

engage in any other business or activity that requires his or her active participation during normal business hours or that may conflict with your obligations under the Franchise Agreement. You will require all your management personnel, including your responsible broker and manager to treat as confidential all Coldwell Banker® trade secrets and proprietary information.

Where required by law, your franchised business must be supervised by a licensed "responsible broker." If you have only one office, the residential manager, office manager and responsible broker may be the same person.

If you are a corporation or other entity, each of your owners must sign a Personal Guaranty, agreeing to discharge all obligations of the "Franchisee," including its payment obligations, under the Franchise Agreement. A spouse not party to the Franchise Agreement may be required to give a personal guaranty. By signing the Franchise Agreement, a spouse will be jointly and severally liable for all obligations of the franchise whether or not the spouse is involved in the operation of the franchise business. See Exhibit C-1.

#### **ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

The Franchise Agreement strictly defines the real estate brokerage services you may provide under the Coldwell Banker® name. These defined services are more limited than the scope of activities permitted under most state real estate licensing laws.

If we grant you a residential franchise, you may use the Coldwell Banker® name in connection with the listing, offering, selling, exchanging, purchasing, auctioning, managing, leasing or renting solely of the following types of real property and any ancillary personal property for which a real estate broker's license is required under local law:

- (1) Single family residences;
- (2) Buildings consisting of not more than 4 residential units;

You are permitted to engage in other business activities that do not involve other real estate brokerage services as defined in the Franchise Agreement. However, all these activities must be conducted under another trade name and in a manner (including from a separate location if we, in our sole judgment, believe it is necessary) that eliminates the prospect that the public might believe the business is related to the Coldwell Banker® system in any way. We reserve the right to establish policies and standards in our Manual about keeping these activities separate from the franchised business.

You may not offer or perform ancillary real estate services including providing title insurance or title searches, mortgage banking, loan brokerage, insurance brokerage, escrow services, property appraisals, or the brokerage of "business opportunities," without our prior written consent, which we are not obligated to grant.

We reserve the right to increase the limits and expand the scope of permissible business activities upon advance written notice.

#### **ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION.**

**THIS TABLE LISTS IMPORTANT PROVISIONS OF THE FRANCHISE AND RELATED AGREEMENTS. YOU SHOULD READ THESE PROVISIONS IN THE AGREEMENTS ATTACHED TO THIS OFFERING CIRCULAR.**

Provision	Section in Franchise Agreement	Summary
a. Length of the term of the franchise	Section 1.5	Commences upon Opening Date and expires on the date ten years from the Opening Date, unless extended under Section 1.5. <sup>31</sup>
b. Renewal or extension of the terms	Section 16.1; Section 1.5	No renewal rights. Agreement will automatically be extended for ten years if you apply for and are approved to operate a branch location.
c. Requirements for you to renew or extend	Section 5.4	No renewal rights. Agreement will automatically be extended if you apply for and are approved to operate a branch location. We have the right, in our sole discretion, to grant additional franchises to you. To be eligible for an additional office, you must be in compliance with all Agreements with us or our Related Parties. Upon approval of a branch, you will sign an Addendum to add the branch office to the Agreement and extend the entire Agreement ten years.
d. Termination by you	None	The Franchise Agreement can be mutually terminated.
e. Termination by us without cause	None	
f. Termination by us with cause	Section 16.2.2; Promissory Notes	We can terminate if you default; see "g" below.
g. "Cause" defined-defaults which can be cured	Section 16.2.3, 16.2.5 and 16.2.6; Promissory Notes	Cause means any material breach by you of your obligations, including non-payment of fees. You have 30 days to cure financial breaches; failure to assign after your death or incompetency; subfranchising by you; cancellation of a guaranty; and any other material breach not listed in Section 16.2.3 of the Franchise Agreement.
h. "Cause defined-defaults which cannot be cured	Section 16.2.4; Promissory Notes	Suspension or revocation of your real estate broker's license; conduct that impairs our goodwill; insolvency (termination on bankruptcy may not be enforceable under Title 11, United States Code); abandonment; failure to open; repeated defaults even if cured.
i. Your obligations on termination	Sections 16.4 – 16.9 and 20.4	Stop using all Coldwell Banker <sup>®</sup> Identification and trade dress and color patterns and anything confusingly similar; return all Manuals and instructional materials; permit an exit audit; pay all amounts due and lost future profits; retain records for two years after termination.
j. Assignment of contract by us	Section 15.6	We may assign if we have completed our obligations or made arrangements for an assignee to fulfill our obligations; your consent is not required.
k. "Transfer" by you - definition	Sections 15	Includes any transfer of interest that results in your no longer maintaining the controlling interest.

<sup>31</sup> We may allow Franchisees with multiple offices to establish concurrent beginning and termination dates for all offices. Also, we may negotiate a greater or lesser term of your Franchise Agreement.

Provision	Section in Franchise Agreement	Summary
l. Our approval of transfer by you	Sections 15.1	We have the right to approve all transfers of 5% or more interest in the franchise, the franchisee or 5% of the assets comprising the franchised business, and approvals are in our sole and absolute discretion.
m. Conditions for our approval of transfer	Sections 15.4	New franchisee meets Coldwell Banker <sup>®</sup> standards for prospective Franchise Brokers in effect at the time of the proposed assignment; you or assignee pays the assignment fee; you must sign a release (see also "r" below), and execute the then current form of franchise agreement for a ten-year term.
n. Our right of first refusal to acquire your business	Section 15.3	We have a right to match any offer for the purchase of your business.
o. Our option to purchase your business	None	
p. Your death or disability	Section 16.2.3.4.	Within nine months after your death or incapacity, we have the right to terminate unless the estate assigned the franchise in accordance with the Franchise Agreement.
q. Non-competition covenants during the term of the franchise	Section 20.1	No involvement in any other real estate brokerage or related business or in any business that provides supplies or services to other Franchisees, without our advance written consent.
r. Non-competition covenants after the franchise is terminated or expires.	Section 20.4	For a period ending the later of one year from the (i) expiration, (ii) termination, or (iii) de-identification of the Office, neither you nor your Owners, officers or your guarantors, or any of the immediate family members of the Owners, officers, guarantors, or Responsible Broker (collectively, the "Restricted Parties") will, directly or indirectly, through ownership or otherwise, engage in any real estate brokerage business or related business that is conducted from the location of the Business at the time of expiration or termination ; <u>provided however, that this post-term non-competition provision shall not apply to any Restricted Party if the real estate brokerage business that is subject to the terms and conditions of this Agreement was operating as stand-alone licensed real estate business for at least 12 months prior to the Acceptance Date.</u>
s. Modification of the agreement	Section 20	Modifications must be in writing and signed by you and by our authorized officer.
t. Integration/merger clause	Section 22.15	Only the written terms of the Franchise Agreement are binding (subject to state law). Any other promises may not be enforceable.
u. Dispute resolution by arbitration or mediation	None	N/A
v. Choice of forum	Section 22.8	Non-exclusive personal jurisdiction and venue in Morris County, New Jersey or U.S. District Court in New Jersey.

Provision	Section in Franchise Agreement	Summary
w. Choice of law	Section 22.7	New Jersey law applies (except New Jersey Franchise Practices Act does not apply outside New Jersey) <sup>32</sup>

These states have statutes which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal of your Franchise: ARKANSAS [Code Ann. Sections 4-72-201 *et seq.*], CALIFORNIA [Bus. & Prof. Code Sections 20000-20043], CONNECTICUT [Gen. Stat. Section 42-133e *et seq.*], DELAWARE [Code Ann. Sections 2551 *et seq.*], HAWAII [Rev. Stat. Section 482E-6], ILLINOIS [815 ILCS 705/1/44], INDIANA [Stat. Section 23-2-2.7], IOWA [Code Title XX, Section 523H.1-523H.17], MICHIGAN [Stat. Section 19.854(27)], MINNESOTA [Stat. Sections 80C.12, 80C.14, 80C.21], MISSISSIPPI [Code Section 75-24-51], MISSOURI [Stat. Section 407.400], NEBRASKA [Rev. Stat. Section 87-401], NEW JERSEY [Stat. Section 56:10-1], RHODE ISLAND [Stat. Section 19-28.1-14 of General Laws of Rhode Island], SOUTH DAKOTA [Codified Laws Section 37-5A-51], VIRGINIA [Code 13.1-557-574 - 13.1-564], WASHINGTON [Code Section 19.100.180], WISCONSIN [Stat. Section 135.03]. These and other states may have court decisions which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal of your Franchise.

#### ITEM 18. PUBLIC FIGURES

We do not use any public figure to promote the sale of franchises.

#### ITEM 19. EARNINGS CLAIMS

**WE DO NOT FURNISH OR AUTHORIZE OUR SALESPERSONS TO FURNISH ANY ORAL OR WRITTEN INFORMATION CONCERNING THE ACTUAL OR POTENTIAL SALES, COSTS, INCOME OR PROFITS OF A COLDWELL BANKER® FRANCHISED BUSINESS. ACTUAL RESULTS VARY FROM UNIT TO UNIT AND WE CANNOT ESTIMATE THE RESULTS OF ANY PARTICULAR FRANCHISE. YOU SHOULD NOT RELY ON ANY UNAUTHORIZED REPRESENTATIONS AS TO EARNINGS, SALES, PROFITS OR PROSPECTS OR CHANCES OF SUCCESS.**

#### ITEM 20. LIST OF OUTLETS

#### FRANCHISED OFFICES STATUS SUMMARY FOR YEARS 2006/2005/2004

<sup>32</sup> Section 22.9 of the Franchise Agreement contains a waiver of jury trial that applies to any action between you, us and any guarantor involving the Franchise Agreement or our business relationship. Section 22.10 of the Franchise Agreement contains a waiver of punitive damages by you and us.