, Franchise Agreement).

2. Pay to the Company six percent (6%) of the gross commission income received from any real estate brokerage transaction in process as of the date of termination and six percent (6%) of the gross commission income from any referral sent to or received from any other CENTURY 21 office prior to the date of termination. (Paragraph 17B, Franchise Agreement).

3. Cease to use the proprietary mark "CENTURY 21 Real Estate" and all similar marks and names, including the use of said mark on any materials, signs, or advertisement. (Paragraphs 17C and 17E, Franchise Agreement).

4. Promptly destroy or surrender all signs, stationery, letterheads, forms, manuals, printed matter and advertising containing the proprietary mark "CENTURY 21" or similar marks or names. (Paragraph 17D, Franchise Agreement).

5. At the option of the Company, sell all policy and procedure manuals, listing books, listing films, sales training cassettes, forms or brochures on hand which contain the CENTURY 21 name or marks to the Company at cost. (Paragraph 17F, Franchise Agreement).
6. Refrain from doing anything that would indicate that franchisee is or ever was an authorized CENTURY 21 franchisee. (Paragraph 17G, Franchise Agreement).

7. Maintain all books, records and reports required by the Company for a period of not less than one year after termination and allow the Company to make a final inspection of them within said one year. (Paragraph 17H, Franchise Agreement).

8. Take necessary steps to delete franchisee's CENTURY 21 listing in the Yellow Pages and all other directories and listings. (Paragraph 17-I, Franchise Agreement).

Assignment

The franchisee may assign any rights under the Franchise Agreement only with the Company's prior written consent, which will not be unreasonably withheld but which may be conditioned upon such things as (a) the Company's satisfaction with the character, business experience and credit rating of the proposed assignee (and its partners, officers, and/or controlling stockholders), (b) payment of all outstanding claims by franchisee, (c) a general release of claims by franchisee, (d) assignee's execution of current franchise agreement, (e) assignee's payment of a $500.00 transfer fee, (f) assignee's attendance at the next available new franchise management orientation program in Irvine, California at the proposed assignee's expense, and (g) upon completion of steps necessary to comply with Federal Trade Commission Rules and/or any applicable state requirements. The Company has the right of first refusal on any proposed assignment.

If Franchisee shall desire to assign Franchisee's rights, Franchisee shall serve upon the Company a written notice setting forth all of the terms and conditions of the proposed assignment, a suitable current financial statement regarding the proposed assignee, and all other information requested by the Company concerning the proposed assignee. Said notice shall provide the Company with sufficient time to enable the Company to comply with all disclosure requirements with respect to any intended transferee. Within twenty (20) days after receipt of such notice (or if the Company requests additional information, within fifteen (15) days after receipt of such additional information), the Company may either consent or refuse to consent to the assignment or, at its option, accept the assignment to itself upon the same terms and conditions specified in the notice. If the Company fails to exercise any of its rights or options, then consent to the proposed assignment shall be deemed withheld. Consent to an assignment upon the specified terms and conditions shall not be deemed to be a consent to an assignment upon any other terms or conditions, nor to any other person, nor to any other subsequent assignment.
Franchise Registration

If Franchisee is a sole proprietorship or partnership, the Company expressly consents to the assignment without payment of a transfer fee of this Agreement to a corporation formed, owned and controlled solely by Franchisee to operate the franchise business, provided such assignment shall not relieve the original Franchisee of the obligations of this Agreement and further provided that there is no change in the Responsible Broker for the office. If Franchisee is a corporation pursuant to the preceding sentence, any merger thereof, or sale or transfer of more than twenty-five percent (25%) of any one class of stock or any series (whether related or unrelated) of sales or transfers totalling in the aggregate twenty-five percent (25%) or more of any one class of stock in such corporate Franchisee, whether by operation of law or otherwise, shall be deemed an attempted assignment of this Agreement requiring the prior written consent of the Company. If Franchisee is a partnership, the sale or transfer of any general partner’s interest or the sale or series of sales or transfers of limited partnership interests totalling in such aggregate twenty-five percent (25%) of such interests (including transfers of shares in corporate partners) whether by operation of law or otherwise, shall be deemed an attempted assignment of this Agreement and shall require the prior written consent of the Company. For the purpose of determining whether twenty-five percent (25%) or more of the interests of any class of shares have been transferred, all transfers (whether related or unrelated) shall be aggregated. Any proposed transfer involving less than twenty-five percent (25%) shall be reported by Franchisee to the Company at least twenty (20) days in advance but shall not be subject to the approval of the Company so long as there is to be no change in the Responsible Broker.

Any change in the Responsible Broker for the franchised office shall require the prior written consent of the Company. The "Responsible Broker" is the individual holding a real estate broker's license whose license is to be used for the franchise granted and who is named as the Responsible Broker in Article 30 of the Franchise Agreement (Paragraph 18 of the Franchise Agreement).

The Company reserves the right to assign the Franchise Agreement provided that such assignment shall not affect the rights and privileges of Franchisee under the Agreement. (Paragraph 27 of the Franchise Agreement).

Repurchase, Modification and Related Information

Except for its right of first refusal on any proposed assignment the Company does not have the right to repurchase the franchise. There are no provisions in the Franchise Agreement regarding the franchisee's equity upon sale or termination.

All modifications or changes in the Franchise Agreement must be in writing executed by franchisee and an officer of the Company (Paragraph 21, Franchise Agreement) and shall be void without the
written consent of the Area Franchisor. (Paragraph 21, Franchise Agreement).

The Franchise Agreement is binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns, except that the Franchise Agreement may be subject to termination by the Company nine months after the death, insanity or appointment of a conservator or guardian of the person or estate of: (a) franchisee, if franchisee is an individual; (b) all of franchisee's general partners if franchisee is a partnership; or (c) the principal officer holding a real estate broker's license, if franchisee is a corporation. However, the Franchise Agreement will not be terminated if, during the nine month period, the Franchise Agreement is assigned or a licensed real estate broker becomes a general partner or principal officer of franchisee. (Paragraph 16D and Paragraph 27 of the Franchise Agreement).

There are no restrictions on the franchisee's right to compete with the Company or any of its franchisees following termination.

Franchisee shall not during the term of the Franchise Agreement operate, manage, own or have more than a ten percent (10%) interest in any other real estate brokerage business located within seventy-five (75) miles of the business to be operated under the franchise agreement without the prior written consent of the Company. The foregoing applies to Partnerships and Corporations owning franchises. (Paragraph 14C, Franchise Agreement).

18. **ARRANGEMENTS WITH PUBLIC FIGURES**

The name of a public figure is not used in connection with a recommendation to purchase a franchise or as a part of the name of the franchise operation. No public figure is identified as being involved with management of the Area Franchisor or the Company.

Neither the Company nor the Area Franchisor has any arrangements with any public figure to promote the sale of franchises nor has either entity made arrangements to make the name of a public figure available to the Company's franchisees.

19. **ACTUAL, AVERAGE, PROJECTED OR FORECAST FRANCHISEE SALES, PROFITS OR EARNINGS**

Neither the Company nor the Area Franchisor intends to disclose to prospective franchisees actual, average, projected or forecast sales, profits or earnings of franchisees.

20. **INFORMATION REGARDING FRANCHISES OF THE AREA FRANCHISOR**

A. As of October 31, 1980, 7,142 CENTURY 21 franchises were operational in the United States and 419 franchises were operational
in Canada. The foregoing includes 74 Franchise Agreements which were in effect for offices not yet operational in the United States and 12 in Canada.

B. As of January 1, 1981, 82 franchises were operational in Maryland and one was sold and is not yet operational.

C. The names, addresses, and telephone numbers of the franchises in Maryland as of the date hereof are set forth in Pages 53-57 hereof. [Note: The list of franchises in Maryland has been deleted.]

D. The number of franchises to be granted in the United States and Canada during the next year cannot be estimated except in the broad term “several thousand”.

E. It is the goal of the Company to sell twelve (12) franchises in Maryland during the next year.

F. Twenty-nine franchises have been cancelled or terminated by the Company in Maryland during the preceding three year period; seventeen by mutual consent; nine because of low production and subsequent nonrenewal by the Company, one as a result of abandonment and two as a result of a court order (injunction). One franchise was not renewed due to franchisee’s failure to comply with its contractual obligations and one franchisee elected, upon the expiration of its franchise term, not to renew. No franchise has been reacquired by the Company through repurchase or otherwise.

H. There are no Area Franchise or Company owned or operated real estate offices of a type substantially similar to franchises offered by this Offering Circular. There are no immediate plans to operate or own such franchises in the future.

[Note: Item 21, which contains the financial statements, has been excised from the prospectus.]

22. CONTRACTS

A copy of the franchise agreement to be used in the State of Maryland is attached hereto and made a part hereof in the following pages.
CENTURY 21 REAL ESTATE FRANCHISE AGREEMENT

THIS AGREEMENT made this ______ day of ______, 19____, by and between CENTURY 21, a corporation, and a licensed real estate broker, with principal offices in the State of ______, hereinafter called “CENTURY 21,” and __________, hereinafter called “Franchisee.”

RECITALS:

1. CENTURY 21 Real Estate Corporation, a California corporation, has developed a system (the “System”) for the promotion and assistance of separately owned real estate brokerage offices, including policies, procedures, and techniques designed to enable such offices to compete more effectively in the real estate sales market. The System includes, but is not limited to, common use and promotion of the name “CENTURY 21,” centralized advertising programs, recruiting programs, and sales training programs. CENTURY 21 Real Estate Corporation, a California corporation, from time to time revises and updates the System.

2. CENTURY 21 Real Estate Corporation, a California corporation, has granted CENTURY 21 the right to franchise the System, and the CENTURY 21 name, logo and other identifying marks used in the System, for certain regional territories which includes Franchisee’s location.

3. CENTURY 21 franchises real estate brokerage offices to use the System and operate under the name “CENTURY 21” and Franchisee desires to obtain a franchise to operate a real estate brokerage office under the terms and conditions hereinafter set forth.

4. Franchisee warrants and represents that Franchisee is a licensed real estate broker under the laws of the State in which Franchisee’s office is to be located and is familiar with CENTURY 21 and its operation. If Franchisee is a corporation, Franchisee warrants and represents that the Responsible Broker listed in Article 3 is a licensed real estate broker under the laws of the State in which Franchisee’s office is to be located.

Franchisee desires the assistance of CENTURY 21, the System and the use of the CENTURY 21 proprietary marks and trade secrets in Franchisee’s business.

5. Franchisee represents that Franchisee does not wish to obtain the franchise for speculative or investment purposes and has no present intention to sell or transfer or attempt to sell or transfer Franchisee’s business in whole or in part.

6. Franchisee understands and acknowledges the importance of the high and uniform standards of quality, appearance, and service imposed by CENTURY 21 in order to maintain the value of the CENTURY 21 name, and the necessity of operating the office in compliance with CENTURY 21 standards.

AGREEMENT

7. FRANCHISE:

CENTURY 21 hereby grants to Franchisee, and Franchisee hereby accepts, a franchise to operate a CENTURY 21 real estate brokerage office utilizing the CENTURY 21 System at the following described location only: __________

Franchisee may move the office to a new location in the same general vicinity only upon the prior written approval of CENTURY 21, which approval will not be unreasonably withheld.

The use of any other office or location by Franchisee shall not be allowed without the prior written consent of CENTURY 21.

With the written consent of CENTURY 21, Franchisee may open a temporary tract sales office within or immediately adjacent to a new subdivision or development for the sole purpose of selling property in the subdivision or development. CENTURY 21 may impose such conditions as it deems necessary to insure that such temporary tract sales offices are, in fact, temporary and are used only in conjunction with the initial sales program for a particular subdivision or development.

8. INITIAL FRANCHISE FEE AND TERM:

The initial franchise fee payable concurrently with the execution of this Agreement is $________ and is fully earned by CENTURY 21 upon signing of this Agreement. The term of this Agreement is five (5) years commencing ______ and ending ______.

9. FRANCHISE SERVICE FEE:

A. Franchisee agrees to pay, in addition to the “initial franchise fee” set forth in Article 8 above, a “service fee” equal to six percent (6%) of Franchisee’s gross income earned, derived and/or received during the term of this Agreement from all transactions involving the purchase or sale of real estate, condominiums, or mobile homes, and from all other transactions for which a real estate license or auctioneer’s license is required, or in which the “CENTURY 21” name is used including that portion of a transaction where personal property is bought or sold. All gross income received by Franchisee’s salespeople shall, to the extent not otherwise included in Franchisee’s gross income, be included as part of Franchisee’s gross income for purpose of determining service fees. Unless waived in writing by CENTURY 21 as to any specific transaction, the service fee shall be paid on all transactions in which Franchisee, the Responsible Broker, and/or any other salesperson, employee, partner, shareholder, officer, or director of Franchisee is involved as a principal, and the services of Franchisee are used. If a less than normal Franchisee’s brokerage commission or fee is paid on any such transaction then one shall be imputed at Franchisee’s normal rate for transactions of that type for purposes of calculating the service fee payable on the transaction. The only transactions on which service fees shall not be required to be paid are income from leases or rentals for a term of not more than one (1) year and income from property management unless more than twenty-five percent (25%) of Franchisee’s income derived from all transactions for which a real estate license or auctioneer’s license is required is income from property management services, in which case service fees shall be paid on one hundred percent (100%) of Franchisee’s property management income. CENTURY 21 has the right to establish procedures from time to time for verifying and processing said fees.

B. The “service fee” is fully earned by CENTURY 21 upon receipt of income by Franchisee. Franchisee agrees to direct the escrow company, attorney or other party handling the closing of any transaction in which a commission is to be paid to pay the service fee directly to CENTURY 21. In all other transactions, the service fee shall be paid promptly on
receipt of commission fee and other payments from any source whatsoever by Franchisee or, if no such amount is received from any such transaction, on the closing of the transaction. Service fees more than ten (10) days late shall bear interest at the rate of ten percent (10%) per annum from the date due until paid, or the highest rate permitted by law, whichever is lower.

Commencing with the first full calendar month beginning after four (4) months from the date hereof there shall be a minimum service fee of Twelve Hundred Dollars ($1200) per calendar year. For any portion of a calendar year at the beginning or end of the term, the minimum service fee shall be One Hundred Dollars ($100) times the number of full calendar months in that portion of the year.

C. Franchisee agrees to be responsible for all real estate brokers and salespeople doing business out of the above-described location, to cause all such persons to comply with the terms and conditions of this Agreement, to cause such persons to operate exclusively under the trade name referred to in Article 11, and to include the real estate brokerage and auctioneering income of all such persons in computing Franchisee's gross income and the service fees payable to CENTURY 21.

10. NAME AND VALUE OF FRANCHISE NAME, TRADEMARKS AND GOODWILL:

The franchise granted hereby authorizes Franchisee to use the CENTURY 21 trade names, trademarks, goodwill and trade secrets in the operation of a real estate brokerage business at any other location. It is expressly agreed that the ownership of all right, title and interest in and to said trade names, trademarks, goodwill and trade secrets shall remain solely in CENTURY 21 Real Estate Corporation, a California corporation, and that the material and information now and hereafter provided or revealed to Franchisee under, and pursuant to, this Agreement are revealed in confidence. Franchisee expressly agrees to keep and respect the confidence so reposed.

So long as this Franchise Agreement shall remain in effect, Franchisee agrees to maintain a clean and attractive office, give prompt, courteous and efficient service to the public, comply with the CENTURY 21 Policy and Procedure Manual in all respects, and generally operate the franchised real estate brokerage office in compliance with the CENTURY 21 System so as to preserve, maintain and enhance the reputation and goodwill built up by CENTURY 21 and its Franchisees and the value of the CENTURY 21 trade names and trademarks.

11. NAME:

Franchisee shall operate under the trade name "CENTURY 21 ___________________________" and shall use no other name in conducting business for which a real estate broker’s or auctioneer's license is required. The portion of Franchisee's name immediately following the words "CENTURY 21," or other approved words, shall be in a five to one relationship with the CENTURY 21 name and logo, as required in the Logo Book published by CENTURY 21 Real Estate Corporation, and THE TOLL FREE TELEPHONE NUMBER OF THE FRANCHISE NAME AND LOGO INCORPORATING FRANCHISEE'S OTHER IDENTIFYING WORDS MUST BE APPROVED IN ADVANCE BY CENTURY 21. CENTURY 21 shall not withhold such approval unreasonably. If required by law, Franchisee will file for and maintain a "Certificate of Fictitious Name" or comparable instrument in the county or state where Franchisee's office is located in a manner approved by CENTURY 21, with evidence of such filing to be furnished CENTURY 21 prior to opening. Franchisee shall not change its name without the prior written consent of CENTURY 21.

Franchisee shall include a statement on Franchisee's letterhead, deposit receipt forms, listing agreements and other printed materials that "each CENTURY 21 real estate office is independently owned and operated" or other similar statement approved by CENTURY 21, and shall display a notice to this effect in a prominent place near the main entrance to Franchisee's office.

Franchisee agrees to erect or install such signs as may be recommended by CENTURY 21. ALL SIGNS USED BY FRANCHISEE IN CONDUCTING ITS BUSINESS SHALL CONFORM TO THE SPECIFICATIONS OF CENTURY 21. AS TO ART WORK, LETTERING, COLORS, SIZE, CONSTRUCTION AND OVERALL APPEARANCE AND USE OF THE NAME AND LOGO INCORPORATING THE FRANCHISE NAME AND TRADEMARKS MUST BE APPROVED IN ADVANCE BY CENTURY 21. Franchisee's principal office sign shall be an internally lighted exterior sign approved by CENTURY 21, unless prohibited by law or an exception is made in writing by CENTURY 21.

12. RELATIONSHIP OF PARTIES:

Franchisee is and shall be an independent contractor and nothing herein contained shall be construed so as to create an agency relationship, a partnership or joint venture, either between CENTURY 21 and Franchisee or between CENTURY 21 Real Estate Corporation and Franchisee. Neither CENTURY 21 nor Franchisee shall act as agent for the other, and neither Franchisee nor CENTURY 21 shall guarantee the obligations of the other or in any way become obligated for the debts or expenses of the other unless agreed in writing.

CENTURY 21 shall not regulate the hiring or firing of Franchisee's salespeople, the parties from whom Franchisee may accept listings or sell property, the commission splits between Franchisee and Franchisee's salespeople, or the working conditions of Franchisee's salespeople, except to the extent necessary to protect the CENTURY 21 trade names, trademarks, goodwill and trade secrets associated therewith. The conduct of Franchisee's business shall be determined by its own judgment and discretion, subject only to the provisions of this Franchise Agreement and the Policy and Procedure Manual as it shall be adopted or revised from time to time.

13. SERVICES OF CENTURY 21:

A. CENTURY 21 will impart to Franchisee all of its selling, promotional and merchandising methods and techniques and shall maintain a staff to give assistance and service to Franchisee.

B. CENTURY 21 will publish from time to time supply manuals suggesting sources of supply for all forms, contract forms, signs, cards, stationery and other items necessary to operate a modern real estate business. The suggested source of supply for an individual item may be CENTURY 21 Real Estate Corporation, CENTURY 21 or an independent supplier. Franchisee may purchase supplies either from a source of supply suggested by CENTURY 21 or from any other supplier who can first demonstrate to the satisfaction of CENTURY 21 that it can supply the items upon the same specifications as those presently being supplied by approved sources of supply.

C. CENTURY 21 will make available sample referral forms for use in referring business between CENTURY 21 franchisees. CENTURY 21 will also establish procedures for referrals between Franchisees and other CENTURY 21 offices.

D. CENTURY 21 will operate a sales training program for franchisees and the sales personnel at a location or locations selected by CENTURY 21. This program will include seminars and conferences of special interest to be held as CENTURY 21 deems necessary or advisable, as well as educational and informational bulletins relating to such topics as market conditions, sales motivation, sales aids, advertising and financing. CENTURY 21 may charge a registration fee or other fee for such programs, seminars, and conferences.
14. OBLIGATIONS OF FRANCHISEES:

A. Franchisee shall pay promptly to CENTURY 21 any fees and contributions due hereunder, as well as any additional fees or charges incurred for any products, supplies, or services to be furnished by CENTURY 21 at Franchisee's request. Terms on products, supplies and services purchased shall be "net 15 days." Any payments which are past due shall bear interest at the rate of 10% per annum or the highest rate permitted by law, whichever is lower.

B. Franchisee agrees to maintain and keep such records and reports as are prescribed by CENTURY 21 and shall mail copies of such reports and records to the designated CENTURY 21 address in accordance with schedules required by CENTURY 21. A report of each brokerage transaction in which a service fee is payable shall be filed with the CENTURY 21 Regional Office within (7) days of the execution of initial documents by the parties.

Franchisee shall allow CENTURY 21 to make inspections of Franchisee's business premises at any reasonable time, and will make Franchisee's books, tax returns and records available for inspection and audit by CENTURY 21 during normal working hours. CENTURY 21 reserves the right to establish a uniform list of accounts and/or uniform bookkeeping system for all of its franchisees, and in such event, Franchisee agrees to maintain its books and records in the manner required by CENTURY 21.

In the event an audit of Franchisee's books discloses that service fees have been underpaid by more than five percent (5%) in any three (3) month period, CENTURY 21 may, in addition to any other remedy available under this Agreement or by law, require Franchisee to pay the cost of the audit and any expenses, including attorneys' fees, incurred by CENTURY 21 in collecting the past due service fees.

C. During the term of this Agreement, Franchisee shall diligently, faithfully, and continuously conduct a CENTURY 21 franchised real estate brokerage office at the location provided herein which shall be open during regular business hours at least six (6) days per week. Franchisee shall not, during the term hereof, directly or indirectly (as an officer, director, shareholder, partner or otherwise) operate, manage, or in any way connected to Franchisee's operation of a real estate brokerage business.

If CENTURY 21 establishes a regional council of CENTURY 21 franchisees from all expenses, fines, suits, proceedings, claims, losses, damages, liabilities or actions of any kind or nature (including, but not limited to costs and attorneys' fees) arising or growing out of or in any way connected to Franchisee's operation of a real estate brokerage business.

G. Franchisee shall, prior to the opening of its CENTURY 21 office and thereafter for the entire term of this Agreement, maintain at Franchisee's expense general liability insurance in an amount not less than $200,000 covering one (1) person and an amount of not less than $500,000 covering more than one (1) person arising out of a single accident or transaction and for property damage of not less than $50,000, or such higher limits as CENTURY 21 shall from time to time prescribe. Said insurance shall, if required, provide a separate endorsement naming CENTURY 21 and Century 21 Real Estate Corporation, a California corporation, and all other CENTURY 21 franchisees from all expenses, fines, suits, proceedings, claims, losses, damages, liabilities or actions of any kind or nature (including, but not limited to costs and attorneys' fees) arising or growing out of or in any way connected to Franchisee's operation of a real estate brokerage business.

H. CENTURY 21 may establish a local council of CENTURY 21 franchisees in each local advertising area as determined by CENTURY 21. In the event such a council is established in Franchisee's area, Franchisee agrees to join and participate in the council. The local council may make recommendations and suggestions concerning the expenditure of council funds available for promotional purposes in the local area. Such local council may adopt its own rules and procedures, but such rules or procedures shall not restrict Franchisee's rights or obligations under this Agreement. Except as otherwise provided hereunder, all members of the council shall be elected by the shareholders of CENTURY 21 franchisees and to each shareholder owning (directly and/or beneficially) twenty-five (25%) or more of the stock of CENTURY 21. Any action of such council shall require the approval of two-thirds (2/3) of the members, including assessment of local promotion and advertising purposes, shall be binding upon Franchisee if approved by two-thirds (2/3) of the member franchisees present at each member office meeting having one vote per franchisee. In the event no franchisee shall have more than twenty-five percent (25%) of the votes in a local council regardless of the number of offices owned.

I. CENTURY 21 may establish a regional council of CENTURY 21 franchisees in each regional area as determined by CENTURY 21. CENTURY 21 Real Estate Corporation, a California corporation, may establish a national council of CENTURY 21 franchisees with boundaries as established by CENTURY 21 Real Estate Corporation. Each regional council and the national council shall establish such own bylaws and procedures. Actions to the national council shall be binding upon Franchisee, provided, however, no council action shall modify the terms and conditions of this Agreement. Regional and national councils shall be comprised of CENTURY 21 franchisees who are elected on a representative basis by the members of local or regional councils. Representatives to regional and national councils shall have voting power in proportion to the number of CENTURY 21 franchisees in the area or region they represent. CENTURY 21 shall not have a vote in any franchisees' council.
J. Franchisee agrees that from time to time CENTURY 21 may reasonably change or modify the System, including, but not limited to, the modification or adoption of new or modified trade names, trademarks, service marks or copyrighted materials, and shall implement such changes at Franchisee's own expense, to adopt, use and display for the purposes of this Agreement any such changes as if they were a part of the System at the time of the execution of this Agreement.

K. Any use of the CENTURY 21 name, service mark, trademarks or copyrighted material by Franchisee shall inure to the benefit of CENTURY 21 Real Estate Corporation, a California corporation.

L. Franchisee shall pay promptly when due all taxes, accounts and indebtedness of any kind incurred or suffered by Franchise in the conduct of its business.

M. Franchisee shall comply with all Federal, State and local laws and regulations, and shall obtain and at all times maintain any and all permits, certificates or licenses necessary for the full and proper conduct of the business franchised under this Agreement.

N. Franchisee agrees that Franchisee's Responsible Broker or office manager shall attend the CENTURY 21 "new franchise training program" conducted by CENTURY 21 Real Estate Corporation at its headquarters in California, U.S.A. if he or she has not previously attended same. If this Agreement is not a renewal of a prior agreement covering the same franchise location, CENTURY 21 agrees to pay one (1) enrollment package fee which includes the program, airfare, and lodging for said "new franchise training program.'

O. Franchisee agrees to, and to cause the Responsible Broker to, work diligently, fairly and in good faith to perform all of Franchisee's obligations under this Agreement and shall cause the Responsible Broker at all times to be and remain a duly and actively licensed real estate broker in good standing.

P. Nothing in this Agreement shall be construed to permit a Franchisee to use the CENTURY 21 name, marks or symbols in any business other than the real estate brokerage business. Franchisee shall not conduct or allow to be conducted any business other than the real estate brokerage business from the location set forth in Article 7 of this Agreement without the prior written consent of CENTURY 21, which consent shall not be unreasonably withheld. CENTURY 21 in granting its consent may impose reasonable conditions designed to insure that the public does not get the impression that the non-franchised business is in any way endorsed by, supervised by, or affiliated with CENTURY 21.

15. RENEWAL:

Upon the expiration of the initial term hereof and any renewal term hereof, so long as Franchisee shall not then be in default, Franchisee shall have the option to renew its franchise for an additional five (5) year term upon execution of a franchise agreement in the form then being used by CENTURY 21. Provided, however, that Franchisee shall give CENTURY 21 written notice of its intention to exercise the renewal option at least ninety (90) days prior to the expiration of the initial term and any renewal term hereof. The renewal fee, if any, shall not exceed One Hundred Dollars ($100).

If Franchisee continues to operate after the end of the term hereof without exercising its option to renew, Franchisee shall be deemed to be operating on a month to month basis under the terms and conditions of franchise agreements then being offered by CENTURY 21 to new franchisees. However, in such event, Franchisee may be terminated at any time upon ten (10) days written notice from CENTURY 21.

If local law requires that CENTURY 21 give notice to Franchisee prior to the expiration of the term, this Agreement shall remain in effect on a month to month basis until CENTURY 21 has given Franchisee the notice required by law.

16. TERMINATION:

This Agreement may not be terminated except as provided herein. Termination of this Agreement shall not relieve Franchisee of any unfulfilled obligations created hereunder unless agreed to in writing by CENTURY 21.

This Agreement may be terminated as follows:

A. Upon mutual written consent of the parties hereto.

B. At the option of CENTURY 21, if Franchisee breaches any of Franchisee’s representations or warranties or fails to perform any of Franchisee’s obligations under this Agreement or the Policy and Procedures Manual then in effect or obligations created by the local, regional or national franchisees’ councils.

C. At the option of CENTURY 21, if the real estate brokerage license of Franchisee or the Responsible Broker is suspended or revoked, or not maintained continuous or in good standing.

D. At the option of CENTURY 21, any time more than (i) nine (9) months after the death, insanity or appointment of a conservator or guardian of the person or estate of Franchisee, if Franchisee is an individual; (ii) nine (9) months after the death, insanity or appointment of a conservator or guardian of the person or estate of all of the general partners, if Franchisee is a partnership; or (iii) nine (9) months after the death, insanity or appointment of a conservator or guardian of the person or estate of the Responsible Broker if Franchisee is a corporation; provided, however, this Agreement shall not terminate if within said nine (9) month period (i) this Agreement is assigned subject to Article 18 hereof to a licensed real estate broker approved by CENTURY 21, or (ii) if Franchisee is a partnership or corporation, a licensed real estate broker approved by CENTURY 21 shall become a partner or the Responsible Broker.

E. At the option of CENTURY 21 if Franchisee fails to conduct and govern its business according to the Code of Ethics of the National Association of Realtors, the CENTURY 21 Code of Ethics, or the laws, ordinances and regulations of the Federal, State, Provincial, District, County or City Government.

F. In the event performance of Franchisee falls below the minimum operating standards set forth in this Paragraph F, Franchisee will be notified in writing setting forth such deficiency and at the option of CENTURY 21, Franchisee shall be placed on probation for a period of not less than three (3) months nor more than six (6) months. If such deficiency is not corrected within said probationary period, CENTURY 21 may, at its option, terminate this Agreement. The minimum operating standards is that Franchise shall, in every six (6) month period, determined from any starting point, maintain a volume of business sufficient to produce income (for purposes of determining service fees) over such period equal to not less than fifty percent (50%) of the income (for purposes of determining service fees) generated by the average franchisee in the same local council over such six (6) month period.

G. At the option of CENTURY 21, if Franchisee becomes bankrupt or insolvent, if a receiver is appointed to take possession of Franchisee's business or property or any part thereof, if Franchisee shall make a general assignment for the benefit of creditors, or if a judgment is obtained against Franchisee which remains unsatisfied for a period of more than thirty (30) days after all rights of appeal have been exhausted.

H. At the option of CENTURY 21, if Franchisee's office shall become vacant, abandoned or deserted, or shall fail to remain open for business as required hereby or by the Policy and Procedures Manual.

If CENTURY 21 shall exercise its option to terminate this Agreement the Agreement shall terminate ten (10) days after written notice to Franchisee except in the event the occurrence giving rise to such right of termination (i) is not the
result of intentional action or gross neglect by Franchisee, (ii) is not an occurrence as to which Franchisee has previously been notified, or (iii) by reason of such notice of default CENTURY 21 has given Franchisee notice under one of Paragraphs B, E, G, or H. CENTURY 21 shall not be permitted to terminate unless the occurrence continues uncured for ten days after CENTURY 21 gives Franchisee notice of such occurrence. Termination of this Agreement by CENTURY 21 shall not be an exclusive remedy and shall not in any way affect the right of CENTURY 21 to receive, collect, and enforce service fees or other amounts payable by Franchisee hereunder, to enforce the provisions of this Agreement against Franchisee, or to sue for damages, seek and obtain injunctive relief, or pursue any other legal or equitable remedies for a breach of this Agreement by Franchisee.

17. PROCEDURES AFTER TERMINATION:

Upon the termination of this Agreement for any reason, Franchisee shall cease to be an authorized CENTURY 21 Franchisee and shall:

A. Promptly pay CENTURY 21 all sums then owing from Franchisee to CENTURY 21.
B. Pay to CENTURY 21 six percent (6%) of the gross commission income received from any real estate brokerage transaction in process as of the date of termination and six percent (6%) of the gross commission income from any referral sent to or received from any other CENTURY 21 office prior to the date of termination, said sum to be paid promptly upon receipt of the related income by Franchisee.
C. Immediately and permanently discontinue the use of the proprietary mark "CENTURY 21," all similar names and marks, and any name or mark containing the designation "CENTURY 21," or any other designation or mark, indicating or tending to indicate that Franchisee is an authorized CENTURY 21 Franchisee. If Franchisee is a corporation or partnership and "CENTURY 21" is a part of Franchisee's corporate or partnership name, Franchisee agrees to immediately cause its governing documents to be amended to delete both the word "CENTURY" and the numerals "21-1"
D. Promptly destroy, or surrender to CENTURY 21, all signs, stationery, letterheads, forms, manuals, printed matter and advertising containing the proprietary mark "CENTURY 21," or any similar names or marks or designation or mark indicating or tending to indicate that Franchisee is an authorized CENTURY 21 Franchisee.
E. Immediately and permanently discontinue all advertising as a CENTURY 21 franchisee, including but not limited to the immediate removal of any signs from Franchisee's office which contain the CENTURY 21 name, logo, or other identifying marks, and the immediate removal from any property then listed for sale or lease of any signs or sign posts using the CENTURY 21 name, logo, or other identifying marks or colors.
F. At the option of CENTURY 21, sell all related policies and procedure manuals, listing books, listing films, sales training casettes, forms or brochures on hand which contain the CENTURY 21 name or marks to CENTURY 21 at cost.
G. Refrain from doing anything that would indicate that Franchisee is or ever was an authorized CENTURY 21 franchisee.
H. Maintain all books, records and reports required by CENTURY 21 pursuant to paragraph 14B hereof for a period of more than one (1) year after the termination of this Agreement and allow CENTURY 21 to make a final inspection of Franchisee's books and records during normal business hours within said one (1) year period for the purpose of verifying that all service fees have been paid as required herein.
I. Promptly execute such instruments and take such steps as in the opinion of CENTURY 21 may be necessary to delete Franchisee's CENTURY 21 listing in the Yellow Pages and any other directory, and to terminate any other listing which indicates that Franchisee is or was affiliated with CENTURY 21.

18. ASSIGNMENT:

A. This Agreement is personal, being entered into in reliance upon and in consideration of the skill, qualifications and representations of, and trust and confidence reposed in Franchisee, the Responsible Broker, and Franchisee's present partners or officers if Franchisee is a partnership or corporation, who will actively and substantially participate in the ownership and operation of the franchised business. Therefore, neither this Agreement nor any of its rights or privileges shall be assigned, transferred, shared or divided, by operation of law or otherwise, in any manner, without the prior written consent of CENTURY 21 and any such purported transfer, assignment, sharing or division shall be void. Said consent shall not be unreasonably withheld, but may be conditioned upon such things as (a) approval of any proposed assignee in accordance with the standards of CENTURY 21 then applies in evaluating prospective purchasers of new franchises, (b) payment of all outstanding debts by Franchisee, (c) a general release of claims by Franchisee, (d) execution of the then current form of franchise agreement, and (e) payment by assignee of the sum of $500, (f) attendance by the proposed assignee at the next available "new franchisee training program" at the proposed assignee's expense and (g) delivery of any information required by the rules and regulations of the Federal Trade Commission or any applicable state requirement to be delivered to the proposed assignee at least ten (10) days prior to any such proposed assignment or the payment of any consideration therefor. All such conditions also apply to any assignee given pursuant to Paragraphs B and C hereof.

B. If Franchisee shall desire to assign Franchisee's rights hereunder, Franchisee shall serve upon CENTURY 21 a written notice setting forth all of the terms and conditions of the proposed assignment, a suitable current financial statement regarding the proposed assignee, and all other information requested by CENTURY 21 concerning the proposed assignee. Said notice shall provide CENTURY 21 with sufficient time to enable CENTURY 21 to comply with all disclosure requirements with respect to any intended transferee. Within twenty (20) days after receipt of such notice (or if CENTURY 21 requests additional information, within fifteen (15) days after receipt of such additional information), CENTURY 21 may either consent or refuse to consent to the assignment or, at its option, accept the assignment to itself upon the same terms and conditions specified in the notice. If CENTURY 21 fails to exercise any of its rights or options, then consent to the proposed assignment shall be deemed withheld. Consent to an assignment upon the specified terms and conditions shall not be deemed to be a consent to an assignment upon any other terms or conditions, nor to any other person, nor to any other or subsequent assignment.

C. If Franchisee is a sole proprietorship or partnership, CENTURY 21 expressly consents to the assignment without payment of a transfer fee of this Agreement to a corporation formed, owned and controlled solely by Franchisee to operate the franchise business, provided such assignment shall not relieve the original Franchisee of the obligations of this Agreement and further provided that there is no change in the Responsible Broker for the office. If Franchisee is a corporation pursuant to the preceding sentence, any merger thereof, or sale or transfer of more than twenty-five percent (25%) of any one class of stock or any series (whether related or unrelated) of sales or transfers totaling in the aggregate twenty-five percent (25%) or more of any one class of stock in such corporate Franchisee, whether by operation of law or otherwise, shall be deemed an attempted assignment of this Agreement requiring the prior written consent of CENTURY 21. If Franchisee is a partnership, the sale or transfer of any general partner's interest or the sale or series of sales or transfers of limited partners' interests totaling in such aggregate twenty-five percent (25%) of such interests (including trans-
fars of shares in corporate partners) whether by operation of law or otherwise, shall be deemed an attempted assignment of this Agreement and shall require the prior written consent of CENTURY 21. For purpose of determining whether twenty-five percent (25%) or more of the interests of any class of shares have been transferred, all transfers (whether related or unrelated) shall be aggregate. Any proposed transfer involving less than twenty-five percent (25%) shall be reported by Franchisee to CENTURY 21 at least twenty (20) days in advance but shall not be subject to the approval of CENTURY 21 so long as there is to be no change in the Responsible Broker.

Any change in the Responsible Broker for the franchised office shall require the prior written consent of CENTURY 21. The "Responsible Broker" is the individual holding a real estate broker's license whose license is to be used for the franchise granted hereby and who is named as the Responsible Broker in Article 30.

19. REPRESENTATIONS:

No representations, promises, guarantees or warranties of any kind are made by CENTURY 21 to induce Franchisee to execute this Agreement except as specifically set forth in the Franchise Offering Statement which has been delivered to Franchisee. Franchisee acknowledges that the success of the real estate brokerage office to be established pursuant to this Agreement is dependent upon the personal efforts of Franchisee or Franchisee's partners or officers, if Franchisee is a partnership or corporation. Unless otherwise approved in writing by CENTURY 21, Franchisee (or the officers or partners of Franchisee listed in Article 30 if Franchisee is a partnership or corporation) acknowledges and agrees that they shall devote their full time to the management of the real estate brokerage office to be established. Franchisee acknowledges that CENTURY 21 has guaranteed or warranted that Franchisee will succeed in the operation of a real estate brokerage business, or provided any sales or income projections of any kind to Franchisee.

FRANCHISEE ACKNOWLEDGES THAT FRANCHISEE HAS RECEIVED AND HAS HAD AN OPPORTUNITY TO READ THE CURRENT EDITION OF THE POLICY AND PROCEDURE MANUAL. It shall be Franchisee's responsibility to keep the manual up to date by inserting any new pages issued by CENTURY 21.

20. REMEDIES FOR BREACH:

Franchisee expressly consents and agrees that CENTURY 21 may, in addition to any other available remedies, obtain an injunction to terminate or prevent the continuation of any existing default or violation, and to prevent the occurrence of any threatened default or violation by Franchisee of this Agreement.

If any legal action shall be instituted to interpret or enforce the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees.

21. AMENDMENT:

Any modification or change in this Agreement must be in writing, executed by an officer of CENTURY 21, by an officer of CENTURY 21 Real Estate Corporation and by Franchisee. No field representative of CENTURY 21 has the right or authority to make oral or written modifications of this Agreement, and any such modifications shall not be binding upon either party hereto.

22. WAIVER:

No waiver of any breach of any condition, covenant or agreement herein shall constitute a waiver of any subsequent breach of the same or any other condition, covenant or agreement.

23. NATIONAL ADVERTISING:

Franchisee agrees to pay, in addition to the "service fees" a "National Advertising Contribution" equal to two percent (2%) of Franchisee's gross income (as determined for purposes of calculating service fees) up to a maximum of Three Hundred Dollars ($300) per month, but not less than One Hundred Dollars ($100) per month, said maximum and minimum National Advertising Contributions shall be adjusted annually on June 1st in proportion to the change up or down in the Consumer Price Index for U.S. Average All Items (1967 = 100) published by the U.S. Department of Labor (or a similar future index if these figures are not available) between January 1977, and January of the then current year. Said National Advertising Contributions shall be paid monthly within ten (10) days after the end of each calendar month and they shall be immediately forwarded by CENTURY 21 to Century 21 Real Estate Corporation, a California corporation.

If any National Advertising Contribution is more than ten (10) days late, CENTURY 21 may, at its option, require Franchisee to pay the National Advertising Fund interest at the rate of ten percent (10%) per annum or the highest rate permitted by law whichever is lower and/or pay CENTURY 21 a late charge equal to ten percent (10%) of the late payment.

The National Advertising Contributions shall be placed in a National Advertising Fund managed by CENTURY 21 Real Estate Corporation and shall be used exclusively for advertising. Franchisee understands that CENTURY 21 Real Estate Corporation is obligated to spend at least eighty-five percent (85%) of Franchisee's contributions to the National Advertising Fund on either (1) media which in the advertising industry are regarded as "National Media" or (2) local or regional media which cover the area served by Franchisee's office and that Century 21 Real Estate Corporation may spend up to fifteen percent (15%) of the National Advertising Fund on a disproportionate basis to engage in test marketing, conduct surveys of advertising effectiveness, produce new commercials, or other purposes deemed beneficial by CENTURY 21 Real Estate Corporation to the general recognition of the CENTURY 21 name and the success of the System in the United States and other countries where real estate is bought and sold. Franchisee shall receive a report at least annually of how the National Advertising Fund has been spent.

Franchisee agrees that CENTURY 21 and CENTURY 21 Real Estate Corporation may reimburse themselves for reasonable accounting, bookkeeping, reporting, and legal expense incurred with respect to the Fund and that neither CENTURY 21 nor CENTURY 21 Real Estate Corporation shall be liable for any act or omission with respect to the Fund which is consistent with this Agreement or done in good faith.

In consideration for said National Advertising Contributions by Franchisee, CENTURY 21 agrees that, commencing when Franchisee begins making said contributions, CENTURY 21 will contribute to the National Advertising Fund ten percent (10%) of the service fees received from Franchisee.

24. MISCELLANEOUS:

Except as is otherwise specifically provided, CENTURY 21 may withhold any consent or approval provided for herein at its discretion.

In the event of any conflict between this Agreement and the Policy and Procedure Manual, this Agreement shall control.

25. AUTHORITY AND ACCEPTANCE:

Each of the undersigned parties warrants that he has full authority to sign and execute this Agreement. If Franchisee is a corporation or partnership, the individuals executing this Agreement in behalf of such corporation or partnership war-
rant to CENTURY 21 both individually and in their capacities as partners or officers that all of the partners in the partnership or all of the shareholders of the corporation have read and approved this Agreement including any restrictions which this Agreement places upon their right to transfer their interests in the partnership or corporation. THE AGREEMENT SHALL BECOME VALID ON THE DATE IT IS ACCEPTED BY CENTURY 21. CENTURY 21 WILL NOTIFY FRANCHISEE OF SUCH ACCEPTANCE BY SENDING FRANCHISEE A COPY OF THE AGREEMENT EXECUTED AS HEREINABOVE PROVIDED. IF THIS AGREEMENT IS NOT ACCEPTED BY CENTURY 21 WITHIN THIRTY (30) DAYS OF RECEIPT, THEN ALL MONEYS PAID HEREUNDER SHALL BE RETURNED TO FRANCHISEE AND THIS AGREEMENT SHALL BE NULL AND VOID.

26. CONSTRUCTION:

This Agreement shall be construed according to the laws of the State of . In case any one or more of the provisions of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

Article or paragraph headings are for reference purposes only and shall not in any way modify or limit the statements contained in any article or paragraph. All words in this Agreement shall be deemed to include any number or gender as the context or sense of this Agreement requires.

27. BINDING ON SUCCESSORS:

This Agreement supersedes any prior agreement and is binding upon and shall inure to the benefit of the parties herein, their heirs, successors and assigns. CENTURY 21 reserves the right to assign, pledge, hypothecate or transfer this Agreement, provided that such assignment, pledge, hypothecation or transaction shall not affect the rights and privileges granted to Franchisee herein.

28. NOTICES:

Any notices to be given hereunder shall be in writing, and may be delivered personally, or by certified or registered mail, with postage fully prepaid.

Any notice to be delivered to CENTURY 21 shall be addressed to CENTURY 21 at

Any notice to Franchisee shall be delivered to the address set forth in Article 7 of this Agreement, or to the address of Franchisee's office if different.

The address specified herein for service of notices may be changed at any time by the party making the change giving written notice to the other party. Any notice delivered by mail in the manner herein specified shall be deemed delivered five (5) days after mailing or, if earlier, on actual receipt.

29. EXCLUSIVE PROPERTY:

The form and content of this contract are the exclusive property of Century 21 Real Estate Corporation, a California corporation, and may not be reproduced in part or in whole by Franchisee or others.

30. ADDITIONAL REPRESENTATIONS:

Franchisee makes the following additional warranties and representations:

A. Franchisee is a partnership, corporation or sole proprietorship.

B. If Franchisee is a corporation or partnership, there is set forth below the name and address of each shareholder or partner in Franchisee holding a ten percent (10%) or more interest in the corporation or partnership.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>NO. OF SHARES</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. The address where Franchisee's records are maintained is:

D. The name and address of Franchisee's Responsible Broker is:
Franchisee shall not substitute a new Responsible Broker without the prior written consent of CENTURY 21.

E. If Franchisee is a partnership or corporation, the names and addresses of the partners, officers, and shareholders who will be devoting their full time to the business of Franchisee are:

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first set forth above.

FRANCHISEE: __________________________________________

BY: __________________________________________

BY: __________________________________________

(If Franchisee is a corporation, this Agreement must be signed by each person owning twenty-five percent (25%) or more of the total outstanding shares.)

(Corporate Seal)

ACCEPTED on this ______ day of _________, 19______.

FRANCHISOR: CENTURY 21 __________________________

BY: __________________________________________

BY: __________________________________________
23. ACKNOWLEDGEMENT OF RECEIPT BY PROSPECTIVE FRANCHISEE

THIS OFFERING CIRCULAR IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS OFFERING CIRCULAR AND ALL CONTRACTS OR AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

ALTHOUGH THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW, REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE MARYLAND DIVISION OF SECURITIES THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE, ACCURATE AND NOT MISLEADING. A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT MAY CONSTITUTE A VIOLATION OF BOTH FEDERAL AND STATE LAW, AND SHOULD BE REPORTED TO BOTH THE MARYLAND DIVISION OF SECURITIES, 1507 ONE SOUTH CALVERT STREET, BALTIMORE, MARYLAND 21202.

A FEDERAL TRADE COMMISSION RULE MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE WITHOUT FIRST PROVIDING THIS OFFERING CIRCULAR TO THE PROSPECTIVE FRANCHISEE AT THE EARLIER OF (1) THE FIRST PERSONAL MEETING; OR (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF ANY FRANCHISE OR RELATED AGREEMENT; OR (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT. THE PROSPECTIVE FRANCHISEE MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE SIGNING OF THE FRANCHISE AGREEMENT.

I hereby acknowledge receipt of the Franchise Offering Circular provided by Century 21 Real Estate Corporation, Franchisor (the "Area Franchisor") and Century 21 Real Estate Corporation of Virginia, Subfranchisor (the "Company") on this day of , 19

____________________________________________________________________________________
Signature of Prospective Franchisee
Name and Address of Registered Agent in Maryland
Authorized to Receive Service of Process:

FRANCHISOR
(Area Franchisor):
United States Corporation Co.
1300 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza,
Baltimore, Md. 21201

SUBFRANCHISOR
(Company):
Barry A. Zaslav
9605 Culver Street
Kensington, Md. 20795