

FRANCHISE DISCLOSURE DOCUMENT



Kahala Franchising, L.L.C.
an Arizona limited liability company
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We offer *Cold Stone Creamery*® franchises. As a franchisee, you will operate a restaurant called *Cold Stone Creamery* specializing in super-premium fresh made ice cream, cakes, pies, smoothies, shakes, specialty beverages, soft drinks and other frozen dessert products (prepared using proprietary recipes) and an assortment of complementary toppings and mix-ins on a take-out or eat-in basis, and branded, licensed products. You also have the option of having a yogurt bar and selling Cold Stone Yogurt Bar products in your *Cold Stone Creamery* restaurant.

The total investment necessary to begin operation of a *Cold Stone Creamery* franchise ranges from \$310,375 to \$602,775 for a traditional restaurant, and from \$53,200 to \$474,775 for a non-traditional restaurant. This includes \$27,500 to \$59,500 for a traditional restaurant and \$18,500 to \$47,500 for a non-traditional restaurant that must be paid to the franchisor or its affiliate.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Kahala Franchising, L.L.C., Attn: John Wuycheck, 9311 E. Via De Ventura, Scottsdale, Arizona 85258 and (480) 362-4800.

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

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "[A Consumer's Guide to Buying a Franchise](#)," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at www.ftc.gov for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance Date: March 28, 2023

How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

| QUESTION | WHERE TO FIND INFORMATION |
|--|---|
| How much can I earn? | Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit U. |
| How much will I need to invest? | Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use. |
| Does the franchisor have the financial ability to provide support to my business? | Item 21 or Exhibit V includes financial statements. Review these statements carefully. |
| Is the franchise system stable, growing, or shrinking? | Item 20 summarizes the recent history of the number of company-owned and franchised outlets. |
| Will my business be the only <i>Cold Stone Creamery</i> business in my area? | Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you. |
| Does the franchisor have a troubled legal history? | Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings. |
| What's it like to be a <i>Cold Stone Creamery</i> franchisee? | Item 20 or Exhibit U lists current and former franchisees. You can contact them to ask about their experiences. |
| What else should I know? | These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents. |

What You Need To Know About Franchising *Generally*

Continuing responsibility to pay fees. You may have to pay royalties and other fees even if you are losing money.

Business model can change. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

Supplier restrictions. You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

Operating restrictions. The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

Competition from franchisor. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

Renewal. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

When your franchise ends. The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit B.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

Special Risks to Consider About *This Franchise*

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Arizona. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Arizona than in your own state.
2. **Spousal Liability.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

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EXHIBITS:

| | |
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ITEM 1: THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

The franchisor is Kahala Franchising, L.L.C. To simplify the language in this "Disclosure Document," Kahala Franchising, L.L.C. may be referred to as "Kahala Franchising," "we," "us," "our" and "Franchisor." "You" and "your" mean the person(s), partnership, corporation, limited liability company, or other entity that buys the *Cold Stone Creamery*[®] unit franchise. If "you" are a business entity, "you" includes the shareholders, members or owners of the business to the extent each guaranties or otherwise agrees to perform or be bound by the obligations of the business entity.

The Franchisor, Parents and Predecessors

Kahala Franchising is an Arizona limited liability company which was formed on December 29, 2008. Kahala Franchising is in the business of franchising to others the right to own and operate quick service restaurants.

Our parent company is Kahala Brands, Inc., formerly known as Kahala Brands, Ltd., ("Kahala Brands"). Kahala Brands was formerly known as Kahala Corp. but changed its name to Kahala Brands in December 2014.

On July 26, 2016, Kahala Brands merged with a wholly-owned subsidiary of MTY Food Group, Inc. ("MTY") having an address at 8150 Transcanada Highway, Suite 200, Saint Laurent, Québec H4S 1MF. Kahala Brands' parent company became MTY Franchising USA, Inc. ("MTY USA"), originally known as The Extreme Pita Franchising USA, Inc., and having an address of 9311 E Via De Ventura, Scottsdale, AZ 85258. MTY USA's parent corporation is MTY Franchising Inc. ("MTY Canada"), a Canadian corporation and a wholly owned subsidiary of MTY, formerly known as MTY Tiki Ming Enterprises Inc., and having an address at 8150 Route Transcanadienne, Suite 200, Ville Saint-Laurent, Quebec, H4S 1M5, Canada.

In addition to the concepts franchised by Kahala Franchising or its current or former US-based affiliates, MTY or one or more of its Canadian-based subsidiaries franchises over (55) different restaurant concepts and has over 2,500 units under the following trademarks in Canada primarily, and other international countries: Allo Mon Coco, Baton Rouge Steakhouse & Bar, Ben & Florentine, Big Smoke Burger, Bunsmaster, Café Depot, Casa Grecque, Country Style, Cultures, Dagwoods, Frat's Cucina, Extreme Pita, Giorgio, Jugo Juice, Kim Chi, Koryo, Koya, Kuto Comptoir A Tartares, La Boite Verte, La Crémère, La Diperie (and Cakes & Shakes by La Dip), Madisons, Manchu Wok, Toujours Mikes, mmmuffins, Mr. Souvlaki, Mr. Sub, Mucho Burrito, Muffin Plus, O'Burger, Pizza Delight, Scores, Senseasian, South St. Burger, Sukiyaki, Sushi Go, Sushman, Sushi Shop, Thai Express, Thaizone, The Works, Tiki Ming, Timothy's World Coffee, The COOP Wicked Chicken, Tosto, Turtle Jack's, Tutti Frutti, Valentine, Van Houtte, Vanellis, Vie & Nam, Villa Madina, Spice Brothers, Steak Frites, Wasabi Grill & Noodle and YUZU trademarks. MTY also sub-franchises two (2) other different restaurant concepts: TCBY and TacoTime. MTY is a publicly-traded company headquartered in Montreal, Québec, Canada.

Effective March 1, 2018 MTY through the merger of a wholly-owned subsidiary with Imvescor Restaurant Group Inc. ("IRG"), acquired all the outstanding shares of IRG. At closing IRG operated 5 brands in Canada and had 261 locations in operation.

The name and principal business address of any predecessors for Cold Stone Creamery brand during the 10-year period immediately before the close of Kahala Franchising's most

recent fiscal year is: Kahala Franchise Corp., 9311 E. Via De Ventura, Scottsdale, Arizona 85258. Our predecessor, Kahala Franchise Corp., did not conduct the type of business the franchisee will operate, but its affiliate, CSC Restaurants has been conducting the type of business the franchisee will operate by operating corporate Cold Stone Creamery stores since April 1994; its affiliate, Kahala Holdings, LLC (“Kahala Holdings”) has been conducting the type of business the franchisee will operate by operating corporate Cold Stone Creamery stores since January 2008; and another affiliate, Kahala Restaurants, L.L.C., an Arizona limited liability company (“Kahala Restaurants”), has been conducting the type of business the franchisee will operate by operating corporate Cold Stone Creamery stores since January 2010. Kahala Franchise Corp. offered franchises providing the type of business the franchisee will operate from March 2008 until March 2010. The name and principal business address of another predecessor for Cold Stone Creamery during the 10-year period immediately before the close of Kahala Franchising’s most recent fiscal year is: Cold Stone Creamery, Inc., 9311 E. Via De Ventura, Scottsdale, Arizona 85258. Predecessor, Cold Stone Creamery, Inc., conducted the type of business the franchisee will operate from April 1994 until March 2008. Predecessor, Cold Stone Creamery, Inc., offered traditional franchises providing the type of business the franchisee will operate from April 1994 until March 2008, and offered non-traditional franchises providing the type of business the franchisee will operate from November 2002 until March 2008. Cold Stone Creamery, Inc. did not operate businesses of the type being franchised, but rather, Cold Stone Creamery Restaurants, LLC (“CSC Restaurants”), its affiliate, did conduct the type of business the franchisee will operate by operating corporate Cold Stone Creamery since April 1994. Neither Cold Stone Creamery, Inc., nor any of its affiliates had offered franchises in any other line of business. Kahala Franchise Corp. offered franchises under the following names, which are now being offered by Kahala Franchising as of August 2010: Surf City Squeeze, Rollerz Rolled Sandwiches, Frullati Cafe & Bakery, Ranch One, Samurai Sam’s Teriyaki Grill, TacoTime, Great Steak, Johnnie’s New York Pizzeria, NrGize Lifestyle Cafe, Blimpie, and Cereality cereal bar & cafe.

As of November 30, 2022, there were 1,289 franchises in the United States, plus an additional 381 Cold Stone Creamery’s internationally, plus an additional 18 licensed outlets in the United States and 4 company-owned restaurants in the United States. There were also 101 Rocky Mountain Chocolate Factory stores and 1 Tim Hortons store that are co-branded in Cold Stone Creamery restaurants in the United States. The license agreement allowing selected Cold Stone Creamery franchisees to sell Tim Hortons products in their Cold Stone Creamery restaurants has been terminated, so no additional Cold Stone Creamery franchisees may amend their franchise agreement to allow them to sell Tim Hortons products in their restaurants. We have a Master License Agreement dated August 17, 2009 with Rocky Mountain Chocolate Factory, Inc. (“RMCF”) under which selected franchised and company-owned Cold Stone Creamery restaurants will be allowed to sell RMCF’s products in addition to the Cold Stone Creamery product offering (See Exhibit H-1). We have been offering *Cold Stone Creamery* franchises since August 2010 under the name of Kahala Franchising. Kahala Franchising does not operate businesses of the type being franchised, but rather, Kahala Holdings and Kahala Restaurants, affiliates of Kahala Franchising, operate many of our corporate-owned restaurants, including businesses of the type being franchised. Any corporate-owned *Cold Stone Creamery* restaurants may compete with franchised restaurants in its vicinity.

Other Franchises Offered by Kahala Franchising or its affiliate

KAHALA FRANCHISING IS ONLY OFFERING A *COLD STONE CREAMERY* UNIT FRANCHISE UNDER THIS DISCLOSURE DOCUMENT. EACH OF THE FRANCHISES

DETAILED BELOW ARE OFFERED BY KAHALA FRANCHISING OR A U.S. AFFILIATE UNDER SEPARATE DISCLOSURE DOCUMENTS FOR EACH BRAND.

The following summarizes the Cold Stone Creamery and these other quick service restaurant brands as of November 30, 2022, including the type of restaurant business, number of franchised units in operation as of November 30, 2022, and the date Kahala Franchising or its current or former affiliates offered franchises in those brands:

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|-----------------------------|---|--|---|
| America's Taco Shop | Restaurants serving freshly prepared Mexican food including tacos, burritos, and quesadillas | 1 company-owned unit And, 2 licensed units. | November 2011 under Kahala Franchising |
| Blimpie | Restaurants serving submarine sandwiches and salads | 117 franchised units (114 in the United States and 3 internationally) (plus 6 company-owned units in the United States) | From 2006 until 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising |
| Cereality cereal bar & cafe | Restaurants serving hot and cold cereals and cereal blends with toppings, oatmeal, and parfaits | 0 franchised units | From 2007 until 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising |
| Chicken Strips and Dips | Ghost kitchen concept serving primarily chicken tenders. | 1 franchised unit | March 2022, Kahala Franchising. |
| Cold Stone Creamery | Restaurants serving super-premium freshly made ice cream, cakes, pies, smoothies, shakes, and other frozen dessert products | 1,289 franchised units (908 in the United States and 381 internationally)(plus 4 company-owned units). 101 Cold Stone Creamery franchises also sell Rocky Mountain Chocolate Factory® products and 1 Cold Stone Creamery franchise also sells Tim | From May 2007 until March 2008 by Cold Stone Creamery, Inc., from March 2008 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|-----------------------------|--|---|--|
| | | <p>Hortons® products.</p> <p>Additionally, 18 licensed units.</p> | |
| Frullati Cafe & Bakery | Restaurants serving sandwiches, salads, smoothies and baked goods | 10 franchised units | From 1999 until 2004 by Frullati Franchise Systems, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| Great Steak | Restaurants serving Philadelphia cheesesteak sandwiches, chicken sandwiches and French fries | 36 franchised units (26 in the United States and 10 internationally) (plus 1 company-owned unit). | From 2004 until March 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising |
| Johnnie's New York Pizzeria | Restaurants serving New York style pizza, calzones, salads, and related Italian cuisine menu items | 2 franchised units | From 2006 until March 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising |
| Kahala Coffee Traders | Restaurants serving coffee and espresso, tea, baked goods, parfaits, sandwiches and merchandise | 3 franchised units. And 1 licensed unit. | November 2011 under Kahala Franchising |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|---------------------------|--|---|---|
| Maui Wowi | Store fronts or portable units serving fruit smoothies, Hawaiian coffee and espresso | 110 franchised units (102 in the United States and 8 internationally) | Since November 2015 under Kahala Franchising |
| NrGize Lifestyle Cafe | Cafes serving smoothies, fruit drinks and nutritional supplements | 60 franchised units | From 2006 until March 2010 by Kahala Franchise Corp. and since August 2010 under Kahala Franchising |
| Pinkberry | Restaurants serving frozen yogurt, yogurt drinks, smoothies and frozen desserts | 64 franchised units. And 24 licensed units. | From July 2008 until April 2016 under Pinkberry Ventures, Inc. and since June 2016 under Kahala Franchising |
| Planet Smoothie | Restaurants serving smoothies, smoothie bowls, juices and nutritional supplements | 156 franchised units (152 in the United States and 4 internationally) Additionally, as of fiscal year end there were 2 Tasti D-Lite outlets. | Since June 2016 under Kahala Franchising |
| Ranch One | Restaurants specializing in grilled and crispy breaded chicken sandwiches | 2 franchised units | From 2001 until 2004 by Ranch *1 Group, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| Rollerz Rolled Sandwiches | Restaurants serving gourmet rolled sandwiches, salads, soups and baked goods | 1 franchised unit | From 2000 until 2004 by Rollerz Franchise Systems, L.L.C., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|------------------------------|--|--|---|
| Samurai Sam's Teriyaki Grill | Restaurants serving Japanese rice bowls and noodle bowls | 13 franchised units | From 2003 until 2004 by SP Franchising, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| Surf City Squeeze | Juice bars serving smoothies, fruit drinks and nutritional supplements | 69 franchised units (plus 1 company-owned unit) | From 1994 until 2004 by Malibu Smoothie Franchise Corp. and Surf City Squeeze Franchise Corp., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |
| TacoTime | Restaurants serving freshly-prepared Mexican food including burritos, taco, quesadillas and nachos | 226 franchised units (105 franchised in the United States and 121 internationally) Additionally, there are 78 licensed units. | From 2003 until 2004 by Taco Time International, Inc., from 2004 until March 2010 by Kahala Franchise Corp., and since August 2010 under Kahala Franchising |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|--------------|---|---|--|
| Extreme Pita | Restaurants serving wrap-style hot and cold pita and wrap sandwiches | 0 franchised units | From March 2001 to July 2014: The Extreme Pita Franchising USA, Inc.; since July 2014: MTY USA |
| Grabbagreen | Restaurants serving healthy food, juice, smoothies and related products | 7 franchised units | Since February 2018 under MTY USA |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|-----------------------------------|--|--|--|
| Ginger Sushi Boutique + Poke Shop | Restaurant serving a variety of sushi menu items and drinks | 0 franchised units | From September 2015 under MTY USA |
| Mucho Burrito | Restaurants offering burritos, quesadillas, tacos, nachos, and other assorted food and drinks | 0 franchised units | From January 2010 under Mucho Burrito Franchising USA, Inc.; from March 2019 under MTY USA |
| Thai Express | Restaurant serving "Thai-style" foods and drinks | 8 franchised units (plus 1 company-owned) | From February 2015 under MTY USA |
| La Diperie | Restaurant serving retail sale of an ice cream product and various dips and toppings | 1 franchised unit | From April 2019 under MTY USA |
| Baja Fresh | Restaurant offering a limited menu featuring fresh high quality Mexican-style food products | 79 franchised units (77 in the United States and 2 internationally) (plus 7 company-owned units) | October 2016 until July 2017 under Triune, LLC and since then under BFAH |
| La Salsa | Restaurant offering a limited menu featuring fresh high quality Mexican-style food products | 6 franchised units | October 2016 under La Salsa Franchise, LLC |
| The Counter | Full service restaurant featuring build-your-own burgers, signature burgers, side dishes, sandwiches, and salads | 22 franchised units (19 in the United States and 3 internationally) | December 2017 under CB Franchise Systems, LLC. Then from March 2019 under MTY USA |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|----------------------|---|---|--|
| Built Custom Burgers | Fast casual restaurant featuring build-your-own burgers, signature burgers, side dishes, sandwiches, and salads | 6 franchised units (3 in the United States and 3 internationally) | December 2017 under Built Franchise Systems, LLC. Then from March 2019 under MTY USA |
| sweetFrog | Restaurant offering frozen yogurt using a self-serve delivery format | 231 franchised units (221 in the United States which include 13 licensed franchisees plus 10 internationally) | September 2018 under MTY USA |
| Manchu WOK | Quick service restaurant serving fast and fresh Chinese cuisine | 18 franchised units | March 2015: MTY USA |
| Ben & Florentine | Restaurant serving a superior breakfast & lunch experience | 0 franchised units | From December 2018 under MTY USA |
| Papa Murphy's | Retail food outlet serving primarily take and bake pizza | 1,182 franchised units (1,145 in the United States and 37 internationally) plus 23 company-owned units | From May 2019 Papa Murphy's International LLC |
| Famous Dave's | Restaurants specializing in authentic, down-home, genuine smoked barbecue | 98 franchised units (90 in the United States and 8 internationally) plus 42 company-owned units | From March 1994 under Famous Dave's of America, Inc. |
| Village Inn | Restaurant specializing in pancakes, omelets, skilletts, eggs, and other popular breakfast items | 97 franchised units plus 23 company-owned units | From August 2020 under VI BrandCo, LLC |

| Brand Name | Type of Restaurant Business | Number of Units as of November 30, 2022 | Dates unit franchises began being offered by us or our affiliate |
|-------------------|--|---|--|
| Barrio Queen | Restaurants specializing in authentic Southern Mexican | 7 company-owned units | From March 2023 under BQ Concepts, LLC |
| Wetzel's Pretzels | Restaurant specializing in hand-rolled fresh-baked soft pretzels | 329 franchised units (322 in the United States and 7 internationally) plus 38 company-owned units | From April 1996 under Wetzel's Pretzels, LLC |

We or our affiliates had previously also franchised the right to purchase a defined geographic area to become an area representee in; however, as of the issuance date of this Disclosure Document, we or our affiliates are not offering area representative agreements under a separate Area Representative Franchise Disclosure Document for any brands other than La Diperie, Planet Smoothie, and Blimpie but may do so for additional brands in the future under a separate disclosure document.

Affiliates That Provide Products or Services to Franchisees

Kahala Management, L.L.C. ("Kahala Management"), an affiliate of Kahala Franchising, is an Arizona limited liability company that provides administrative, legal, accounting, sales, POS phone support, real estate and marketing support services to Kahala Franchising. In December of 2019 KGC, LLC, a Colorado limited liability company ("KGC") originally created to administer gift card programs, merged into Kahala Management. Kahala Holdings and Kahala Restaurants are affiliates of Kahala Franchising that own and operate company-owned outlets detailed above. CSC Restaurants, is an affiliate of Kahala Franchising that, along with Kahala Holdings and Kahala Restaurants, owns and operates the Cold Stone Creamery company-owned outlets. Kahala Advertising, LLC, an Arizona limited liability company ("Kahala Advertising"), is an affiliate of Kahala Franchising that began administering the national advertising funds for each of the brands and the regional cooperatives in 2008. Neptune Equipment Services, LLC, an Arizona limited liability company ("Neptune Equipment"), is an affiliate of Kahala Franchising that is an approved retailer of equipment that sells, distributes, and coordinates logistics of equipment, menu boards, interior and exterior signage, and smallwares to Kahala Franchising franchisees and licensees.

Cold Stone Creamery Leasing Company, Inc. ("CSC Leasing"), another affiliate of Kahala Franchising, was incorporated for the purpose of leasing sites for Cold Stone Creamery restaurants and subleasing them to franchisees. CSC Real Estate Management, LLC, an Arizona limited liability company ("CSC Real Estate") provides real estate management services to Cold Stone Creamery, Inc. ("Cold Stone") and CSC Leasing. CSC Leasing does not operate

businesses of the type being franchised nor does it offer or sell franchises of Cold Stone Creamery restaurants.

Some Blimpie restaurants are leased by subsidiaries of our affiliate (“Blimpie Leasing Affiliates”) KRES Holdings, L.L.C., an Arizona limited liability company (“KRES”), and in turn, subleased by such entities to Blimpie franchisees.

Some existing Cold Stone Creamery restaurants are leased by either of our affiliates, CSC Leasing or Cold Stone (collectively, “Cold Stone Leasing Affiliates”). In these situations, our Cold Stone Leasing Affiliates enter into a direct lease with the property owner (“Master Lease”) for the location of the *Cold Stone Creamery* restaurant, and then Sublease the location to the franchisee for that particular *Cold Stone Creamery* restaurant, using our standard forms of Sublease (See Exhibits O-1 and O-2: Sublease, Guaranty of Sublease and State Addenda). In most other cases, you will enter into a lease for the premises of your *Cold Stone Creamery* restaurant directly with the property owner. CSC Real Estate, our affiliate, provides real estate management services to CSC Leasing. Blimpie Leasing Affiliates and Cold Stone Leasing Affiliates shall collectively be referred to in this Disclosure Document as the “Leasing Affiliates.”

Other Agreements

Kahala Franchising previously offered franchises for a take and bake pizza concept called “Pizza Fresh Take●N●Bake.” It began franchising Pizza Fresh Take●N●Bake in November 2011 and ceased offering Pizza Fresh Take●N●Bake franchises in December 2014. During that time period, there were no Pizza Fresh Take●N●Bake franchises sold. Two corporately owned Pizza Fresh Take●N●Bake restaurants were opened in 2011 but both closed in 2014 and there are no Pizza Fresh Take●N●Bake restaurants currently in operation. Kahala Franchise Corp. previously offered franchises for a kiosk-style ice cream dessert concept called “Wafflō.” It began franchising Wafflō in 2005 and ceased offering Wafflō franchises in December 2007. During that time period, there were 21 Wafflō franchises sold. As of November 30, 2022, no Wafflō restaurants were open. Additionally, Kahala Franchise Corp. previously offered franchises for a premium soft serve frozen dessert product called “Tango.” It began offering Tango franchises in May 2007 and ceased selling Tango franchises in November 2007. During that time, there were no Tango franchises sold, and there are no Tango franchise locations currently in operation. Tasti D-Lite LLC is an affiliate of Kahala Franchising that previously franchised the Tasti D-Lite frozen dessert brand. Kahala Franchising is now offering Tasti D-Lite products as a menu offering in Planet Smoothie restaurants. As of November 30, 2022 there were 2 Tasti D-Lite franchises in the United States.

Taco Time International, Inc. (“TTI”) was a predecessor franchisor of the TacoTime brand. TTI’s rights and obligations under a Master Franchise Agreement it entered into on March 13, 1978 (“MFA”) were assigned to Kahala Franchising. Under the MFA, MTY Canada operates as the master franchisor of the TacoTime brand for the entire country of Canada. As of the date of this Disclosure Document, the MFA is still in effect.

TTI also entered into a Western Washington Area Franchise Agreement with Accord, Inc. (“Accord”) dated April 30, 1979, as amended (“Western Washington Agreement”) under which TTI assigned its rights to franchise TacoTime in several counties and cities in the state of Washington to Accord (“Accord Territory”). The Western Washington Agreement was ultimately assigned from TTI to Kahala Franchising. Accord is not an affiliate of Kahala Franchising. As of November 30, 2022, there were 78 TacoTime licensed restaurants in operation in the Accord Territory. As of the date of this Disclosure Document, the Western Washington Agreement is

still in effect. TTI did not enter into any other territory agreements that are currently in effect. We are not offering TacoTime franchises under this Disclosure Document.

Blimpie International, Inc. ("BI") was a predecessor franchisor of the Blimpie brand. BI entered into a trademark distribution agreement with Blimpie of California, Inc. dated July 18, 1984, as amended ("TDA") under which Blimpie of California, Inc. operates as a subfranchisor for the Blimpie brand in a portion of Southern California. The TDA was ultimately assigned from BI to Kahala Franchising. Blimpie of California, Inc. is not an affiliate of Kahala Franchising. As of November 30, 2022, there were 2 Blimpie franchises in operation in Blimpie of California, Inc.'s territory. As of the date of this Disclosure Document, the TDA is still in effect. BI did not enter into any other trademark distribution agreements that are currently in effect. We are not offering any Blimpie franchises under this Disclosure Document.

On August 8, 2022, MTY Franchising USA, Inc. and its wholly owned subsidiary Grill Merger Sub, Inc. ("Merger Sub") entered into an agreement with BBQ Holdings, Inc. ("BBQ"), a Minnesota corporation, providing for the acquisition of BBQ by MTY Franchising USA, Inc., consisting of a tender offer (the "Offer") for all of the outstanding shares of BBQ common stock, followed by a subsequent merger of Merger Sub with and into BBQ (the "BBQ Merger"), with BBQ surviving the BBQ Merger as a wholly-owned subsidiary of MTY Franchising USA, Inc. This transaction included the rights to franchise and/or operate the Barrio Queen, Famous Dave's, Village Inn, Bakers Square, Granite City Food and Brewery, Real Urban BBQ, Craft Republic Bar & Grill, Champps Kitchen + Bar, Fox & Hound, and Tahoe Joe's Famous Steakhouse brands. BBQ, through its subsidiary, VI BrandCo, LLC a Delaware limited liability company, offers Village Inn restaurants. As of November 30, 2022, there were 120 Village Inn restaurants (including franchised and company-owned) in the United States. BBQ, through its subsidiary, Famous Dave's of America, Inc., a Minnesota corporation, offers Famous Dave's restaurants. As of November 30, 2022, there were 133 Famous Dave's restaurants (including franchised and company-owned) in the United States, and 8 franchised restaurants internationally (in the UAE and Canada). With the merger closing that took place on September 27, 2022, MTY Franchising USA, Inc. is the parent company of both VI BrandCo, LLC and Famous Dave's of America, Inc.

On December 8, 2022, MTY Franchising USA, Inc. and its wholly owned subsidiary Twisted Merger Sub, Inc. ("WP Merger Sub"), a Delaware corporation, entered into an agreement with COP WP Parent, Inc. ("COP"), a Delaware corporation, providing for the acquisition of COP by MTY Franchising USA, Inc., consisting of a merger of WP Merger Sub with and into COP (the "COP Merger"), with COP surviving the COP Merger as a wholly-owned subsidiary of MTY Franchising USA, Inc. This transaction included the rights to franchise and/or operate the Wetzel Pretzel's brand, through COP's subsidiary Wetzel's Pretzels, LLC, a California limited liability company. As of November 30, 2022, there were 343 Wetzel Pretzels restaurants (including franchised and company-owned) in the United States and 7 franchised restaurants internationally. With the merger closing that took place on December 8, 2022, MTY Franchising USA, Inc. is the parent company of Wetzel's Pretzels, LLC.

On December 15, 2022, MTY Franchising USA, Inc. via its wholly owned subsidiary Sauce Restaurants, LLC ("Sauce Restaurants"), an Arizona limited liability company, simultaneously signed and closed an asset purchase agreement with Sauce, LLC, an Arizona limited liability company, Sauce Holdings, LLC, a Delaware limited liability company, and several other of their affiliates (collectively, "Sauce Sellers"), providing for the acquisition of the assets of Sauce Sellers by Sauce Restaurants. This transaction included the rights to operate (and ultimately franchise should Sauce Restaurants so desire) the Sauce Pizza and Wine

brand. As of November 30, 2022, there were 15 Sauce Pizza and Wine restaurants (all of which were company-owned) in the United States. BBQ Holdings, Inc., a subsidiary of MTY Franchising USA, Inc., is the direct parent company of Sauce Restaurants.

Except as described above, neither we nor any of our affiliates, have offered any other franchises in any other line of business.

The principal place of business of Kahala Franchising and its affiliates Kahala Management, Kahala Advertising, KRES, TTSM, KAHA Acquisition V, Kahala Holdings, Kahala Restaurants, Cold Stone, CSC Restaurants, CSC Leasing, CSC International, CSC Real Estate, Neptune Equipment, and Kahala Brands is 9311 E. Via De Ventura, Scottsdale, Arizona 85258. The identity and principal business address of Kahala Franchising's agent for service of process is listed in Exhibit C to this Disclosure Document.

The Franchise

If you qualify, you may (i) construct a new *Cold Stone Creamery* restaurant; (ii) purchase one of our *Cold Stone Creamery* franchises by acquiring an existing business from another franchisee or from us; or (iii) convert all of your existing retail operations from another brand to our *Cold Stone Creamery* brand.

The business you will operate is a single traditional or non-traditional *Cold Stone Creamery* restaurant specializing in super-premium fresh made ice cream, cakes, pies, smoothies, shakes, specialty beverages, soft drinks and other frozen dessert products (prepared using proprietary recipes) and an assortment of complementary toppings and mix-ins on a take-out, delivery or eat-in basis, at a specific location approved by us, and using the trademarks *Cold Stone Creamery*[®], and other trademarks, trade names, service marks, logotypes, and other commercial symbols we adopt and authorize. The ice cream is used to prepare cakes, pies, smoothies, shakes, specialty beverages, and other frozen dessert products. A "traditional" *Cold Stone Creamery* restaurant is a *Cold Stone Creamery* restaurant that is easily accessible by the general public, such as a free-standing building, inline retail shop, shopping mall or street front location. A traditional *Cold Stone Creamery* restaurant normally offers a full *Cold Stone Creamery* menu. A "non-traditional" *Cold Stone Creamery* restaurant is a restaurant that is located in a non-traditional marketplace (as determined in franchisor's sole discretion) such as an airport, amusement park, sports or entertainment venue, train station, travel plaza, toll roads, cafeteria, retail store, convenience store, military base, hospital, office building, movie theater, hotel, casino, kiosk, cart or high school or college campus. A non-traditional *Cold Stone Creamery* restaurant generally offers a limited version of the full *Cold Stone Creamery* menu. A *Cold Stone Creamery* restaurant, whether traditional or non-traditional, is also referred to as the "Franchised Business."

Cold Stone Creamery restaurants serve the general public, and people of all ages consume the products offered by *Cold Stone Creamery* restaurants. Most *Cold Stone Creamery* restaurants may be operated throughout the year; however, the restaurant market for the products offered by *Cold Stone Creamery* restaurants is seasonal, as consumption of ice cream, cakes, pies, smoothies, shakes, specialty beverages and other frozen dessert products is typically higher in the summer and lower in the winter. You will have to compete with other restaurants, fast food outlets, supermarkets and other food retailers located in your venue or market area. Some of your competitors may include *Cold Stone Creamery* restaurants operated by other franchisees or by our affiliates. The extent to which you may succeed at any particular location cannot be predicted. Because of the highly

competitive nature of the business involved, successful operation of the *Cold Stone Creamery* restaurant will depend in part upon the best efforts, capabilities, management, and efficient operation by the franchisee; as well as the general economic trend and other local marketing conditions.

You must comply with all federal, state, and local laws that regulate commerce in general, and the food service industry in particular. In addition to laws and regulations that apply to businesses and restaurant operations generally, *Cold Stone Creamery* franchised businesses are subject to: (i) federal, state, and local health codes regarding health, sanitation, and food safety; and (ii) menu labeling and nutrition laws.

ITEM 2: BUSINESS EXPERIENCE

References to titles and positions for the persons listed in this Item 2 may be assigned to MTY, MTY Canada, MTY USA, Kahala Brands, or any one or more affiliated companies.

Chairman of the Board and Chief Executive Officer: Eric Lefebvre

Mr. Lefebvre was promoted and became the Chief Executive Officer of MTY effective November 2018. Prior to that, Mr. Lefebvre was the Chief Financial Officer of MTY since June 2012, and was Vice President of Finance of MTY from November 2009 until June 2012.

Director, Chief Financial Officer: Renee St-Onge

Ms. St-Onge was promoted to Chief Financial Officer of MTY effective November 2018. Prior to that, Ms. St-Onge was with MTY as Controller since 2012.

Director, Chief Operating Officer: Jeff Smit

Mr. Smit has been the Chief Operating Officer of Kahala Brands since June 2009 and has been a Director of MTY USA since November 2018. Prior to that, Mr. Smit was the Blimpie Brand President from November 2007 until December 2010 and the Sr. Vice President of Operations for Cold Stone Creamery from February 2005 to December 2007.

Senior Vice President of Restaurant Operations: Anthony Crosby

Mr. Crosby joined Kahala Brands in October 2009 as the Vice President of Restaurant Operations. He assumed his current role in August 2011.

Vice President of Restaurant Operations: Blake Borwick

Mr. Borwick was a Cold Stone Creamery franchisee in Cedar Falls and Waterloo, Iowa from April 2005 to March 2014. From March of 2014 to January 2017, he was the Regional Director of Operations of Cold Stone Creamery and Blimpie. He was promoted to Vice President of Operations for the Blimpie brand in January 2017 and then became Vice President of Operations for the Cold Stone Creamery brand in March 2018. In May of 2021 he was promoted to Vice President of Restaurant Operations for Kahala Brands.

Vice President of Restaurant Operations: Logan Reves

Mr. Reves joined Kahala Brands in May 2021 in his current role. Prior to joining Kahala Brands, Mr. Reves was an Independent Restaurant Consultant from March 2020 through April 2021. Prior to that Mr. Reves was with Tilted Kilt Franchise Operating, LLC in Tempe, Arizona as Vice President of Operations from January 2014 to July 2016, Chief Operating Officer from July 2016 through December 2018, and as Senior Vice President of Franchise Operations of the Dick's Wings & Grill brand from January 2019 through March 2020.

General Counsel: Jenny Moody

Ms. Moody has been with the Kahala Brands' Legal department since June 2010. In August 2012 she was named Corporate Counsel, in September 2013 International Counsel, in September 2016 Deputy General Counsel, and in November 2019 General Counsel.

Vice President of Training and Customer Service: Kerri Kudla

Ms. Kudla joined the Cold Stone Creamery training team in June 2002. She became Director of Operations & Training Development in January 2009 and was promoted to Senior Director of Operations & Training Development in October 2012. In June 2014, Ms. Kudla assumed her current role.

Senior Vice President of Marketing: Steven Evans

Mr. Evans joined Kahala Brands in October 2007 as a National Marketing Manager for the Blimpie brand. In October 2009, he also became the Director of Marketing for the NrGize Lifestyle Cafe and Surf City Squeeze brands, and in January 2010, also the Director of Marketing for the TacoTime brand. In March 2011, Mr. Evans was promoted to Senior Director of Marketing, and in August 2011, he became the Vice President of Marketing. In January 2017, Mr. Evans was promoted to his current role.

Franchise Sales

Senior Vice President of Development: John Wuycheck

Mr. Wuycheck has served as Kahala Brands' Senior Vice President of Development since September 2014.

Vice President of Franchise Development: Jay Goldstein

Mr. Goldstein has worked with the Cold Stone Creamery brand since October 2005. In January 2008, he became the Senior Director of Development for Kahala Franchising, and from January 2008 until November 2008, he served as Senior Director of Operations. Mr. Goldstein was promoted to Vice President of Franchise Development in May 2009.

Director of Franchise Development: Doug Merenda

Mr. Merenda joined Kahala Brands' sales team in October 2015 as a Director of Franchise Development and was a franchise broker for Kahala Brands from April 2015 through October 2015.

Vice President of Business Development – USA: Ramin (Ray) Zandi

Mr. Zandi is the Vice President of Business Development – USA, a position he has held since February 2009.

Franchise Development Manager: Traci Zandi

Ms. Zandi has assisted Kahala Brands' Development team in awarding franchise units since October 2016. She also served as Office Manager and Executive Assistant for Extreme Pita from April 2011 until October 2016.

ITEM 3: LITIGATION

LITIGATION INVOLVING FRANCHISOR, PREDECESSORS AND AFFILIATES

Concluded Arbitration and Litigation Involving The Extreme Pita Franchising USA, Inc. predecessor in interest to MTY Franchising USA, Inc.

Purav Enterprises, LLC, Balwant Bahia, and Paramjit Samra v. The Extreme Pita Franchising USA, Inc., EP Development, Inc., and Feisal Ramjee; Superior Court of the State of Washington for King County; Case No. 15-2-15120-7.

On June 22, 2015, Purav Enterprises, LLC, Balwant Bahia, and Paramjit Samra (collectively "Plaintiffs"), filed a complaint against The Extreme Pita Franchising USA, Inc., EP Development, Inc., and Feisal Ramjee (collectively "Defendants"). Plaintiffs alleged: (i) violations under the Franchise Investment Protection Act in the State of Washington ("FIPA"); (ii) misrepresentation by the Area Developer of the financial performance of the franchise, omissions of mandatory and material information and inherently misleading information that were material factors in the Plaintiff's purchase of the franchise; and (iii) the Area Developer was not a registered broker in the State of Washington. Plaintiffs sought: (i) rescission of the franchise agreement, the corresponding personal guarantee and related agreements; (ii) treble damages under FIPA; and (iii) costs and attorney's fees. The parties entered into a settlement agreement on March 11, 2016, in which Defendants paid Plaintiffs the sum of \$20,000. The matter was dismissed on March 16, 2016.

Concluded State Administrative Actions, Arbitration, and Litigation Involving SFF, LLC, successor in interest to SweetFrog Enterprises, LLC

In the Matter of SweetFrog Enterprises, LLC f.k.a. Imagination Enterprises, Inc., d/b/a Sweet Frog, Administrative Proceeding Before the Securities Commissioner of Maryland, Case No. 2012-0055.

As a result of an inquiry into the franchise related activities of SweetFrog Enterprises, LLC, ("SFE") the Maryland Securities Commissioner ("Commissioner") concluded that grounds existed to allege that SFE violated the registration and disclosure provisions of the Maryland Franchise Law in relation to the offer and sale of certain license agreements. SFE acknowledged that those license agreements constituted franchises as defined under the Maryland Franchise Law. SFE represented that it entered into license agreements with eight Maryland licensees during the time it was not registered to offer and sell franchises in Maryland. On August 29, 2012, the Commissioner and SFE agreed to enter into a consent order whereby SFE, without admitting or denying any violations of the law, agreed to: (i) immediately and permanently cease from the offer and sale of franchises in violation of the Maryland Franchise

Law; (ii) file and diligently pursue an application for an initial franchise registration in Maryland relating to the license agreements it offered and sold to Maryland licensees; and (iii) to offer to rescind the license agreements of all Maryland licensees to whom it sold unregistered franchises. We are not aware of any licensees that accepted the rescission and have made a good faith effort to obtain that information.

Sun Yop Cho v. Imagination Enterprises, Inc., American Arbitration Association, Case No. 16 114 Y 00250 13.

On May 15, 2013, Sun Yop Cho (“Claimant”), a sweetFrog licensee, filed an arbitration action against Imagination Enterprises, Inc., predecessor to SweetFrog Enterprises, LLC (“Respondent”). Claimant asserted that: (i) Respondent breached the license agreement by violating the territorial exclusivity provision in the license agreement; (ii) Respondent violated the Virginia Retail Franchising Act; and (iii) Respondent breached an alleged oral promise to partner with Claimant in developing a sweetFrog shop in Leesburg, Virginia. Claimant sought: (i) damages in the amount of \$900,000; (ii) attorneys’ fees; (iii) reformation of the license agreement; and (iv) injunctive relief. Respondent vehemently disputed Claimant’s claims. On December 13, 2013, Claimant and Respondent entered into an agreement pursuant to which: (i) the parties settled their disputes and jointly dismissed the arbitration proceeding with prejudice; and (ii) Respondent repurchased Claimant’s License Agreement and acquired the assets of his sweetFrog shop for a total price of \$504,162.63.

Sweet Frog Stony Brook, Inc. and Sweet Frog Babylon, Inc. v. SweetFrog Enterprises, LLC; SFF, LLC and Ki Young Cha a/k/a Derek Cha; United States District Court, Eastern District of New York; Case No. 2:14-cv-02356-JS-WDW.

On April 11, 2014, Sweet Frog Stony Brook, Inc. and Sweet Frog Babylon, Inc., (collectively “Plaintiffs”), two sweetFrog franchisees, filed a lawsuit against SweetFrog Enterprises, LLC, SFF, LLC (collectively “Franchisor”), and Ki Young Cha a/k/a Derek Cha (collectively with Franchisor, “Defendants”). Plaintiffs alleged that Defendants: (i) violated the New York Franchise Sales Act; (ii) violated the New York General Business Law § 680, *et seq.* (“NYFSA”) by making unauthorized and fraudulent pre-sale financial performance representations; and (iii) failed to register the franchise offering with the New York Attorney General prior to entering into franchise agreements with Plaintiffs. Plaintiffs demanded: (i) damages in excess of \$685,000; (ii) rescission of their franchise agreements; and (iii) recovery of their attorneys’ fees. Defendants disputed Plaintiffs’ claims, but agreed to mediate the dispute. Prior to the deadline to respond to the complaint, on July 29, 2014, the parties entered into an agreement pursuant to which: (i) Plaintiffs would attempt to sell their franchised shops and transfer their franchise agreements to any third party(ies) approved by Franchisor before November 1, 2014; and (ii) if Plaintiffs were unable to identify a suitable buyer for their franchised shops by November 1, 2014, the parties agreed to mutual termination of the franchise agreements and that Franchisor would purchase the equipment from each franchised shop at a price of \$50,000. The case was dismissed with prejudice on August 6, 2014.

Tri Star Consulting Group, Inc. and Sweet Frog Hauppauge, Inc. v. SweetFrog Enterprises, LLC, SFF, LLC, Ki Young Cha a/k/a Derek Cha; United States District Court, Eastern District of New York; Case No. 2:14-cv-02228-ADS-AKT. On April 9, 2014, Tri Star Consulting Group, Inc., a licensee and area developer of SweetFrog Enterprises, LLC (“Plaintiff Tri Star”), and Sweet Frog Hauppauge, Inc., a licensee of SweetFrog Enterprises, LLC (“Plaintiff Hauppauge”); (collectively “Plaintiffs”); filed a lawsuit against SweetFrog Enterprises, LLC, (“Defendant

SweetFrog”), SFF, LLC (“Defendant SFF”), and Ki Young Cha a/k/a Derek Cha (collectively “Defendants”). Plaintiff Tri Star alleged Defendant SweetFrog breached its license/area development agreement with Plaintiff Tri Star by: (i) terminating the license/area development agreement for nonpayment of royalty fees; (ii) licensing to Defendant SFF the right to sell franchises in New York City, Plaintiff Tri Star’s development territory; and (iii) failing to pay fees allegedly owed to Plaintiff Tri Star related to the operation of franchised sweetFrog locations within Plaintiff Tri Star’s development territory. Plaintiff Tri Star sought: (i) damages in excess of \$75,000; (ii) a declaration that it was not in default of the license/area development agreement; (iii) a declaration that Defendant SweetFrog was obligated to pay fees to Plaintiff Tri Star based on revenues of all franchised sweetFrog locations in New York City; (iv) an order enjoining Defendant SFF from selling franchises in New York City; and (v) recovery of its attorneys’ fees. Prior to the deadline to respond to the complaint, on September 9, 2014, Plaintiff Tri Star and Defendants entered into an agreement pursuant to which (1) the parties agreed to mutual termination of Plaintiff Tri Star’s license/area development agreement; (2) Defendant SweetFrog agreed to pay Plaintiff Tri Star \$19,830.58; (3) Defendant SFF agreed to pay Plaintiff Tri Star an ongoing commission equal to 2% of the net sales of all franchised sweetFrog locations in New York City through November 2031; and (4) Plaintiff Tri Star agreed not to operate any competitive business in New York City for so long as Defendant SFF was obligated to make commission payments to Plaintiff Tri Star.

Plaintiff Hauppauge asserted that Defendants: (i) violated the New York Franchise Sales Act, (ii) violated the New York General Business Law § 680, *et seq.* (“NYFSA”); (iii) committed fraudulent and negligent representations by making unauthorized and fraudulent pre-sale financial performance representations; and (iv) failed to register the franchise offering with the New York Attorney General prior to entering into franchise agreements with Plaintiffs. Plaintiff Hauppauge sought: (i) damages in excess of \$330,000; (ii) rescission of its license agreement, and (iii) recovery of its attorneys’ fees. Defendants disputed Plaintiffs’ claims but agreed to mediate the dispute. Prior to the deadline to respond to the complaint, on September 9, 2014, Plaintiff Hauppauge, on the one hand, and Defendants on the other hand, entered into an agreement pursuant to which: (i) the parties agreed to mutual termination of Plaintiff Hauppauge’s license agreement; and (ii) Defendant SweetFrog agreed to pay Plaintiff Hauppauge \$75,000. The case was dismissed with prejudice on September 20, 2014.

Urquieta Sweet Frog, LLC and Ana Urquieta v. SweetFrog Enterprises, LLC d/b/a SFF, LLC, American Arbitration Association; Case No. 01 14 0001 8086.

On December 23, 2014, Urquieta Sweet Frog, LLC and Ana Urquieta, a former sweetFrog franchisee and its owner (collectively “Plaintiffs”), filed a Demand for Arbitration against SweetFrog Enterprises, LLC (“Defendant”). Plaintiffs alleged: (i) Defendant engaged in fraud; (ii) unfair practices; and (iii) deceptive actions. On February 2, 2015, Defendant timely filed an Answer and Counterclaim and denied all allegations, and further asserted a counterclaim against Plaintiffs for unpaid royalties. This matter was settled in December of 2015. Under the settlement, Defendant agreed to pay Plaintiffs \$300,000 and the parties executed mutual releases.

SFF, LLC v. Carmel Village Yogurt Company LLC; City of Richmond, Virginia Circuit Court; Case No. CL16-3927.

On August 29, 2016, SFF, LLC (“Plaintiff”) filed a lawsuit against three sweetFrog franchisee entities, Carmel Village Yogurt Company LLC (“Defendant Carmel YC”), Huntersville Yogurt

Company, LLC (“Defendant Huntersville YC”), and Mooresville Yogurt Co, LLC (“Defendant Mooresville YC”), and their main member, Steve Anto (“Defendant Anto”); (all named Defendants collectively referred to as, “Anto Defendants”). Plaintiff alleged: (i) Defendant Carmel YC breached its franchise agreement through its unauthorized closure of its franchised shop; and (ii) as a result of the breach, Plaintiff had the contractual right to terminate Defendant Carmel YC’s franchise agreement and cross terminate the franchise agreements of Defendant Huntersville YC and Defendant Mooresville YC. Plaintiff sought: (i) declaratory judgment that the three franchise agreements had terminated; (ii) specific performance of the Anto Defendants’ post-termination obligations; (iii) damages for past due fees; (iv) lost future royalties in excess of \$116,000; and (v) recovery of its attorneys’ fees. In response to Plaintiff’s complaint, Anto Defendants denied Plaintiff’s claims and asserted counterclaims against Plaintiff and alleged: (i) Defendant Carmel YC’s franchise agreement was unenforceable and, alternatively, that Plaintiff was in breach of Defendant Carmel YC’s franchise agreement due to Plaintiff’s allowance of another franchisee to open a shop within three miles of Defendant Carmel YC’s shop. Anto Defendants sought: (i) a declaratory judgment that they were not in default of their franchise agreements; (ii) damages of not less than \$425,000; and (iii) recovery of their attorneys’ fees. Plaintiff denied Anto Defendants’ claims and filed a demurrer and pleas in bar seeking to have those claims dismissed. Prior to the court hearing and ruling on Plaintiff’s motion, the parties entered into an agreement pursuant to which: (i) the parties acknowledged the valid termination of Defendant Carmel YC’s franchise agreement; (ii) Defendant Carmel YC transferred the assets of its business to Plaintiff and Plaintiff paid Defendant Carmel YC \$25,000; (iii) Plaintiff reinstated Defendant Huntersville YC’s and Defendant Mooresville YC’s terminated franchise agreements; and (iv) Plaintiff granted Defendant Anto the right to develop a new sweetFrog shop at a mutually acceptable location on or before November 8, 2018. The case was dismissed with prejudice on December 15, 2016.

Concluded Arbitration and Litigation Involving Kahala Franchising, L.L.C.

KOHO, Inc. v. Kahala Franchising, L.L.C.; Superior Court of the State of California for the County of Los Angeles; Case No.: BC572565.

On or about February 17, 2015, Koho, Inc. (“Koho”) filed a Complaint against Kahala Franchising, L.L.C. (“Kahala”) alleging: (i) breach of contract; (ii) unjust enrichment; and (iii) declaratory relief. Koho sought: (i) no less than \$540,000 in special and general damages; (ii) litigation costs; (iii) prejudgment interest; (iv) reasonable attorney’s fees; and (v) declaratory relief. On or about May 5, 2015, Kahala filed a Cross-Complaint against Koho; Heeyong Kyle Chung; and Hannah Kim; alleging: (i) breach of contract; (ii) unjust enrichment; (iii) disgorgement and restitution; (iv) fraud-deceit and concealment; (v) negligent misrepresentation; (vi) conversion; (vii) negligence; and (viii) declaratory relief. Kahala sought: (i) breach of contract damages in amount according to proof; (ii) disgorgement and restitution on Unjust Enrichment cause of action; (iii) judicial determination that Kahala is permitted and entitled to set off amounts owed to it by Koho with funds in its possession which would otherwise have been due Koho; (iv) costs; (v) attorneys’ fees; (vi) punitive damages; and (vii) prejudgment interest; (viii) any other relief the Court deems just and proper. On or about June 15, 2015, Koho filed a Notice of Hearing on Demurrer and Demurrer to Kahala’s Cross-Complaint; Memorandum of Points and Authorities; Declaration of Daniel D. Hoffman and Exhibits in Support Thereof. Koho filed its Notice of Motion and Motion to Strike Certain Portions of Kahala’s Cross Complaint; Memorandum of Points and Authorities on June 17, 2015. On October 16, 2015, the Court overruled Koho’s Demurrer to Kahala’s Cross Complaint in its

entirety and denied their motion to strike Kahala's punitive damages claims; the Court sustained the Demurrer as to Hannah Kim. Mediation was held on May 3, 2016, which failed to yield a settlement between the two parties. On May 5, 2016, Kahala dismissed the claims against Koho and Kyle Chung because they satisfied the debts owed to Kahala, and, therefore, the claims were moot. Hannah Kim was subsequently awarded attorney's fees on June 15, 2016, in the amount of \$10,233. A bench trial commenced on June 15, 2016, and ended on June 16, 2016. Upon the conclusion of Koho's case, Kahala presented its case-in-chief and moved for judgment pursuant to Code of Civil Procedure section 631.8. The Court granted Kahala's Judgment as Koho failed to establish the requisite elements of "breach" and "damages" on the three causes of action asserted in the Complaint. On July 18, 2016, the Court awarded Kahala attorneys' fees in the amount of \$205,000. On September 22, 2016, Koho filed a Notice of Filing of Notice of Appeal and requested that Kahala participate in a mediation to resolve the outstanding award to Kahala. Koho failed to post an appeal bond. On February 13, 2017, Kahala commenced its self-help pursuant to Section 8(i) and (j) of the ARA and began withholding 100% of the Area Representative fees to which Koho would have otherwise been entitled. On June 19, 2017, the parties entered into a settlement agreement whereby Kahala repurchased Koho's Area Developer territory for the sum of \$75,000 and forgave the remaining damages owed in the amount of \$130,000.

Texas Nrgize #1, Inc. v. Kahala Franchising, L.L.C. and Kahala Holdings, L.L.C.; 67th Judicial District Court, Tarrant County, Texas; Civil Action No.: 067-272652-14 subsequently removed to United States District Court for the Northern District of Texas; Case No.: 4:14-cv-544-Y.

On or about June 18, 2014, Texas Nrgize #1, Inc., an Nrgize franchisee ("Plaintiff"), filed a Petition and Request for Disclosure against Kahala Franchise Corp and Kahala Holdings, L.L.C. (collectively "Defendants") alleging (i) violations of the Texas Business Opportunities Act, Tex. Bus. & Comm. Code §§ 51.001 and the Texas Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Comm. Code §17.46, and (ii) Breach of Contract and Warranties. Plaintiff sought: (i) economic damages in excess of \$200,000, plus treble damages and pre- and post-judgment interest at the maximum rates allowed by law; (ii) attorneys' fees and costs; and (iii) such other relief to which the Plaintiff may be justly entitled. On July 16, 2014, Defendants filed a Notice of Removal to the United States District Court for the Northern District of Texas. On July 24, 2014, the judge executed the Order Granting the Unopposed Motion to Substitute Parties and Changing Case Style. Kahala Franchising, L.L.C. ("Defendant") was substituted in as a defendant instead of Kahala Franchise Corp. On July 28, 2014, Defendant filed a Motion to Transfer Pursuant to 28 U.S.C. §1404(A) and Brief in Support. This motion sought an order to transfer the litigation to the United States District Court for the District of Arizona pursuant to the parties' forum selection clause contained in the franchise agreement. On August 1, 2014, Defendant filed its Answer, Counterclaim and Third Party Claim. The Counterclaim was against Plaintiff and the Third Party Claim was filed against Duane W. Martin, Argentina Saldivar, and Margena Wood ("Third Party Defendants"). Defendant alleged: (i) Breach of Franchise Agreement against Plaintiff, and (ii) Breach of Guaranty against Third Party Defendants. Defendant sought: (i) judgment against Plaintiff and the Third Party Defendants in an amount to be proven at trial; (ii) attorneys' fees; (iii) costs pursuant to A.R.S. §§12-341 and 12-341.01 and the parties' contractual agreements; and (iv) any other relief the Court deemed fit. Plaintiff filed its Response to Defendant's Motion to Transfer Pursuant to 28 U.S. C. §1404 (A) and Brief in Support on August 18, 2014, then filed its Answer to Defendant's Counterclaim on August 22, 2014. On August 28, 2014, Defendant filed its Reply in Support of Motion to Transfer Pursuant to 28 U.S. C. § 1404(A) and Brief in Support. On September 24, 2014, the United States District

Court for the Northern District of Texas Court requested that each party submit a supplemental brief to benefit the Court in resolving the Defendant's Motion to Transfer. Mediation was held on September 29, 2014, but the parties failed to come to an agreement. On October 17, 2014, Third Party Defendants filed their Answer and Counterclaim. Third Party Defendants alleged: (i) violations of the Texas Business Opportunities Act, Tex. Bus. & Comm. Code §§ 51.001 and the Texas Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Comm. Code §17.46, and (ii) breach of contract and warranties. Third Party Defendants sought: (i) economic damages in excess of \$200,000, plus treble damages under the Code and pre- and-post judgment interest at the maximum rates allowed by law; (ii) attorney's fees; (iii) costs; and (iv) any other general or special relief that the Court deemed fit. On October 24, 2014, Defendant filed its Supplemental Briefing In Support of Its Motion to Transfer Pursuant to 28 U.S.C. §1404(A). On November 10, 2014, Defendant filed its Answer to the Third Party Counterclaims. On November 13, 2014, Defendant filed its Notice of Dismissal Without Prejudice as to Third Party Defendant Argentina Saldivar only. On November 14, 2014, Plaintiff filed its Response to Defendant's Supplemental Briefing In Support of Their Motion to Transfer Pursuant to 28 U.S.C. §1404(A). On November 26, 2014, Defendant filed its Reply to Plaintiff's Response to Defendant's Supplemental Briefing in Support of Its Motion to Transfer Pursuant to 28 U.S.C. §1404(A). On February 24, 2015, the Court granted Defendant's Motion to Transfer the case to the United States District Court of the District of Arizona; Phoenix Division; Case No.: CV15-0337 PHX DGC. In April 2015, Plaintiff moved to compel arbitration which was ultimately denied by the Court. The parties participated in a mediation in August 2015 which was unsuccessful. In December 2015, the parties executed a settlement agreement in which Defendant paid Plaintiff the sum of \$35,000. The parties filed a Stipulation to Dismiss With Prejudice on December 18, 2015.

Lawsuits Filed by Franchisor Kahala Franchising, L.L.C. Against Franchisees During Fiscal Year December 1, 2021 through November 30, 2022

Suit for Breach of Contract (Franchise Agreement); Open Account and Personal Guaranty

Kahala Franchising, L.L.C. v. Hadi's American Subs, LLC and Mohamad Wajdi El-Hadi; State of Michigan in the Wayne County Circuit Court; Case No. 22-001314-CB.

Suit for Breach of Contract (Franchise Agreement and Personal Guaranty)

Kahala Franchising, L.L.C. and Kahala Holdings, L.L.C. v. Ay-Ray Enterprise, LLC, Mohammed Aiyaz Ali and Sofia Ali; In the Circuit Court of the State of Oregon for the County of Washington; Case No. 22CV36048.

Suit for Breach of Contract (Franchise Agreement)

Kahala Franchising, L.L.C. v. Mustafa Shakruwala, Sakina Shakruwala, Murtuza Rajkotwala a/k/a Murtaza Rajkotwala, and Alifiya Rajkotwala a/k/a Alefiyah Rajkotwala; In the Circuit Court for the Thirteenth Judicial Circuit in and for Hillsborough County, Florida; Case No. 29022CA008402A001HC.

Lawsuits Filed by MTY Franchising, USA, Inc. Against Franchisees During Fiscal Year December 1, 2021 through November 30, 2022

Suit for Breach of Contract (Franchise Agreement); Personal Guaranty (The Corbetts); and Unjust Enrichment (In the Alternative)

MTY Franchising USA, Inc. v. Tebrock, David, L.L.C., Lawrence Corbett and Carolina Corbett; In the Superior Court of the State of Arizona in and for the County of Maricopa; Case No. CV2022-000086.

Suit for Breach of Contract (Franchise Agreement and Personal Guaranty)

MTY Franchising USA, Inc. v. Thanhson Nguyen Dinh, Thuy Thanh Tran and Does 1 through 20; Superior Court of California, County of Sacramento, Gordon D. Schaber Courthouse-Unlimited Civil; Case No. 34-2022-00316197.

Suit for Unlawful Detainer for failure to pay rent

MTY Franchising USA, Inc. v. Trimurti Management, Inc.; Superior Court of California, County of Los Angeles; Case No. 22VECV01347.

Concluded Arbitration and Litigation Involving Cold Stone Creamery, Inc.

Kenneth J. Kirwin v. Cold Stone Creamery/Kahala Corp; Commonwealth of Massachusetts Plymouth Superior Court, Civil Action No. 13-01126A subsequently removed to the United States District Court of Massachusetts; Case No.: 1:14-cv-11691.

On or about October 21, 2013, Kenneth J. Kirwin ("Plaintiff") filed a Complaint In Equity and Demand For Jury Trial against Kahala Corp, inadvertently named as Cold Stone Creamery/Kahala Corp ("Defendant"). The Complaint alleged: (i) promissory estoppel; breach of contract; breach of implied covenant of good faith and fair dealing; (ii) misrepresentation; fraud and deceit violation of M.G.L. Chap. 93A, §11; (iii) unjust enrichment; (iv) misrepresentation and deceit in violation of M.G.L. Chap. 93A, §11; and (v) intentional infliction of emotional distress. Plaintiff sought: (i) judgment against Defendant in an amount the Court deemed appropriate; (ii) interest; (iii) costs of the action; (iv) compensatory damages; (v) punitive damages; (vi) attorneys' fees; and (vii) court costs. On April 7, 2014, Defendant filed its Notice of Removal seeking removal to the United States District Court for the District of Massachusetts. On April 16, 2014, Defendant filed its Motion to Dismiss or Transfer; which Plaintiff opposed in its filing of the April 16, 2014 Opposition to Kahala Corporation's Motion to Dismiss. On May 5, 2014, Defendant filed its Reply to Plaintiff's Opposition to Motion to Dismiss. On May 16, 2014, Defendants filed a Petition to Compel Arbitration against Plaintiff in the United States District Court for the District of Arizona; Case No.: 2:14-cv-01059-NVW. Defendants sought a court order to compel Plaintiff to arbitrate before the American Arbitration Association in Phoenix, Arizona per the language of the franchise agreements. On June 2, 2014, Plaintiff executed a Declaration With Consent to Relief Requested agreeing to arbitrate before the American Arbitration Association in Phoenix, Arizona. On June 3, 2014, Defendants filed a Notice of Voluntary Dismissal against Plaintiff as he had agreed to arbitrate all claims. Mediation occurred on July 15, 2014, and the parties arrived at a settlement in which Defendants would pay Plaintiff \$37,500 to settle all disputes. The Settlement Order of Dismissal was filed on July 17, 2014, in the United States District Court District of Massachusetts.

Gregory Fowler, and Doubri Enterprises, L.L.C. v. Cold Stone Creamery, Inc.; State of Rhode Island Kent Superior Court; Case No.: KC-13-0986; subsequently removed to United States District Court for the District of Rhode Island; Case No.: CA 1:13-cv-00662-S-PAS; subsequently removed to United States District Court for the District of Arizona; Case No.: 2:13-02414 PHX PGR.

On or about September 13, 2013, Gregory Fowler and Doubri Enterprises, LLC (collectively "Plaintiffs") filed a Complaint against Cold Stone Creamery, Inc. ("Defendant"). Plaintiffs alleged: (i) breach of sublease; (ii) breach of franchise agreement; (iii) breach of good faith and fair dealing; (iv) tortious interference with contractual relationships; (v) fraud; (vi) defamation of business character; and (vii) negligent infliction of emotional distress. Plaintiffs sought: (i) punitive damages; (ii) attorneys' fees; (iii) interest; and (iv) costs. On September 17, 2013, Defendant filed a Notice of Removal, removing the lawsuit to the United States District Court for the District of Rhode Island. On October 9, 2013, Defendant filed a Motion to Dismiss the Complaint, or alternatively, to transfer the lawsuit to the United States District Court for the District of Arizona. The Motion to transfer was granted on November 25, 2013, and the matter was transferred to the Arizona court. On December 9, 2013, Defendant filed its Answer to the Complaint. On March 5, 2014, the Court entered a scheduling order establishing dates for completion of discovery and pre-trial motions and setting the matter down for trial on October 28, 2014. The parties participated in mediation and ultimately entered into a settlement agreement whereby Defendant paid Plaintiffs \$250,000.

Cindy Kilman, Joseph "Buck" Kilman, and BCEK, L.L.C. v. Cold Stone Creamery, Inc.; American Arbitration Association; Case No.: 76 114 Y 00252 09 LGB .

On or about August 17, 2009, Cindy Kilman, Joseph "Buck" Kilman, and BCEK, L.L.C. (collectively "Claimants"), former Cold Stone Creamery franchisees, filed a Demand for Arbitration with the American Arbitration Association against Cold Stone Creamery, Inc. ("Respondent"). Claimants alleged: (i) intentional fraud/fraudulent inducement; (ii) negligent misrepresentations and omissions; (iii) wrongful termination of four franchise agreements and subleases; (iv) breach of implied covenant of good faith and fair dealing; (v) breach of contract; (vi) violations of Federal Anti-Trust law including "illegal tying" claims and "exclusive arrangements" under the Sherman Act and Clayton Act; (vii) violations of the Arizona Uniform State Antitrust Act, A.R.S. §§ 44-1401, *et seq.*; (viii) violations of the Texas Free Enterprise and Antitrust Act of 1983, Tex. Bus. & Com. Code Ann. §§15.01 – 15.26 (TFEAA); (ix) violations of Arizona's Consumer Fraud Act, A.R.S. §§ 44-1521, *et seq.*; (x) and violations of Texas' Deceptive Trade Practices-Consumer Protection Act, Texas Bus. & Comm. Code Ann. §§17.41, *et seq.* Claimants sought: (i) damages in excess of \$1,100,000, which included their investment; (ii) future profits; (iii) future earnings; (iv) interest; (v) costs and expenses of the arbitration proceeding; (vi) attorneys' fees; (vii) rescission of their four franchise agreements and subleases; and (viii) declaratory relief that "None of the Kilmans (BCEK, L.L.C., Cindy Kilman or Joseph "Buck" Kilman), shall be responsible to Cold Stone Creamery, Inc. for contribution, or otherwise, relating to any rent or additional rent which Cold Stone Creamery, Inc. (or any of its affiliates) may owe or may have been adjudged to owe to any landlord in connection with any of the premises from which the Kilmans (or any one of them) operated their Cold Stone Franchises." Claimants filed an Amended Demand for Arbitration on or about February 9, 2010, stating with more specificity the allegations of each alleged misrepresentation. Respondent filed a Response to the Amended Demand for Arbitration and Counterclaim in which it alleged breach of contract and sought a dismissal of all claims raised by Claimants with prejudice and damages in the amount of \$85,000 plus reasonable attorneys' fees and costs. The arbitration occurred in March 2011, with the American Arbitration Association. The arbitrator awarded Claimants \$349,542.07 on or about May 6, 2011. On or about May 20, 2011, Respondent filed a Notice of Appeal with the American Arbitration Association. On or about June 15, 2011, the American Arbitration Association asked to set up a conference call to initiate the appeal. When, as of June 17, 2011, counsel for the Claimants had not indicated any availability for or an

agreement to participate in the conference call, Respondent appealed the decision to the Arizona District Court by filing a Complaint, Case No. 2:11-cv-01192, alleging breach of contract. Respondent sought an order compelling the Claimants to submit to AAA jurisdiction for an appeal of the award, reasonable attorneys' fees and costs, and any other relief the court deemed proper. On August 5, 2011, Respondent filed a Motion to Vacate and Modify Arbitration Award in which it sought an order amending the arbitration award in favor of Respondent in the amount of \$85,000 plus pre- and post-judgment interest, or alternatively, an order vacating the arbitration award, and reasonable attorneys' fees and costs incurred and such other relief as the court deemed just and proper. On or about September 6, 2011, Claimants filed a Motion for Temporary Restraining Order and Preliminary Injunction seeking the court to disallow Respondent from any further activity in the appeal of the arbitration award and to disallow Respondent from enforcing the appeal of arbitration provision in the franchise agreement. Claimants filed an Answer and Counterclaims seeking an Order confirming the final arbitration award, a declaration that the appeal provision in the franchise agreement is unconscionable, and injunctive relief. On September 16, 2011, Respondent filed a Motion to Stay its earlier filed Petition to Vacate and Modify the Arbitration Award until the Court ruled on the underlying merits of the Complaint. On September 20, 2011, Claimants filed an Amended Answer to the Complaint asserting counter-claims against Respondent. Respondent filed a response to Claimants' Motion seeking a temporary restraining order. On October 3, 2011, Claimants filed a response to Respondent's Motion to Stay. On October 26, 2011, the United States District Court of Arizona Order granted Claimants' Motion for Temporary Restraining Order and Preliminary Injunction as well as its cross-motion seeking to confirm the arbitration award. The Order further denied Respondent's Motion to Stay as well as its Motion seeking to Vacate and/or Modify the arbitration. Following the October 2011 Order, Claimants filed a Motion for Attorneys' Fees and Non-Taxable Expenses in the amount of \$160,000. In May 2012, the Court ordered Respondent to pay Claimants \$70,000 in fees. Respondent appealed the United States District Court of Arizona's Order to the United States Court of Appeals for the Ninth Circuit in February 2012 and Claimants cross-appealed the May 2012 Order. While the appeal was pending, the parties continued to explore settlement discussions. In December 2012, the parties wished to settle all the issues and claims arising out of and/or relating to the (i) AAA Proceeding; (ii) the District Court Action; (iii) the AAA Appeal Proceeding; and (iv) the Court of Appeals Actions. Respondent agreed to pay Claimants \$371,160 in full satisfaction of the claims and attorneys' fees along with \$3,381 in AAA fees. In exchange, Claimants agreed to release and forever discharge Respondent from any and all claims related to or arising from the dispute. On January 17, 2013, the United States District Court executed an Order that dismissed all claims and counter claims with prejudice with each party bearing its own costs and attorneys' fees.

Concluded State Administrative Actions Involving Predecessor Blimpie Associates, Ltd.

In May 1992, Blimpie Associates, Ltd. ("Blimpie") and Joseph Dornbush (formerly the President of Blimpie) (collectively "Respondents") responded to a claim by the New York Department of Law that it had sold franchises during a period of time when Blimpie's prospectus had not been updated by amendment. Without the admission of any wrongdoing, Respondents consented to the entry of an order in which Respondents agreed: (i) to entry of a judgment enjoining them from further violations of the New York Franchise Sales Act; and (ii) to pay the sum of \$18,000

to the State of New York as an additional allowance. Respondents paid the \$18,000 in May 1992 and executed the consent judgment on August 25, 1992.

Concluded State Administrative Actions Involving Maui Wowi Franchising, Inc., predecessor in interest to Kahala Franchising, L.L.C.

In the Matter of Maui Wowi Franchising, Inc., Before the Securities Commissioner of Maryland, Case No. 2005-0651.

On November 11, 2005, Maui Wowi Franchising, Inc., the predecessor franchisor of the Maui Wowi brand ("MWF"), entered into a Consent Order with the Securities Commissioner of Maryland ("Commissioner") resulting from MWF inadvertently entering into four franchise agreements with Maryland residents after its registration in Maryland expired on June 9, 2004 ("Maryland Franchisees"). The Consent Order required MWF to cease and desist from the offer and sale of unregistered franchises in Maryland; to diligently pursue the completion of its then pending application; to register its Offering Circular in Maryland; to develop and implement new franchise law compliance procedures to ensure future compliance with the registration and disclosure provisions of Maryland Franchise Law; and to enroll an officer and a franchise compliance person in a franchise law compliance training program. Upon notification by the Commissioner, MWF sent to the Maryland Franchisees the registered Offering Circular, a copy of the Consent Order, and a letter notifying the Maryland Franchisees that they could rescind their franchise agreements. At this time, MWF is in full compliance with the Consent Order.

In the Matter of Maui Wowi Franchising, Inc., Before the Securities Commissioner of Maryland, Case No. 2007-0194.

On September 12, 2007, "MWF" entered into a Consent Order with the Maryland Commissioner resulting from MWF inadvertently entering into two franchise agreements with two Maryland residents ("Second Maryland Franchisees") without delivering to them the appropriate Offering Circular. MWF was registered in the State of Maryland at the time of the offer and sale with an Offering Circular containing certain specific information required only by Maryland law. At the same time, MWF used a second form of Offering Circular in other states that did not contain all of the information required by Maryland law. Prior to the execution of the franchise agreements with the Second Maryland Franchisees, MWF accidentally delivered to them the Offering Circular that did not contain the Maryland-specific information. We subsequently reported these mistakes to the Commissioner. The Consent Order required MWF to cease and desist from the offer and sale of franchises in Maryland in violation of the Maryland Franchise Law; to diligently pursue the completion of its then pending application to register its Offering Circular in Maryland; to implement additional compliance measures to ensure future compliance with the Maryland Franchise Law; to employ an approved franchise law compliance training program or trainer to monitor MWF's franchise activities in Maryland for two years; and to reimburse the Maryland Attorney General for its investigation and resolution costs in the total amount of \$2,500. Additionally, MWF was required to provide to the Second Maryland Franchisees the registered Offering Circular, a copy of the Consent Order, and a letter notifying the Second Maryland Franchisees that they have a right to rescind their franchise agreements. The Commissioner and MWF subsequently entered into an Amended Consent Order in which MWF elected to withdraw from the State of Maryland instead of employing a compliance monitor, with the agreement to employ a monitor if MWF was to re-register in the State of Maryland. MWF

fully complied with the Amended Consent Order, and subsequently employed a compliance monitor and was granted registration in the State of Maryland.

Concluded State Administrative Actions, Arbitration, and Litigation Involving BF Acquisition Holdings, LLC and/or its predecessors

State of Maryland Determination; Case Number 2012-0073.

In February 2012, the State of Maryland alleged that during the period January 1, 2009 to November 26, 2009, Triune, LLC ("Triune"): (i) did not retain signed acknowledgements of receipt reflecting the dates that its Franchise Disclosure Document was delivered to certain Maryland residents and non-residents; (ii) sold franchises to certain Maryland residents and non-residents without providing them with a copy of a 2009 Franchise Disclosure Document; (iii) sold franchises to certain Maryland residents and non-residents without providing them with a copy of a 2009 Franchise Disclosure Document that contained its 2008 financial statements with a going concern note from its auditors resulting from the unfavorable financial condition of its parent company; and (iv) sold franchises to certain Maryland residents and non-residents without including, or abiding with, a deferral condition in their Franchise Agreements that was imposed upon it by the State of Maryland, all as required by the Maryland Franchise Registration and Disclosure Law (the "Maryland Law") and in violation of the Maryland Law. Without admitting or denying the allegations, in September 2012, Triune voluntarily entered into a Consent Order with the Office of the Attorney General of Maryland and agreed to: (i) not violate the Maryland Law in the future; (ii) pay the Office of the Attorney General the sum of \$50,000 as a civil penalty; (iii) retain copies of all acknowledgments of receipt confirming dates that prospective Maryland franchisees received any Maryland Franchise Disclosure Documents; (iv) comply with the disclosure and antifraud provisions of the Maryland Franchise Law and the record keeping and escrow requirements of the Code of Maryland Regulations; and (v) send a copy of the Consent Order to certain Maryland franchisees.

State of Virginia Determination; Case Number SEC-2012-00027.

In February 2012, the Division of Securities and Retail Franchising of the State Corporation Commission (the "Commission") alleged that during 2009 Triune, LLC ("Triune"): (i) offered or sold franchises in Virginia in 2009 that were not registered under the Virginia Retail Franchising Act (the "Virginia Act"); (ii) offered or sold franchises in Virginia without disclosing that it was not registered to do so; (iii) failed to provide material information regarding the parent company's unfavorable financial condition and the potential impact that it could have on Triune as stated in a going concern note in its 2008 financial statements from its auditors; and (iv) failed to provide a prospective franchisee with a copy of its Franchise Disclosure Document as required by rule or order of the Commission at least 14 calendar days before the prospective franchisee signed a binding agreement or made any payment to it in connection with the sale or offer to sell a franchise in Virginia. Without admitting or denying the allegations, on November 26, 2012, Triune voluntarily entered into a Settlement Order with the Commission and agreed: (i) to not violate the Virginia Act in the future; (ii) to pay Virginia the sum of \$25,000 as a penalty and the sum of \$5,000 to defray the Commission's costs of investigation; (iii) to offer certain Virginia franchisees a refund of their initial franchise fees; and (iv) to send a copy of the Settlement Order to certain Virginia franchisees.

Fresh Enterprises v. Ledang Investment Group, LLC, Vincent Tienn Le, Ho Tien Le and Hue Thi Dang Superior Court of the State of California, County of Santa Clara, Case No. 1-13-CV-257219.

On July 2, 2013, Fresh Enterprises, as successor-in-interest to Baja Fresh Westlake Village, Inc. ("Plaintiff"), filed a complaint against Ledang Investment Group, LLC; Vincent Tien Le, Ho Tien Le and Hue Thi Dang (collectively "Defendants Ledang" or "Cross Claimants Ledang") for: (i) implied indemnity; (ii) equitable indemnity; (iii) express indemnity; (iv) breach of contract; (v) declaratory relief seeking unspecified damages; (vi) indemnification; (viii) a judgment of unlawful detainer; and (ix) declaration that Defendants Ledang were obligated to reimburse Plaintiff for various expenses. On January 6, 2014, Cross Claimants Ledang filed a Cross-Complaint against Plaintiff, Baja Fresh Westlake Village, LLC, Triune Corporation and National Franchise Sales, Inc. (collectively "Counter Defendants") for: (i) breach of contract; (ii) breach of covenant of good faith and fair dealing; (iii) negligent misrepresentation; and (iv) intentional misrepresentation. On February 19, 2014, Counter Defendants filed a Motion to Compel Arbitration, which was granted. The disputes between the parties were then arbitrated before the American Arbitration Association (Case Number 72-20-1400-0126). On February 2, 2015, the Arbitrator issued an award in favor of Cross Claimants Ledang in the amount of \$660,620.84. The parties entered into a Settlement and Release Agreement on July 20, 2015, under which Counter Defendants paid the Cross Claimants Ledang the sum of \$585,000 and the matter was dismissed with prejudice.

Other than these actions, no litigation is required to be disclosed in this Item

ITEM 4: BANKRUPTCY

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

ITEM 5: INITIAL FEES

The initial franchise fee ("Initial Franchise Fee") for your first *Cold Stone Creamery* traditional restaurant is \$27,000. The Initial Franchise Fee is reduced for your second and each subsequent traditional restaurant to \$15,000. The Initial Franchise Fee for your non-traditional *Cold Stone Creamery* restaurant location ranges from \$10,000 to \$20,000 for each restaurant.

If you are currently an active or active reserve member of the U.S. Armed Forces, have been honorably discharged from the U.S. Armed Forces ("Eligible Military"), or are a 501(c)(3) organization ("501(c)(3)"), you will receive a 20% discount on the Initial Franchise Fee.

The initial fees to be paid to us and/or our affiliate(s) before the franchisee's *Cold Stone Creamery* business opens are indicated on the chart below and in the notes to the chart. The initial fees to be paid to us and/or our affiliate(s) before the franchisee's business opens are the total of the Initial Franchise Fee, Grand Opening Marketing, lease review fee (if any) and a portion of the cost of equipment, furniture, millwork, menu boards, wall decor and smallwares (which may or may not be paid to us and/or our affiliate(s).), and ranges from \$18,500 to \$47,500 for a non-traditional location and from \$27,500 to \$59,500 for a traditional location. These amounts do not include the Document Administration Fee.

For the 2021 fiscal year, the formula used to calculate the range of initial fees paid to us and/or our affiliate(s) before the franchisee's business opened was: the total of the Initial Franchise Fee, lease review fee (if any), and the cost of equipment, furniture, menu boards, wall décor and/or smallwares purchased from Neptune Equipment. The factors that determined these amounts were: (i) if the Initial Franchise Fee was discounted or waived; (ii) if the restaurant was traditional or non-traditional; (iii) if the restaurant was the franchisee's first or subsequent traditional restaurant (iv) the lease review fee if the franchisee requested a full lease review (v) the lease guarantee fee if the franchisee requested we guarantee their lease and Kahala Franchising or its affiliate agreed to be a guarantor on their lease; and (vi) the cost of equipment, furniture, menu boards, wall décor and smallwares purchased from our affiliate, Neptune Equipment.

There are no refunds of the Initial Franchise Fee under any circumstances. We may periodically reduce the Initial Franchise Fee in connection with limited time promotions, new concepts and/or operational programs. We may vary the terms of our franchises in connection with testing new marketing, branding and/or operational programs. These tests are generally conducted with experienced, existing franchisees and may include incentives and other rights which are not available to all franchisees. If you sign the Franchise Agreement in connection with a transfer or renewal, you will not pay the Initial Franchise Fee.

We may offer you the option to purchase a license to sell additional signature products in your *Cold Stone Creamery* restaurant and to use the signature products trademark(s) as signature products are developed. The signature products that would be available for *Cold Stone Creamery* franchisees to sell in their restaurants are currently under development. We estimate that the fees associated with acquiring license(s) to sell additional products will be between \$2,500 and \$5,000 although these license fees may be modified from time to time.

| CATEGORY | AMOUNT | METHOD OF PAYMENT | DUE DATE | TO WHOM PMT IS MADE | REFUNDABILITY |
|--|---|-------------------|------------------------------------|---------------------|---------------|
| Initial Franchise Fee – first traditional restaurant | \$27,000 (reduced to \$21,600 for Eligible Military and 501(c)(3)) | Lump Sum | Signing of the Franchise Agreement | Kahala Franchising | See Note (1) |
| Initial Franchise Fee – second traditional restaurant and each afterward | \$15,000 (reduced to \$12,000 for Eligible Military and 501(c)(3)) | Lump Sum | Signing of the Franchise Agreement | Kahala Franchising | See Note (1) |

| CATEGORY | AMOUNT | METHOD OF PAYMENT | DUE DATE | TO WHOM PMT IS MADE | REFUNDABILITY |
|--|--|--------------------------|---|--|----------------------|
| Initial Franchise Fee – non-traditional restaurants (Note 2) | \$10,000 to \$20,000 (reduced to \$8,000 to \$16,000 for Eligible Military and 501(c)(3)) | Lump Sum | Signing of the Franchise Agreement | Kahala Franchising | See Note (1) |
| Grand Opening Marketing | \$10,000 for a traditional store and \$5,000 for a non-traditional store | Lump Sum | Earlier of; prior to execution of a lease or prior to construction of premise | Kahala Franchising or its affiliate | See Note (1) |
| Lease Guarantee Fee (optional) | 10% of the total amount guaranteed, up to a maximum payment of \$10,000 (if applicable) (Note 2) | Lump Sum | Signing of the lease guarantee agreement (if applicable) | Kahala Franchising or its affiliate who guarantees the lease | See Note (1) |
| Lease Review Fee (optional) | \$0 to \$2,500 (Note 3) | Lump Sum | When you request review by Kahala Management's real estate department | Kahala Franchising | See Note (1) |
| Equipment, interior and exterior signage, menu boards, millwork, and/or smallwares | \$5,500 to \$10,000 (Note 4) | Lump sum | When invoiced | Neptune Equipment | See Note (1) |

Notes:

(1) There are no refunds under any circumstances. Kahala Franchising does not offer any financing of the Initial Franchise Fee. We may periodically reduce the Initial Franchise Fee in connection with limited time promotions, new concepts and/or operational programs.

(2) If, after a request by you, Kahala Franchising or any of its affiliates agree, in their sole and absolute discretion, to guarantee your lease with the applicable third party landlord for the *Cold Stone Creamery* restaurant you are developing, you will pay Kahala Franchising or its affiliate a lease guarantee fee in the amount of 10% of the total amount of the rental obligations being guaranteed under the lease upon the execution of the lease and associated guarantee with the third party landlord, up to a maximum payment of \$10,000. This fee is not refundable (See Exhibit M: Lease Guaranty Acknowledgement).

(3) If, prior to executing the lease, you request Kahala Management’s real estate department review your lease and provide suggested changes to you, a \$2,500 lease review fee shall be paid by you to Kahala Franchising (“Lease Review Fee”) upon your request to Kahala Management’s real estate department. The Lease Review Fee is non-refundable. This is an optional service, with the determination of whether to utilize Kahala Management’s real estate department to be made in your sole discretion.

(4) Certain of your equipment, furniture, menu boards, millwork, wall graphics and smallwares will be purchased from Neptune Equipment, an affiliate of Kahala Franchising.

ITEM 6: OTHER FEES

| Column 1 | Column 2 | Column 3 | Column 4 |
|--|--|---|--|
| Type of Fee | Amount | Due Date | Remarks |
| Royalty Fee and Surcharge (Notes 1 and 13) | 6% of Gross Sales plus a maximum Surcharge of \$10 per week (Note 2) | Withdrawn electronically from your Depository Account weekly (Note 3) | “Gross Sales” include all revenue from your restaurant excluding sales tax and authorized refunds, credits and allowances. |
| Advertising Fees (Note 1) | 3% of weekly Gross Sales | Same as Royalty Fee (Note 3) | The Advertising Fees are deposited as follows: 2% to the National Fund and 1% to the Regional Fund for your Cooperative or your store (Note 4). |
| Additional Persons Training Fee (Note 1) | \$1,750 per person (\$1,000 per person (\$500/40 hour week) for the In-Store portion of the Training Program, and \$750 per person for the New Owner Training portion of the Training Program) | 2 weeks prior to beginning of training | The training of two individuals is included in the Initial Franchise Fee. The Additional Persons Training Fee is for any additional persons who attend the Training Program. |
| Additional Training Fee (Note 1) | \$300 per person per day | Prior to attendance | Payable if we require or you request additional training after attending the Training Program. |

| Column 1 | Column 2 | Column 3 | Column 4 |
|--|--|---|--|
| Type of Fee | Amount | Due Date | Remarks |
| Annual Meeting Registration Fee (Notes 1 and 5) | Up to \$1,000 plus incidental costs to attend | 60-90 days prior to the Meeting | We will debit your Depository Account for this fee, which is non-refundable. This fee is charged to all franchisees whether or not they attend the Meeting. |
| Depository Account | \$3,000 (must be replenished on a regular basis) | Signing of Franchise Agreement | (Note 3) |
| Charitable Contributions | To be determined by us | As determined by us | (Note 6) |
| Data Fees (Notes 1 and 7) | Up to \$75 per month (subject to reasonable annual and/or service enhancement increases) | Same as Royalty Fee (Note 3) | Begins immediately after you open your restaurant. |
| POS Help Desk Phone Support Maintenance Contract Fee | Up to \$60 per month | Last Thursday of each month | We will debit your Depository Account for this fee. |
| Gift Card Redemption Fee | 11% of the amount of the gift card redemption (Note 14) | On or about the 25 th day of each month | Fee is charged by us and collected by a third party on our behalf. |
| Renewal Franchise Fee – traditional and non-traditional (Note 1) | 50% of the then-current Initial Franchise Fee not including any discounts or reductions | Signing of new Franchise Agreement at renewal | Applicable if you are renewing your Franchise Agreement. Renewal term is five years. |
| Transfer Franchise Fee – traditional location (Notes 1 and 10) | \$17,500 | Prior to consummation of transfer | Payable if you are purchasing your Franchised Business as a result of a full transfer. A full transfer is including, but not limited to, a transfer of 50% or more ownership or control. |
| Transfer Franchise Fee – non-traditional restaurant - (Notes 1 and 10) | \$5,000 | Prior to consummation of transfer | Payable if you are purchasing your Franchised Business as a result of a full transfer. A full transfer is including, but not limited to, a transfer of 50% or more ownership or control. |
| Relocation Fee (Note 1) | \$500 | At signing of relocation amendment to Franchise Agreement | Payable if we approve the relocation of your store. |

| Column 1 | Column 2 | Column 3 | Column 4 |
|--------------------------------------|--|---|---|
| Type of Fee | Amount | Due Date | Remarks |
| Non-participation Fee | \$100 per day if you fail or refuse to participate in any required national, local, regional, seasonal, promotional or other program, initiative and campaign or in any new or modified product or service test or offering. | Upon failing or refusing to participate | Payable to us. |
| Document Administration Fee | \$500 (Note 11) | As incurred | Applicable if an amendment must be prepared, including for an affiliate transfer. |
| Default Interest (Notes 1 and 12) | \$50 plus interest at 1-1/2% per month or maximum legal rate, if less ("Default Rate"). | Payable upon assessment | Payable on all overdue amounts. |
| Document Late Charge (Notes 1 and 8) | \$100 per week or partial week | Payable upon assessment | Payable if any required financial statement, report or other document is delinquent. |
| Draft Draw Charge (Note 1 and 9) | \$100 per day | As incurred | Payable to us. |
| Late Charge | 5% of the unpaid amount or \$100, whichever is greater, on royalties, advertising payments, and other amounts unpaid within 10 days. | As incurred | Payable to us. |
| Sublease Late Charge | 5% of the late or unpaid amount plus any late charges and interest incurred under the Master Lease as a result of the late payment (where applicable). | As incurred | Payable to our affiliate if you are subleasing your restaurant space from our affiliate. |
| Collection Costs (Note 1) | All collection costs including, but not limited to, reasonable attorneys' fees. | Payable upon assessment | Payable only if we are required to retain an attorney or collection agency to collect delinquent payments from you. We will also collect as damages any attorneys' fees and costs incurred by us in defending claims that arise due to your actions as a <i>Cold Stone Creamery</i> franchisee. |

| Column 1 | Column 2 | Column 3 | Column 4 |
|--|--|--|--|
| Type of Fee | Amount | Due Date | Remarks |
| Non-Sufficient Funds Fee (Note 1) | \$50 for each electronic funds transfer returned for non-sufficient funds; \$25 for each check or draft returned for non-sufficient funds. | Payable upon assessment | Payable only if your electronic funds transfer from your Depository Account or any check you remit to us is returned for non-sufficient funds. |
| Audit (Note 1) | Cost of Audit plus interest at Default Rate on underpayments or the maximum rate permissible by law (Note 9). | Payable upon assessment | Payable only if audit is caused by your failure to furnish reports or if audit reveals an understatement of fees or assessment of 5% or more. |
| Early Termination Damages (Note 1) | The average monthly Royalty and Advertising Fees paid for any consecutive 12 month period within the preceding 48 month period multiplied by the number of months remaining in the term of the Franchise Agreement, and the product is divided by 2. | 30 days prior to the early closing of the restaurant | You must provide us with 90 days prior written notice of the termination of your Franchise Agreement. |
| Attorneys' Fees and Costs | Will vary under the circumstances. | As incurred | Payable to us. |
| Indemnification of us and/or our affiliates for damages suffered or incurred for your actions or omissions, including amounts paid on your behalf or to cure your breaches under the Franchise Agreement | Will vary under the circumstances. | As incurred | Payable to us. |
| Damages for Breach of Non-Compete Obligations under the Franchise Agreement | Will vary under the circumstances. | As incurred | Payable to us |

| Column 1 | Column 2 | Column 3 | Column 4 |
|--------------------|---|--|---|
| Type of Fee | Amount | Due Date | Remarks |
| Management Fee | 6% of the Franchised Business' Gross Sales (in addition to the Royalty Fee and Advertising Fee) plus our direct out-of-pocket costs and expenses. | Payable with Royalty and Advertising Fee | If we assume the management of your Franchised Business for any period of time. |

Notes:

(1) These fees are collected by Kahala Franchising, are payable to Kahala Franchising, and are non-refundable. These fees are uniformly imposed by Kahala Franchising; however, Kahala Franchising, in its sole discretion, may reduce or waive a one-time fee (*i.e.*, transfer franchise fee, renewal franchise fee, etc.) or may waive or reduce an ongoing fee (*i.e.*, Royalty Fee or Advertising Fees) for a defined period of time.

(2) In our sole discretion, we may charge, in addition to the Royalty Fee, a Surcharge of up to \$10 per week if your restaurant is located in a state that imposes additional reporting requirements on a franchisor. Currently, New York is the only state that has imposed the additional reporting requirements.

(3) At the time you sign the Franchise Agreement, you will set up a depository account of a minimum of \$3,000 with your local banking institution. You are required to maintain a minimum balance of \$3,000 in this account at all times. This will mean that you must replenish the depository account to \$3,000 after Kahala Franchising makes any withdrawals. (A Pre-Authorized Electronic Funds Transfer Form by and payable to Franchisor is attached as Exhibit P).

(4) Kahala Franchising directs that Advertising Fees be paid to us, a national advertising fund ("National Fund") designated by us, and/or, in our sole discretion, to a designated approved regional advertising fund ("Regional Fund," and together with the National Fund, the "Advertising Fund" or "Fund"). Upon thirty (30) days' notice by us to you, we may unilaterally increase the Advertising Fee from its current level not to exceed four percent (4%) of your weekly Gross Sales. We encourage the formation of franchisee cooperative advertising associations (each a "Cooperative"). If a Cooperative is formed for your region, you must financially contribute to the Cooperative as required by us. Failure to do so will be deemed a breach of the Franchise Agreement and you may also, in Franchisor's sole discretion, lose your right to vote on decisions the Cooperative makes. The membership of the Cooperative is defined by us according to your market area. If no Cooperative exists where your restaurant is located, your store will be considered a "single store" cooperative and you must contribute to the Regional Fund for your store. Except in limited circumstances, all *Cold Stone Creamery* franchisees must contribute to the Regional Fund at the same rate, which is currently 1% of your weekly Gross Sales. In limited cases in our sole discretion (for example, certain international restaurants or non-traditional restaurants such as airport or university locations that require different advertising support), some stores may not be obligated to contribute to the Fund. For each of our company-owned or affiliate-owned restaurants, it's our policy that such restaurants make contributions to the Fund at a rate equal to the lowest rate a franchisee is then-required to contribute. Company-owned or affiliate-owned restaurants have the same

voting power as franchisee owned outlets. On our request, you must assist in establishing a Cooperative or in deciding how to allocate contributions we may make to the Cooperative. We reserve the right to establish general standards concerning the operation of a Cooperative, to specify the advertising agencies a Cooperative must retain, and to designate advertising programs a Cooperative must conduct. Notwithstanding anything to the contrary, no Cooperative may make decisions or spend advertising contributions without our prior written approval. (See Exhibit E: Franchise Agreement – Section 5.4).

(5) If we hold an annual meeting (“Meeting”), the Meeting will be held at various locations throughout the United States and/or online as we may designate in our sole discretion, and may offer valuable continuing education programs. Because the planning and funding of the Meeting must be done well in advance and requires a substantial financial commitment, we have the right to debit your Depository Account for the Annual Meeting Registration Fee up to \$1,000 at any time 60 to 90 days prior to the first day of the Meeting. This fee is not refundable and will be debited from all franchisees’ accounts (even if you do not attend the Meeting). If you do not attend the Meeting, we will send to you one full set of the substantive materials that were presented at the Meeting.

(6) You must participate in all programs of a charitable nature designated by us from time-to-time, including the obligation to contribute a designated percentage of opening day sales (or sales for other periods) to a charity designated by you or us, as we may elect.

(7) We may collect a weekly data polling fee for the collection of data from your restaurant sales for the POS System for your restaurant. Currently, the fee is up to \$75 per month, and is subject to reasonable annual and/or service enhancement increases.

(8) If you fail to deliver or provide to us or your Area Representative (if applicable) any statement, report or other document or information required to be delivered (for example, sales reports, certificates of insurance and financial statements), by the applicable deadline, you will be assessed a late charge per week, or part thereof (until that statement, document or other information has been delivered or provided), which amount may be increased by us from time to time.

(9) If you fail to provide us with any necessary information or documentation with respect to our practice of drawing drafts against your bank accounts, you will be assessed a fee in the amount of \$100 per day.

(10) If you want to transfer the restaurant or the Franchise, or if you want to sell more than 50% of the equity of your business, you must first give us a right of first refusal, at the same price offered by any bona fide buyer. Before transfer, we must approve any new franchisee, transferee, stockholder, or assignee.

(11) The Document Administration Fee in the amount of \$500 will be charged to you if an amendment to your franchise documents must be prepared.

(12) Interest begins from the date of the underpayment.

(13) Royalties may be increased to up to eighteen percent (18%) of Gross Sales with respect to any period during which Franchisee is in breach or default of its/his/her obligations under this Agreement. The Royalties paid or owing to Franchisor with respect to the period during which Franchisee is in breach or default are referred to as “Breaching Royalties.”

Breaching Royalties will be charged for a minimum fourteen (14) day period, regardless of the length of the actual breach or default.

(14) This fee may be increased to cover the potential of future increased costs affecting the gift card program, such as increased production and shipping costs and costs of processing. If fees are to increase, franchisees will receive 30 day advanced notice.

ITEM 7: ESTIMATED INITIAL INVESTMENT
YOUR ESTIMATED INITIAL INVESTMENT
Traditional Cold Stone Creamery Restaurant

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|-------------------------------|--------------------------------|--------------------------|---|---|
| Type of Expenditure | Traditional Low Amount | Traditional High Amount | Method of Payment | When Due | To Whom Payment is to be Made |
| Initial Franchise Fee (Note 1) | \$12,000 | \$27,000 | Lump Sum | At Signing of Franchise Agreement | Us |
| Rent/Security Deposit (for 3 months) (Note 2) | \$9,750 | \$19,500 | As Incurred | Prior to Opening | Landlord(s) |
| Travel and Living Expenses (2 persons) while training, not including salaries, if any, for you and your employees | \$3,000 | \$7,500 | As incurred | As incurred | Airlines, hotels, car rental agency & restaurants |
| Real Estate | (Note 2) | (Note 2) | (Note 2) | (Note 2) | (Note 2) |
| Lease Review Fee | \$0 | \$2,500 | Lump Sum | When you request review by Kahala Management's real estate department | Us |
| Architectural Fees | \$7,000 | \$20,000 | As incurred | Prior to Opening | Licensed and Approved Architect |
| Leasehold Improvements (Note 3) | \$97,500 | 262,500 | As incurred | Prior to Opening | Approved Contractors and Vendors |
| Exterior Signage | \$9,700 | \$15,000 | As Incurred | Prior to Opening | Approved Sign Company |
| Equipment (Note 4) | \$123,000 | \$195,000 | Lump Sum | Prior to Opening | Approved Vendors and Suppliers |

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|--|-------------------------------|--------------------------------|--|---|---|
| Type of Expenditure | Traditional Low Amount | Traditional High Amount | Method of Payment | When Due | To Whom Payment is to be Made |
| PCI Compliance Costs | \$150 | \$1,300 | As billed by third party vendor | As billed by third party vendor | Approved Vendor |
| Opening Inventory (Note 5) | \$8,000 | \$8,000 | Lump sum | Before opening | Vendors & suppliers |
| Employee Uniforms | \$500 | \$800 | Lump sum | Before opening | Vendors |
| Grand Opening Marketing Advertising (Note 6) | \$10,000 | \$10,000 | Lump sum | Earlier of; prior to execution of a lease or prior to construction of premise | US |
| Insurance Premiums (Note 7) | \$500 | \$2,500 | Lump sum | Before opening | Insurance carrier |
| Permits and Licenses | \$2,000 | \$3,000 | Lump sum | Before opening | Governmental entities |
| Telephone and Utility Deposits and Hookups (Note 8) | \$250 | \$1,000 | Lump sum | Before opening | Utility companies |
| Computer Training and Food Safety Certification Course | \$100 | \$250 | As needed | As incurred | Vendors, Suppliers |
| Miscellaneous (Note 9) | \$3,925 | \$3,925 | As incurred | As incurred | Vendors, etc. |
| Depository Account (Note 10) | \$3,000 | \$3,000 | Lump Sum(must be replenished on a regular basis) | Signing of Franchise Agreement | Your bank (we have the right to withdraw from this account) |
| Additional Funds -3 month initial period (Note 11) | \$20,000 | \$20,000 | As incurred | As incurred | Us, Employees, Various Third Parties |
| Total (Note 12) | \$310,375 | \$602,775 | <i>(Does not include real estate costs, construction of the building or rent for the business location except for the initial security deposit.)</i> | | |

YOUR ESTIMATED INITIAL INVESTMENT
Non-Traditional Cold Stone Creamery Restaurant

| Column 1 Type of Expenditure | Column 2 Low Amount | Column 3 High Amount | Column 4 Method of Payment | Column 5 When Due | Column 6 To Whom Payment is to be Made |
|---|--------------------------------------|---------------------------------------|---|---|---|
| Initial Franchise Fee (Note 1) | \$8,000 | \$20,000 | Lump Sum | At Signing of Franchise Agreement | Us |
| Rent/Security Deposit (for 3 months) (Note 2) | \$0 | \$19,500 | As Incurred | Prior to Opening | Landlord(s) |
| Travel and Living Expenses (2 persons) while training, not including salaries, if any, for you and your employees | \$3,000 | \$7,500 | As incurred | As incurred | Airlines, hotels, car rental agency & restaurants |
| Real Estate | (Note 2) | (Note 2) | (Note 2) | (Note 2) | (Note 2) |
| Lease Review Fee | \$0 | \$2,500 | Lump Sum | When you request review by Kahala Management's real estate department | Us |
| Architectural Fees | \$1,000 | \$15,000 | As incurred | Prior to Opening | Licensed Design Architect |
| Leasehold Improvements (Note 3) | \$0 | \$189,000 | As incurred | Prior to Opening | Approved Contractors and Vendors |
| Exterior Signage | \$1,500 | \$15,000 | As Incurred | Prior to Opening | Approved Sign Company |
| Equipment (Note 4) | \$8,000 | \$157,500 | Lump Sum | Prior to Opening | Approved Vendors and Suppliers |
| PCI Compliance Costs | \$150 | \$1,300 | As billed by third party vendor | As billed by third party vendor | Approved Vendor |
| Opening Inventory (Note 5) | \$1,000 | \$8,000 | Lump sum | Before opening | Vendors & suppliers |
| Employee Uniforms | \$200 | \$800 | Lump sum | Before opening | Vendors |

| Column 1 Type of Expenditure | Column 2 Low Amount | Column 3 High Amount | Column 4 Method of Payment | Column 5 When Due | Column 6 To Whom Payment is to be Made |
|--|--------------------------------|---------------------------------|--|---|---|
| Grand Opening Marketing Advertising (Note 6) | \$5,000 | \$5,000 | Lump sum | Earlier of; prior to execution of a lease or prior to construction of premise | US |
| Insurance Premiums (Note 7) | \$500 | \$2,500 | Lump sum | Before opening | Insurance carrier |
| Permits and Licenses | \$500 | \$3,000 | Lump sum | Before opening | Governmental entities |
| Telephone and Utility Deposits and Hookups (Note 8) | \$250 | \$1,000 | Lump sum | Before opening | Utility companies |
| Computer Training and Food Safety Certification Course | \$100 | \$250 | As needed | As incurred | Vendors, Suppliers |
| Miscellaneous (Note 9) | \$1,000 | \$3,925 | As incurred | As incurred | Vendors, etc. |
| Depository Account (Note 10) | \$3,000 | \$3,000 | Lump Sum (must be replenished on a regular basis) | Signing of Franchise Agreement | Your bank (we have the right to withdraw from this account) |
| Additional Funds -3 month initial period (Note 11) | \$20,000 | \$20,000 | As incurred | As incurred | Us, Employees, Various Third Parties |
| Total (Note 12) | \$53,200 | \$474,775 | <i>(Does not include real estate costs, construction of the building or rent for the business location except for the initial security deposit.)</i> | | |

Notes:

(1) The Initial Franchise Fee includes the training fee for two individuals.

(2) If you do not own a suitable premises approved by us, you must lease or purchase the premises for your *Cold Stone Creamery* restaurant. If you decide to lease the premises, the landlord will generally require a security deposit, the amount of which generally ranges from one month of monthly rent to six months of monthly rent. The amount of your security deposit will vary according to your area, the type of location (enclosed mall, strip center, or free-standing building), and various other factors. A lease security deposit may be non-refundable and is paid directly to the landlord of the premises. If you decide to purchase land and construct your own building or buy an existing building, you can expect to add the cost of the real estate and costs of building to the total investment. Real estate costs vary considerably

depending on fair market values in your area; size, condition, and location of the premises; and municipal requirements.

(3) The Landlord may provide some leasehold improvements, but if not, they will be at your expense. The total amount of leasehold improvements for your *Cold Stone Creamery* restaurant will vary greatly, depending on the type of premises for your restaurant, condition of the premises, and what improvements you require. To avoid excessive construction costs, it is strongly recommended that you choose contractors carefully by obtaining several competitive bids before construction begins. These estimates are based on constructing a 1,200 square foot vanilla shell for a traditional location or a 500 square foot vanilla shell for a non-traditional location, electrical requirements and HVAC per site standards of the brand. This amount is based upon a national average for labor costs and does not include extensive renovations. Construction costs also vary considerably depending on fair market values in your area; size, condition, and location of the premises; labor costs (union versus non-union); and equipment requirements. There is a wide range of probable locations that a *Cold Stone Creamery* restaurant could be in, and therefore, a wide range for the approximate size of the property and building. Typical locations for a traditional restaurant are strip shopping centers, lifestyle centers, business centers, regional centers, malls or downtown areas that could range in size from 1,300 square feet for a stand-alone location to over one million square feet for a large regional shopping mall. Typical locations for a non-traditional restaurant are airports, kiosks, convenience stores, malls, stadiums, entertainment pavilions, amusement parks, sports or entertainment venues, train stations, travel plazas, toll roads, cafeterias, retail stores, military bases, hospitals, hotels, casinos and high school and college campuses.

(4) This amount includes estimated costs of furniture, furnishings, installations, equipment, trade fixtures, and certain other items on the restaurant premises, the amount and specific items of which will vary depending upon the location, size and condition of a particular restaurant. You must purchase restaurant equipment for your Restaurant from approved vendors according to our specifications. A list of approved distributors for our approved vendors is maintained by our purchasing department and will be provided to you during the pre-opening and/or construction phase for your Franchised Business. Updates will be provided to you as changes are made (i.e., additions and deletions) to the list of approved distributors for our approved vendors.

(5) As with any retail business, you will purchase inventory continuously as long as you operate your *Cold Stone Creamery* restaurant.

(6) You are required, to pay a Grand Opening Marketing fee of \$10,000 for a Traditional store or \$5,000 for a Non Traditional store payable to US on the earlier of (i) prior to you executing a lease for the premises where the Franchised Business will be located; or (ii) prior to construction commencing at the premises where the Franchised Business will be located. We or our designated affiliate will create a marketing plan for (i) a grand opening event at your Franchised Business, and (ii) the initial advertising of your Franchised Business, and will work with you to obtain your input on the marketing plan. We or our designated affiliate will use the Grand Opening Marketing fee to pay for the grand opening and initial advertising, but may, in our sole discretion, reimburse you for some local store marketing expenses that you pay if you received our prior approval. The Grand Opening Marketing fee should be used within six (6) months of the opening of your Franchised Business to the public. However, if a portion of the Grand Opening Marketing fee is not used within those six (6) months, we may, in our discretion, spend the remaining portion of the Grand Opening Marketing fee after six (6) months from the opening of your Franchised Business to the public.

(7) Initial premiums for commercial general liability insurance are subject to change due to market forces beyond either of our control. The cost of other coverages, including workers' compensation and employer liability coverage and your discretionary purchases, varies widely.

(8) The telephone and utility deposits will generally be refundable in accordance with the terms fixed by the telephone company and the utility companies, respectively.

(9) Miscellaneous expenses include pre-opening employee training payroll, petty cash (including cash register "opening banks"), security system, interior/exterior landscaping, sound system, banking pre-opening costs, accountants, lawyers, office supplies, fees and expenses of incorporation and initial pest control fee.

(10) At the time you sign the Franchise Agreement, you will set up a depository account of \$3,000 with your local banking institution. You are required to maintain a minimum balance of \$3,000 in this account at all times.

(11) Cash flow from your operations may not be adequate to cover operating and other costs during the initial phase of business. The range shown estimates your expenses during the first three months of operation. These expenses include payroll costs (excluding any wage or salary paid to you), other miscellaneous expenses and working capital. We cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how closely you follow our methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our product; the prevailing wage rate; competition; and the sales level achieved during the initial period. The amount required for additional funds was formulated based upon our years of experience as a franchisor and our affiliate's years of experience operating company restaurants in addition to information provided by other franchisees.

(12) Your initial investment for a new *Cold Stone Creamery* restaurant depends primarily upon the size, configuration, location, who pays the costs to develop the real estate and/or construction of the restaurant, and the amount and terms of financing, if any. The initial funds required must be estimated as most costs are not within our control and may change at frequent intervals. These estimated ranges are based on our experience and information provided by franchisees.

ITEM 8: RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Except as stated in this Item 8, you have no obligation to purchase or lease goods, services, supplies, fixtures, equipment, inventory or computer hardware relating to the establishment or operation of your *Cold Stone Creamery* restaurant from us or from any of our designees.

The Franchise Agreement requires that all food products, ingredients, equipment, computer hardware and software, furniture, fixtures, millwork, décor, signs, computer equipment, supplies and other products, services and materials which you will use in the operation of your restaurant meet our standards and be purchased only from approved distributors and suppliers. You may use any operational service providers, such as exterminators, refrigeration services companies, refuse removal companies, and similar service

providers that you desire. If we organize a rollout for a new approved product or a new supplier of an approved product, you will be required to purchase such approved product(s) from our approved distributors of the approved supplier within 60 days of notification from us. We are not an approved supplier of any products or services. Kahala Brands is not a supplier of any products or services. Neptune Equipment, an affiliate of Kahala Franchising, is currently one of the approved suppliers of certain equipment, interior and exterior signage menu boards, POS System and smallwares. You are required to purchase certain menu boards, wall covering, wall graphics, and other items from Neptune Equipment. Kahala Management, an affiliate of ours, is currently the only approved service provider of phone support maintenance for the software and hardware of the POS system ("POS Help Desk Phone Support Maintenance"). You are required to purchase the phone support service from Kahala Management. Kahala Management is also an approved service provider of real estate services. For a fee, Kahala Management will review your entire lease and exhibits and provide to you or your attorney its review of the entire lease and suggested changes to the lease. Kahala Management may, in its sole discretion, also assist you in locating a potential site for a franchisee upon request from a franchisee. You may, but are not required, to use Kahala Management for real estate services. We currently have other non-affiliated approved suppliers of other equipment, smallwares, furniture, POS Systems, beverage equipment, sound systems and certain ingredients and other logoed items utilized in your *Cold Stone Creamery* restaurant. None of our officers own an interest in any of the approved suppliers not affiliated with us. To become approved, a supplier must demonstrate, to our reasonable satisfaction, it can meet all of our standards and has adequate capacity to supply franchisee's quantity and delivery needs. We will provide you with a list of approved distributors of the approved suppliers for your market area during the pre-opening and/or construction phase for your Franchised Business. You can expect that the items you will purchase in accordance with our specifications will represent over 90% of the total purchases you will make to begin operations and over 80% of your annual operating expense for raw materials, products and supplies.

All requests for approving new or alternative suppliers must be submitted in writing by you and/or the supplier to the purchasing department at Kahala Brands. Each request will be reviewed in accordance with our then-current procedures and the supplier must meet our then current requirements, which may include that our representatives be allowed to inspect the facilities of the proposed supplier, and that samples from the proposed supplier be delivered, at no charge to us, either to us or to our designee for testing. Our criteria for approving suppliers is available to franchisees upon written request to the purchasing department. There is no cost to you for the inspection and tests of the proposed supplier. If approved, in our sole reasonable discretion, we will notify you and/or the supplier in writing within 60 days of our receipt of an approval request. You must not offer for sale or sell any of the proposed alternative supplier's products until you receive our written approval of the proposed alternative supplier. We may, at our option, re-inspect the facilities and products of any approved supplier and revoke its approval upon the supplier's failure to meet any of our then current minimum standards and specifications. If you receive a written notice of revocation from us, you must stop selling disapproved products and stop purchasing from the disapproved supplier.

We will provide you with one set of our confidential "ops package" which may consist of the operations manual, "ops toolkit" and related printed and electronic documents (collectively, the "Confidential Manual".) We provide all specifications and standards to you in the Confidential Manual, which we may modify from time to time by providing you with "rollout guides" for limited time offers, amendments, modifications or supplemental inserts through notices or bulletins, or by amending the Confidential Manual. A list of approved distributors for

our approved vendors is maintained by our purchasing department and will be provided to you during the pre-opening and/or construction phase for your Franchised Business. Updates will be provided to you as changes are made (i.e., additions and deletions) to the list of approved distributors for our approved vendors.

We have negotiated special pricing arrangements or discounts with some of our suppliers. The arrangements may include special contract pricing, volume discounts, and specific discounts from regular wholesale prices. Some or all of these discounts could be passed on to our franchisees, in our sole discretion. We do not provide any other material special benefits to franchisees based on their purchase of particular approved supplies or their use of particular approved suppliers.

We or our subsidiaries may also receive rebates and/or allowances, usually ranging between 1% and 5%, from certain suppliers on purchases made by you and other franchisees. The rebates and/or allowances are generally based upon a percentage of franchisee purchases, will be included in our general revenue, and may be used by us for salaries of personnel that assist franchisees by attempting to increase their sales, maintaining the customer service hotline, handling of inquiries and complaints from our franchisees' customers, tracking consumer service hotline trends, product research and development, franchisee crew training, supply chain information management systems, and a variety of ongoing programs, including education, marketing, advertising, and franchisee meetings, seminars, conventions, conferences, and events. These rebates are usually based on an amount per unit, per case, per gallon, or per pound of product (i.e., properly specified and approved meat, dairy products, paper products, smallwares, beverages and apparel) purchased. We may use rebate and allowance funds received from our suppliers to benefit the *Cold Stone Creamery System* in our sole and absolute discretion.

Pursuant to the mergers as fully described in Item 1, the total revenues and expenses of Kahala Franchising and its subsidiaries and affiliates have been consolidated with MTY USA's, as reflected in the audited consolidated financial statements presented in this disclosure document. For the year ending November 30, 2022, MTY USA and its subsidiaries, as of such date, derived revenues from the sales of products, services, and vendor allowances in the amount of \$31,789,676, which was approximately 12% of MTY USA's total consolidated recognized revenue in the amount of \$263,686,000.

Various suppliers and vendors of MTY USA and its subsidiaries contribute marketing and other revenues to MTY USA and/or its subsidiaries based upon system-wide purchases from those suppliers and vendors. During our last fiscal year, MTY USA and its subsidiaries on a consolidated basis earned a total of \$20,618,596 of the \$31,789,676 from such vendors. Additional miscellaneous revenues (for example, revenue from the sale of branded merchandise from certain corporate-owned stores) in the amount of \$4,518,201 were also received by MTY USA and its subsidiaries during the last fiscal year.

A subsidiary of MTY USA that earned revenue from purchases of equipment, furniture, menu boards, interior and exterior signage, wall décor and smallwares made by us, our franchisees, and licensees is Neptune Equipment. Neptune Equipment provides the following services: purchases your equipment from various approved manufacturers; provides logistics services by arranging for bundled delivery to you; and assists with warranty support of the equipment purchased. Neptune Equipment charges a markup on the equipment and a handling fee for its services. During our last fiscal year, Neptune Equipment earned a total of \$1,308,262 of the \$31,789,676 from franchisee purchases.

During our last fiscal year, MTY USA on a consolidated basis with its subsidiaries, earned revenue from POS help desk support maintenance services and the sale of POS equipment in a total amount of \$3,082,617 of the \$31,789,676.

The processing fees received by Kahala Management do not currently cover the costs of the gift card program.

Our Leasing Affiliates do not derive revenue as a result of their leasing activities.

We may acquire certain used equipment and signage and offer it for sale to prospective or existing franchisees at a price that we believe to be equal to or less than the fair market value of that equipment and signage. If we make that offer to you, you have the option of purchasing that equipment and signage from us or purchasing new equipment and signage from approved third parties. In addition, we or our affiliate, may offer to sell to prospective or existing franchisees an existing operational *Cold Stone Creamery* restaurant (including the equipment, signage, fixtures, inventory and other items necessary to operate the restaurant) at a price that we believe to be equal to or less than the fair market value of the restaurant. If we make that offer to you, you have the option of purchasing the existing operational *Cold Stone Creamery* restaurant or starting your own *Cold Stone Creamery* restaurant.

We have not arranged any purchasing or distribution cooperatives among our franchisees.

We have a master beverage agreement with the Coca-Cola Company ("Coke") (the "Coke Agreement") under which Coke products are the only approved carbonated fountain soft drinks for your *Cold Stone Creamery* restaurant. Coke may pay allowances to you, the Advertising Fund, and/or us based on Coke products purchased. Coke may also: (i) subsidize or provide your financing for approved Coke dispensing and ice making equipment (your subsidy or financing will be offset by some or all of your allowances from Coke); (ii) service the Coke dispensing equipment (to be paid for out of your allowance, if available); and (iii) subsidize or provide your financing to us or third party service providers for certain promotional and advertising materials, including menu panels (your contribution, subsidy or financing will be offset by some or all of your allowances from Coke). Your allowances and equipment support payments may be terminated if you or we do not comply with the Coke Agreement. Coke and/or we may also provide you or make available to you for purchase selected promotional and marketing materials, which shall be paid for with all or a portion of your allowances earned from Coke. We reserve the right to amend, modify or terminate the Coke Agreement as we deem appropriate.

You must, at your own cost and expense, use our designated and approved third party design architect, as detailed in the Confidential Manual, to prepare the initial design drawings for your Franchised Business. Except for the design architect designated and approved by us, no other architect may be used by you for the design of your restaurant. You must also, at your own cost and expense, retain a licensed architect of record to prepare the permitted construction set of drawings.

You must purchase an interior and exterior sign package and menu panels in accordance with our specifications indicated in the Confidential Manual and related documents provided to all franchisees. In addition, you must have your *Cold Stone Creamery* restaurant be consistent in color, design and style with the standards and specifications adopted and approved by us, and as we may modify those standards periodically. You must maintain the

appearance and atmosphere of your *Cold Stone Creamery* restaurant, and the equipment and premises used in connection with your *Cold Stone Creamery* restaurant, in accordance with the standards we may adopt from time to time. Any variations in color, design, style, appearance or atmosphere must be approved in writing by us. Our current standards and specifications are included in our Confidential Manual.

You are required to acquire, from an approved supplier, and exclusively use an approved cash register/point of sale computer system and software during the operation of your *Cold Stone Creamery* restaurant. The components and specifications of this system are specifically identified in the Confidential Manual. You shall also be required to own a personal computer or similar device that allows you to receive online orders and to send and receive e-mails with us, and possibly a fax machine to allow communication with us.

You are required to accept all approved debit and credit cards, along with Kahala Franchising or its affiliate's stored value gift cards, loyalty cards, frequency cards, and any other similar Kahala Franchising or affiliate sponsored electronic card and/or payment program (collectively, the "Gift/Loyalty Card") from consumers at your *Cold Stone Creamery* restaurant. Prior to the opening of your restaurant, you will be required to acquire an approved debit, credit and Gift/Loyalty card processing system to use during the operation of your *Cold Stone Creamery* restaurant. The components and specifications of this system are specifically identified in the Confidential Manual. Additionally, you must utilize our approved third party payment card processor, as identified in the Confidential Manual, for processing all such debit, credit, rewards, and Gift/Loyalty card transactions.

You must utilize our approved mobile application ("App") and online food ordering service (including any third-party delivery order integration) and may not use any other store-specific App or online ordering service. Olo is a Franchisor-approved online ordering vendor, as of this Disclosure Document's issuance date. You may also utilize third-party delivery services, such as through DoorDash, or through another provider of your choice, unless we require you to use a specific third-party(ies) and provided that if required and/or if you choose to participate in such third-party delivery services, you may be required to utilize a point-of-sale integration directed by us.

You must complete a food safety manager training program at your cost. We will accept your local county or state required program or any other nationally recognized food safety program. You must provide us with a copy of your certificate prior to attending our Training Program.

We may, from time to time, provide referral incentives to franchisees, employees and others for qualified referrals of prospective franchisees. We may, from time to time, pay membership fees to public, quasi-public and private service providers who refer potential franchisees from identified groups (e.g. veterans or military personnel planning to leave the service).

We may vary the terms of our franchises in connection with testing new marketing, branding, research and development of new menu offerings, and/or operational programs. These tests are generally conducted with experienced, existing franchisees and may include incentives and other rights which are not available to all franchisees. We reserve the right to sell some of the products associated with the *Cold Stone Creamery* brand to different retail outlets such as grocery chains or membership-based retailers.

You may not maintain a World Wide Web site, social media site, an App (application) or otherwise maintain a presence or advertise on the Internet or any other public computer network in connection with the Franchised Business without our prior written approval.

Although not bound to do so, Kahala Franchising may conduct, from time to time, additional research and development with regard to its specifications and standards. The criteria for evaluating any changes in these specifications will be whether such changes in the specifications will improve quality, be more efficient and have greater customer appeal, thus enhancing the *Cold Stone Creamery* brand name and image.

You must obtain all insurance we require and obtain it from an insurer having an A.M. Best's financial strength rating of "A-VIII" or better. Your insurance must: (i) insure the particular Franchisee listed on your Franchise Agreement; (ii) name us and our parents, subsidiaries, affiliates, directors, officers, and employees as additional insured; (iii) contain a waiver by the insurance carrier of all subrogation rights against us and our affiliates for casualty losses; (iv) provide that we will receive by an endorsement 30 days' prior written notice of cancellation; and (v) provide that failure by franchisee to comply with any term, condition or provision of the contract, or other conduct by franchisee, will NOT void or otherwise affect the coverage afforded us. Before you may open your *Cold Stone Creamery* restaurant, at the time you sign your lease, annually at least 10 days prior to renewal of your insurance coverage, and at any other time upon our request, you must provide a copy of your certificate of insurance to us which meets our requirements.

Our minimum insurance coverage requirements (subject to change, including to increase) are below. You need to evaluate if your particular business will require greater coverage or other types of insurance. For example, we strongly recommend that you consult with an insurance broker to discuss whether your particular lease/situation requires and/or should obtain additional common types of insurance (including without limitation, business interruption, umbrella insurance and cyber liability/data breach insurance coverage). Such insurance may significantly increase your premiums but may also save you money in the long run. We make no representation that the minimum coverage that we specify will be sufficient for your business. You will pay your insurance premiums directly to your insurance broker or to the insurance company issuing the policy.

| TYPE OF COVERAGE | LIMITS/SPECIFICATIONS |
|---|--|
| General Liability | \$1,000,000 Bodily Injury/Property Damage Per Occurrence / \$2,000,000 Aggregate |
| Building Improvements and Betterments | 100% of Full Replacement Cost – No Coinsurance (minimum of \$100,000) |
| Business Personal Property | 100% of Full Replacement Cost – No Coinsurance – Special Form or equivalent (minimum of \$100,000) |
| Spoilage | \$5,000 |
| Flood, Earthquake and Volcanic Eruption | Subject to Territory Limitations – required if in a designated Flood Zone |
| Workers' Compensation and Employer's Liability Insurance | As required by law |
| Employment Practices Liability Insurance with Franchisor Defense coverage | \$1,000,000 |
| Hired and Non-Owned Automobile Liability | \$1,000,000 Combined Single Limit per |

| TYPE OF COVERAGE | LIMITS/SPECIFICATIONS |
|------------------|-----------------------|
| | accident |

You must always keep the required insurance coverage in force, and you must comply with any changes we make periodically to our insurance requirements. Upon 30 days' notice to you, we may require you to increase and/or otherwise change the minimum coverage of the insurance referred to above including to reflect identification of special risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances. In the event you fail to obtain or maintain the required insurance coverage, we reserve the right, but are not obligated to, obtain the required insurance on your behalf and charge the insurance premium to you.

We want to ensure that our franchisees comply with their leases for the premises where their restaurants are located, the limitations on their use of the approved location, and their obligations to us. Thus, if you open and operate a restaurant, one of our Leasing Affiliates may enter into a Master Lease for your restaurant and will then Sublease it back to you, using one of our approved Sublease forms (See Exhibit O-1: Sublease and Guaranty of Sublease (Franchisee pays rent directly to Landlord); and Exhibit O-2: Sublease and Guaranty of Sublease (Franchisor or its affiliate collects rent from Franchisee and pays to Landlord) (the preceding two subleases collectively known as "Exhibit O: Sublease and Guaranty of Sublease")). The Sublease will contain substantially the same terms as the Master Lease. The term of the Sublease will be for the entire term of the Master Lease, less one day. You will sign the Sublease at the time our Leasing Affiliate signs the Master Lease for the premises. You must provide all security deposits, guaranties, and other assurances the landlord of the premises requires. We or our Leasing Affiliate will try to negotiate favorable terms under the Master Lease, but we cannot guarantee that the lease terms, including but not limited to rent, will be the most favorable terms available in the market. We encourage you to participate in the lease negotiation process, with the assistance of your attorney. Our attorneys represent us, not you.

We may, at our option, require you to enter into a lease for the restaurant premises directly with the landlord ("Direct Lease"). You and your attorneys must negotiate the terms of the Direct Lease. We have no liability to you regarding the terms or negotiations of the Direct Lease. The Direct Lease for the premises is subject to our final approval. You and the landlord under the Direct Lease must sign our approved Lease Addendum (See Exhibit L: Required Lease Terms). Additionally, if your selected franchised Cold Stone Creamery restaurant is allowed to sell RMCF's products in addition to the Cold Stone Creamery product offering you must sign our approved RMCF Lease Addendum (See Exhibit L-1: RMCF Required Lease Terms). If we require you to enter into a Direct Lease, you must provide us with a copy of the Direct Lease and the Lease Addendum(s) for our approval at least 10 days before you sign the Direct Lease, and you must provide us with a copy of the executed Direct Lease and Lease Addendum(s) within 10 days after signing. If you do not provide us with all of the required documents, we will not approve your Direct Lease.

A non-traditional restaurant will generally be located inside an existing primary business. As a result, if you open and operate a non-traditional restaurant, there may not be a Sublease between you and our Leasing Affiliate. If the circumstances make a Sublease appropriate, then you would sign a Sublease with our Leasing Affiliate.

You should carefully read the Direct Lease, or the Sublease and Master Lease, and, if applicable, the sublicense agreement. The Sublease provides that a default under your Franchise Agreement is a default under the Sublease. It also provides that you will not raise any defense or counterclaim in any action we or our Leasing Affiliates commence, other than a defense of payment.

ITEM 9: FRANCHISEE'S OBLIGATIONS

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

| Obligation | Article or Section in Franchise Agreement | Section in Sublease | Disclosure Document Item |
|--|---|---------------------|--------------------------|
| a. Site selection and acquisition/lease | 2.1 and 2.2 | Preamble | 7 and 11 |
| b. Pre-opening purchases and leases | 2.2, 3.3, 4.6 and 9.3 | Not Applicable | 5, 7, 8, 10 and 11 |
| c. Site development and other pre-opening requirements | 2.3, and 2.4 | 1.2 | 7, 8 and 11 |
| d. Initial and ongoing training | 4.1, 4.2 and 4.3 | Not Applicable | 11 |
| e. Opening | 3.1 (Note 1) | Not Applicable | 7 and 11 |
| f. Fees | 5 | 3, 4, 5 and 18 | 5, 6, 7 and 11 |
| g. Compliance with standards and policies/ Confidential Manual | 1.4, 3.2, 4.5 and 9 | Not Applicable | 8, 11, 14 and 16 |
| h. Trademarks and proprietary information | 6 and 7 | Not Applicable | 13 and 14 |
| i. Restrictions on products/ services offered | 2.6, 3.2 and 9.2 | 6 | 8 and 16 |
| j. Warranty and customer service requirements | No obligation imposed | Not Applicable | Not applicable |
| k. Territorial development and sales quotas | No obligation imposed in Franchise Agreement; | Not Applicable | 11 |
| l. Ongoing product/service purchases | 3.2, 9.2 and 9.3 | Not Applicable | 8 |
| m. Maintenance, appearance and remodeling requirements | 1.4, 2.3, 12.3 and 13 | 8 | 7 and 11 |
| n. Insurance | 9.5 | 12 | 7 |
| o. Advertising | 5.3, 5.4 and 10 | Not Applicable | 6, 7 and 11 |
| p. Indemnification | 8.2, 8.3, 14.7 and | 2.3, 7, 11 and 16 | 13 and 14 |

| Obligation | Article or Section in Franchise Agreement | Section in Sublease | Disclosure Document Item |
|--|---|----------------------|--------------------------|
| | 16.17 | | |
| q. Owner's participation/management/staffing | 4.1, 4.2, 4.3, 9.1 and 9.6 | Not Applicable | 11 and 15 |
| r. Records and reports | 5.2, 5.6 and 11.1 | 3 | 6 and 11 |
| s. Inspections and audits | 4.3, 4.4, 5.18, 9.7 and 11.2 | 3.3 and 13 | 6 and 11 |
| t. Transfer | 12 | 9 | 6, 16 and 17 |
| u. Renewal | 13 | 2.2 | 6, 16 and 17 |
| v. Post-termination obligations | 14.5 | Not Applicable | 17 |
| w. Non-competition covenants | 14.6 | Not Applicable | 15 and 17 |
| x. Dispute resolution | 16.3 | Not Applicable | 17 |
| y. Other | | | |
| Personal Acceptance; Personal and Spousal Guarantees; Non-Disclosure and Non-Competition | 9.8; Personal Acceptance of Sections 7.1, 7.2, 14.6 and 14.8; Guaranty of Franchise Agreement; and Non-Disclosure and Non-Competition Agreement | Guaranty of Sublease | 10, 15 |

Note 1: Not applicable for renewal Franchise Agreements.

ITEM 10: FINANCING

We do not offer any direct or indirect financing or financing arrangement, nor will we guaranty your obligations under any note or other obligation, except potentially for the lease for your site or if you purchase a restaurant corporate-owned "as-is" by one of our affiliates, and only in our sole and absolute discretion.

If you are an individual and married, your spouse must execute and deliver to us a Guaranty of Franchise Agreement (See Exhibit F-1: Guaranty of Franchise Agreement) and a Non-Disclosure and Non-Competition Agreement (See Exhibit F-2: Non-Disclosure and Non-Competition Agreement) at the same time that you sign the Franchise Agreement unless your spouse is also signing the agreement as an individual. If you are a corporation, limited liability company, or other business entity, each of your shareholders, members, or other owners (and their respective spouses, if married) must execute and deliver to us a Guaranty of Franchise Agreement, and their respective spouses must execute and deliver to us a Non-Disclosure and Non-Competition Agreement, at the same time that you sign this Agreement. In the event any person who has not previously signed a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement becomes your spouse or the holder of any class of your stock or ownership interests or a spouse of such holder, at any time after the execution of such agreement, you must cause such person(s) to immediately execute and deliver a Guaranty of

Franchise Agreement and a Non-Disclosure and Non-Competition Agreement to us as appropriate.

If, in order to obtain the lease agreement for the site of your *Cold Stone Creamery* restaurant, the landlord requires you to obtain a third party lease guarantee, and we or one of our affiliates agrees to serve as such guarantor (with such determination to be made in our sole and absolute discretion), you will pay to us a lease guarantee fee in the amount of 10% of the total amount of the rental obligations being guaranteed under the lease during its term up to a maximum payment of \$10,000. If the franchisee is an individual, the individual franchisee (and his/her spouse, if married) must personally guarantee the debt. If the franchisee is a corporation, limited liability company, partnership, or other entity, each of the principals of the entity (and each of their respective spouses, if married) must personally guarantee the debt. Once paid, the lease guarantee fee is non-refundable under all circumstances. We do not offer financing for the lease guarantee fee as it is payable in full upon the execution of the guarantee. Neither we, nor any of our affiliates, are required to serve as a guarantor of your lease for the site of your restaurant. The decision of whether to serve as a guarantor of your lease shall be made at our sole and absolute discretion.

If you purchase a corporate restaurant “as-is” that is owned and operated by one of our affiliates, we may finance up to 100% of the purchase price, at our sole discretion. When you purchase a corporate-owned restaurant from one of our affiliates, you will enter into an “Asset Purchase Agreement” (See Exhibit D). If you finance any portion of the purchase price of the corporate-owned restaurant through Kahala Holdings or Kahala Restaurants, you will also enter into a “Promissory Note and Security Agreement” and a “Guaranty,” which are exhibits to the Asset Purchase Agreement. The purchase price may include the Initial Franchise Fee, any transferrable furniture, fixtures, and equipment, the leasehold and/or any transferable leasehold improvements that are located in the restaurant at the time of purchase, along with any inventory that is in the restaurant at the time of purchase. The lender providing the financing is one of our affiliates, Kahala Holdings or Kahala Restaurants, whichever entity owns the restaurant. The annual rate of interest charged will be between 0% and 12% and will depend on the creditworthiness of the franchisee, the amount being financed, and the dollar amount being paid up-front by the franchisee. There are no finance charges associated with the Promissory Note and Security Agreement. The amount being financed will be required to be re-paid in equal monthly installments and the period of repayment will be between 12 months and 60 months, depending on the amount being financed. The security interest required by us is a first position lien on all equipment. If the franchisee is an individual, the individual franchisee (and his/her spouse, if married), must personally guarantee the debt. If the franchisee is a corporation, limited liability company, partnership, or other entity, each of the principals of the entity (and their respective spouses, if married) must personally guarantee the debt. The Promissory Note and Security Agreement may be pre-paid in full or in part at any time and from time to time without penalty. The franchisee’s potential liabilities upon default include: (i) an accelerated obligation to pay the entire amount due, including but not limited to all accrued and unpaid interest, if the default is not cured within seven calendar days; and the interest rate will be increased to an annual rate of 18%; (ii) obligation to pay costs and attorneys’ fees incurred in collecting the debt; (iii) termination of the franchise; and (iv) liabilities from cross defaults resulting from non-payment or from the loss of business property on franchisee’s other restaurants named in the Promissory Note and Security Agreement and granting either Kahala Holdings or Kahala Restaurants the right to take back the restaurant(s). The Promissory Note and Security Agreement requires franchisees to waive the following legal rights: demand, notice, diligence, protest, presentment for payment, and notice of extension, dishonor, protest, demand and nonpayment of the promissory note; any release or discharge by reason of: any

release or substitution of, or other change in, any security given for the indebtedness or the obligation of any person or entity who may become directly or indirectly liable for the note or any extension or other modification of the note; and rights to contest or appeal our exercise of the take back rights and not receiving compensation for the restaurant after the take back rights have been exercised. The Promissory Note and Security Agreement also bars the franchisee's right to contest the take back rights.

We require a first lien position in all equipment as a security interest to be given by the franchisee. We do not intend to sell, assign or discount to a third party any financing arrangement. We do not arrange financing from other sources; therefore, we do not receive direct or indirect payments from placing financing.

The lease for a corporate restaurant is entered into by one of our affiliates. When you purchase the corporate restaurant, you will enter into a Sublease with our affiliate using our standard form of Sublease where you pay all monies owing under the Master Lease directly to the property owner, or our standard form of Sublease in which you pay all monies owing under the Master Lease to our affiliate and the affiliate will pay the property owner, which are exhibits to the Asset Purchase Agreement. The Sublease will contain substantially the same terms as the Master Lease. The term of the Sublease will be for the entire term of the Master Lease, less one day. If you are an individual, you (and your spouse, if married) must sign the Guaranty of Sublease (see Exhibit O: Guaranty of Sublease). If you are a corporation, limited liability company, partnership or other business entity, each of your shareholders, members, partners or other owners (and their respective spouses, if married) must sign the Guaranty of Sublease.

We will, within 60 days after we receive the proposed Master Lease (and additional materials required by us), review the Master Lease to make sure it meets our minimum site requirements.

Upon submission of a proposed Master Lease, you must provide us with any additional documentation and information that we may require regarding the proposed site, the proposed lease, your financial condition and your Principals' financial condition. If we determine that you do not have the financial capacity to perform your obligations with respect to the site or the Master Lease, we may deny approval of the site and/or Master Lease. That disapproval will be deemed to be reasonable. In that event, we or our affiliates or franchisees may operate a *Cold Stone Creamery* restaurant at that site.

We or our affiliates may, in our sole discretion, lease the site approved by us for your *Cold Stone Creamery* restaurant and sublease the site to you. In addition, if and when you sign the Sublease, you must pay to us an amount equal to two months base rent under the Master Lease, plus a security deposit in an amount equal to the security deposit required under the Master Lease. (We reserve the right, however, to require a greater security deposit, based upon your creditworthiness.)

Please note, if you intend to lease the site of your restaurant, the lease must include certain required provisions (See Exhibit L: Required Lease Terms; Exhibit E-1: Franchise Agreement (New) – Section 2.2; Exhibit E-2: Franchise Agreement (Renewal) – Section 2.2; Exhibit E-3: Franchise Agreement (Transfer) – Section 2.2 (all the preceding three franchise agreements collectively known as "Exhibit E: Franchise Agreement").

ITEM 11: FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

Except as disclosed below, Kahala Franchising is not required to provide you with any assistance.

If your Franchised Business will be located in an area that is subject to an area representative agreement, the Area Representative in that area may be responsible for providing to you some or all of the services required to be provided by us, other than new owner training. However, Area Representatives are not authorized to make promises or agreements on our behalf or to agree to modifications to your Franchise Agreement or other agreements relating to your Franchised Business.

Pre-Opening Assistance

Before you open your business, we will provide the following assistance to you:

Site Selection

1. You will either: (i) lease or purchase the premises for your *Cold Stone Creamery* restaurant directly from a third party; or (ii) one of our Leasing Affiliates will lease or license the premises where you will locate your restaurant, and will provide you with a Sublease or sublicense of the premises, as applicable. You must select, and we must approve, an acceptable location that you open within one year after the effective date of the Franchise Agreement. The lease or purchase agreement will be subject to our prior approval, and you must provide us with a copy of the lease or purchase agreement at least 30 days prior to execution. We will notify you if we do not approve the site within 30 days of receiving your site selection information. We will not unreasonably withhold our approval of the location. The location must be within a geographic area identified in Section 1.1 of the Franchise Agreement. The factors that we will consider in approving your proposed location include, among other things: occupancy costs, proximity to major retail activity and other *Cold Stone Creamery* restaurants, sign visibility, traffic volume and speeds, parking availability, neighborhood economic profile, population density, accessibility, competition and other tenants in the shopping center, mall, or applicable retail structure. If you cannot secure a location acceptable to us and open it within one year after the effective date of the Franchise Agreement, we may terminate your Franchise Agreement after giving you written notice (See Exhibit E-1: Franchise Agreement (New) —Section 2.1). The decision to establish and operate your *Cold Stone Creamery* restaurant at the location will be made solely by you, without any reliance upon any information provided (if any), recommendation made (if any) or approval given (if any) by us, any Area Representative or any of our or their respective shareholders, directors, officers, employees, representatives, agents or affiliates. You must purchase or lease your business location from independent third parties. If you intend to lease your business location, the lease must include certain required provisions (See Exhibit L: Required Lease Terms; Exhibit E: Franchise Agreement—Section 2.2).

2. If we determine that you do not have the financial capacity to perform your obligations with respect to the location or the Master Lease, we may deny approval of the location and/or Master Lease. Our disapproval will be deemed to be reasonable. In that event, we or our affiliates or franchisees may operate a *Cold Stone Creamery* restaurant at that site.

Construction and Furnishings

1. We will provide you with a copy of the design drawings, which is the detailed plans and specifications including landscaping and parking space, if applicable, for your Franchised Business upon our approval of the plans. You must hire and use, at your sole cost and expense, our designated and approved third party architect (See Exhibit E: Franchise Agreement—Section 2.3). You are solely responsible for conforming the premises to all codes and ordinances, including the Americans with Disabilities Act (the “ADA”), and obtaining all required permits. You are solely responsible for constructing or remodeling and decorating the location to our system standards and subject to our approval. We do not provide assistance with conforming the premises to codes and ordinances, including the ADA, obtaining permits, or constructing, remodeling or decorating your restaurant. You must provide us with one copy of the plans for your restaurant within 30 days after selection of the site. We will then have 30 days to approve or disapprove of the plans. We must approve any and all changes or revisions to the plans required for your site before you begin construction. Our approval of the plans is solely for complying with our system standards, and not for determining compliance with codes, ordinances, the ADA, or any lease-specific requirements.

2. We will identify the furnishings, fixtures, and equipment (including cash registers, point of sale systems, and computer hardware and software), signs, products, materials, and supplies necessary or authorized for the restaurant to begin operation (See Exhibit E: Franchise Agreement—Sections 2.4, 3.2, 3.3, 4.5, 4.6, and 9.3).

3. We will provide you with all standards of operation that you must use or satisfy before you open the restaurant (See Exhibit E: Franchise Agreement—Sections 4.5 and 9.1).

4. We will provide you with the names and contact information of any distributors and/or suppliers you are required or authorized to use to supply you with products or services complying with our standards and specifications. The names and contact information of the approved distributors and suppliers and the written specifications for the approved equipment, signs, fixtures, opening inventory and supplies will be provided to you during the pre-opening and/or construction phase for your Franchised Business. Updates will be provided to you as changes are made (i.e., additions and deletions) to the list of approved distributors for our approved suppliers. We do not deliver or install any of these approved items (See Exhibit E: Franchise Agreement—Section 9.3).

Confidential Operations Manual

We will provide you, as part of the Confidential Manual, an electronic or print version of the Operations Manual, with operating procedures to assist you in complying with our standard methods of controls, production methods, and with policies procedures and resources to support brand consistency and compliance. The Operations Manual is collectively 48 pages. The Operations Manual is confidential and remains our property. We may modify the Operations Manual as and when we desire, but no modification will materially alter your status and rights under the Franchise Agreement (See Exhibit E: Franchise Agreement—Section 4.5). The Table of Contents of the Operations Manual is attached to this Disclosure Document as Exhibit T.

Time to Open

The typical length of time between the earlier of the signing of the Franchise Agreement or the first payment of consideration for the franchise and the opening of the Franchised

Business is 4 to 12 months for both a traditional and non-traditional Cold Stone Creamery restaurant. The factors that may affect this time are: lease or purchase negotiations; zoning procedures; financing applications; local ordinances and approvals; obtaining licenses and permits; construction delays; weather conditions; shortages; delayed installation of equipment, fixtures and signs; development or construction not in accordance with our requirements; labor disputes; Acts of God; and other reasons.

Training

1. We will make a Training Program available to you and your designated representative after you sign the Franchise Agreement. The following Table indicates the general subject matter, the number of hours of classroom training, and the number of hours of on-the-job training for each subject to be covered during the Training Program, and the location of the training. Our instructors have been adequately trained in the ownership and operation of a *Cold Stone Creamery* franchise, including having, at a minimum, completed the entire *Cold Stone Creamery* Training Program, and having experience in training each of the subjects listed in the table below, with some trainers having five years' experience or more in training each of the subjects. Other personnel involved with on-the-job training of franchisees are Regional Directors of Operation, all who have more than one year experience with on-the-job training. During the classroom portion of the Training Program, New Owner Training will be taught using the following instructional materials: manuals, videos, and tests. You and anyone taking in-store training (including employees of franchisees) must: sign the In-Store Training Release and Waiver of Liability Agreement (see Exhibit J). In-store training will be taught in a *Cold Stone Creamery* restaurant using the following instructional materials: manuals, job aids and tests. Certain portions of the entire Training Program may be adjusted as necessary as determined by us and based upon your skill sets. Further, substitute instructors may present certain portions of the Training Program.

TRAINING PROGRAM

| Column 1 Subject | Column 2 Hours of Classroom Training | Column 3 Hours of on-the-job training | Column 4 Location |
|---------------------|---|--|---|
| New Owner Training | 40 | --- | Online, KTEC (Kahala Training & Education Center) in Scottsdale, AZ, or at such other location designated by us |
| In-Store Training | --- | 80 | Training store in Arizona or such other location designated by us |

2. The training of two individuals is included in the Initial Franchise Fee. You or another partner, shareholder or member of your business organization must have successfully completed our Training Program to our satisfaction. Your manager, at your sole discretion, may be one of the two individuals you bring to training, or you may bring your manager in addition to the two individuals and pay the Additional Persons Training Fee. You and your restaurant managers must be able to read and write English adequately, in our good faith opinion, to satisfactorily complete our Training Program and to communicate with employees, customers and suppliers. Notwithstanding the foregoing, Franchisor has the right to require Franchisee and/or its managers(s) to attend additional in-store training in the event Franchisee is not

operating the Franchised Business pursuant to Franchisor's Systems Standards. Please note, at our sole discretion, the Training Program for a non-traditional Cold Stone Creamery may differ slightly from the Training Program outlined above (See Exhibit H: Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand); Exhibit I: Amendment to Franchise Agreement (for co-branded non-traditional locations)).

3. The classroom portion of the Training Program will be held online, from KTEC , which is located at our corporate offices in Scottsdale, Arizona, or at such other location(s) as we designate in our sole discretion and the in-store portion of the Training Program will be held at one of our affiliated restaurants in the metropolitan Phoenix, Arizona area, or at such other location(s) as we may designate in our sole discretion. You will need to arrange for transportation (such as flights and car rental), food, and lodging for you and your designated attendee. The costs you incur will depend on factors such as the distance you must travel, the type of accommodations you choose and the time of year you attend training. The estimated cost for travel and living expenses for two persons while training, not including salaries, if any, ranges from \$3,000 to \$7,500 (See Exhibit E: Franchise Agreement—Sections 4.1 and 9.6).

4. You must complete the Training Program no more than three months and no less than one day prior to the opening of your *Cold Stone Creamery* restaurant. The New Owner Training will be conducted once a month. The In Store Training portions of the Training Program is scheduled as needed and determined by the Franchisor. Kahala Franchising does not currently require you to attend additional training courses or refresher courses. However, if you would like additional training after completing the Training Program, we will provide additional training to you at a cost of \$300 per person per day. Notwithstanding the foregoing, Franchisor has the right to require Franchisee and/or its managers(s) to attend additional in-store training in the event Franchisee is not operating the Franchised Business pursuant to Franchisor's Systems Standards.

5. In addition to the Training Program, you must ensure that all of your employees are trained in *Cold Stone Creamery* restaurant procedures. You are solely responsible for hiring and training your employees. You must also ensure that the manager(s) and all employees whose duties include customer service are able to speak and read English and any other language that may be required to adequately meet the public needs in your restaurant. We believe training is important to the success of the *Cold Stone Creamery* System, and from time to time, we may offer informal training sessions to franchisees. We believe it is in your best interest to attend any such training sessions.

6. We will provide one of our representatives to come to your restaurant during opening week for up to five days at our expense to work with you and your manager on your grand opening, and on operating and marketing your restaurant. We may, in the future, hold refresher or additional training programs, conferences and seminars. Your attendance at these programs is mandatory. To help us defray the cost of sponsoring these programs, there may be a nominal registration fee, and you will also be required to pay the cost of transportation, food, lodging and other personal expenses of your attendance and those of your personnel at any such program. These programs will be held at locations within the United States that we will specify in our sole discretion (See Exhibit E: Franchise Agreement—Section 4.3).

Post-Opening Assistance

During the operation of the Franchised Business:

1. If you are opening a new restaurant, we or our designated affiliate will create a marketing plan for (i) a grand opening event and (ii) the initial advertising of your Franchised Business, and will work with you to obtain your input on the marketing plan. (See Exhibit E: Franchise Agreement-Sections 5.24 and 10.2).

2. We will maintain a continuing advisory relationship with you, including consulting with you in marketing, merchandising and general business operations which may help you in improving and developing your restaurant (See Exhibit E: Franchise Agreement – Sections 4.3, 9.1).

3. We will provide you with information on our operating and other standards for your restaurant. We may modify these as, and when, we desire (See Exhibit E: Franchise Agreement – Sections 4.5, 9.1).

4. We will continue our efforts to maintain high and uniform standards of quality, cleanliness, appearance and service at all restaurants in the System, including making periodic inspections and quality service checks of your restaurant (See Exhibit E: Franchise Agreement – Section 4.3, 9.1, and 9.7).

5. We may make you aware of software available for purchase from an approved third party vendor to assist you in administrative, bookkeeping, accounting, and inventory control procedures (See Exhibit E: Franchise Agreement – Section 4.6).

6. We must review substitute locations for your restaurant and you must obtain our prior approval if you desire to relocate your restaurant. (See Exhibit E: Franchise Agreement – Section 2.5).

7. We may offer you the option for a one-time renewal of your Franchise Agreement prior to its expiration for a maximum term of five years, if you meet our requirements. Upon renewal, you must execute our form of Franchise Agreement being used at the time of your renewal and pay us the applicable Renewal Franchise Fee (See Exhibit E-1: Franchise Agreement (New) – Article 13; Exhibit E-3: Franchise Agreement (Transfer)).

Optional Assistance

1. Upon your request, we will reasonably assist you or provide recommendations regarding establishing pricing for the products you sell in your restaurant; however, the ultimate decision on the prices you charge is yours. We will not establish the prices for you.

2. Upon your request, we will reasonably assist you in resolving operating problems you may encounter.

Advertising

1. We (or, at our election, a third party that may be an affiliate of ours) will establish and administer the Fund that will include your Advertising Fees and those of other franchise owners in the System, in accordance with the Franchise Agreement. The Advertising Fee, which is currently three percent (3%) of your weekly Gross Sales (See Exhibit E: Franchise Agreement – Section 5.3), shall be due and payable with the Royalty Fee (See Exhibit E: Franchise Agreement – Section 5.2). Except in limited circumstances as described below, all *Cold Stone Creamery* franchisees must contribute to the Fund at the same rate, which is currently two percent (2%) of your weekly Gross Sales to the National Fund. If your restaurant

is located in a Cooperative, you must also contribute an additional one percent (1%) of your weekly Gross Sales to your Regional Fund for your Cooperative; if no Cooperative exists where your Franchised Business is located, your Franchised Business will be considered a “single store” cooperative and you must contribute the remaining one percent (1%) of your Gross Sales to the Regional Fund for your Franchised Business. In limited cases in our sole discretion (for example, certain international restaurants or non-traditional restaurants such as airport or university locations that require different advertising support), some franchisees may not be obligated to contribute to the Fund. For each of our company-owned or affiliate-owned restaurants, it’s our policy that such restaurants make contributions to the Fund at a rate equal to the lowest rate a franchisee is then-required to contribute. If an affiliate of ours administers the Fund or places advertising in connection with the System, such affiliate may be paid a fee that will not exceed the fee that would be payable to unrelated third parties for comparable services. Unless required by applicable law, we will have no obligation to create a trust account, escrow account or other special account for the Fund, and the monies comprising the Fund may be placed in our general account(s) if we desire. We may also reserve portions of the Fund for use in a subsequent year. The Fund is not audited, and the financial statements for the Fund and accounting of the Fund are not available to franchisees.

2. The Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* name, System, products and services. The Fund may be used to pay any and all costs of maintaining, administering, directing and preparing advertising, including the cost of preparing and conducting television, radio, magazine, digital, and newspaper advertising campaigns and other public relations activities, employing advertising agencies to assist in such campaigns or other activities, and providing promotional brochures and other marketing materials to franchise owners. We are entitled to receive the following from the Fund: reimbursement of our expenses, overhead, and employee salaries for services, materials, supplies, facilities, equipment or capital provided to the Fund, and rent for office space provided to the Fund. Advertising funds not spent in the fiscal year in which they accrue are rolled over to the next fiscal year. We have no fiduciary responsibility to you on our management of the Fund, and no obligation to you to spend the Fund in your market area and/or in your Cooperative area, if applicable.

3. We, or our designee, will direct all advertising programs to be undertaken through the use of the Fund. We will have sole discretion over all creative concepts, materials and media used in such programs and the placement and allocation of such programs. Advertisements generally will be in print, digital, and broadcast media, initially with local coverage. We are not required to use any specific amounts from the Fund in your market. However, we in our sole discretion may use some amounts contributed by you to any approved Regional Fund, if any, in the same geographic area in which your restaurant is located. We may use an outside advertising agency to create and place advertising. The Fund will be used to create new marketing material and promote the products and services offered by *Cold Stone Creamery* restaurants.

Advertising Fund expenditures during our most recent fiscal year ending November 30, 2022 fell into the following categories:

| | |
|-----------------|-------|
| Production | 17.1% |
| Media Placement | 55.1% |
| Administrative | 21.1% |
| Other | 6.7% |
| TOTAL | 100% |

The “other” expenses included public relations, research, concept development and communications. None of the Fund was used for the solicitation of franchises.

4. Unless your *Cold Stone Creamery* restaurant is located in an enclosed shopping mall or other enclosed structure identified in Section 1.1 of the Franchise Agreement, you will be required to insert a regular (white pages) listing and a classified (yellow pages) telephone directory advertisement in the main telephone directories serving the geographical area in which the restaurant is located, or you must participate in a multiple insertion in the event there is more than one franchise owner in such area. In either case, the telephone directory advertisement must be approved by us in advance (See Exhibit E: Franchise Agreement—Section 10.2).

5. In addition to contributions to the Fund and the telephone directory advertisements, if applicable, described above, we strongly recommend that you spend not less than 2% of your monthly Gross Sales on local advertising (See Exhibit E: Franchise Agreement—Sections 5.3 and 10.2).

6. All advertising by you in any medium must be conducted in a professional manner, must conform to the standards and requirements in our Confidential Manual, and must display our Proprietary Marks only in those forms approved by us. We may make available to you, from time to time, approved advertising, promotional plans and materials for purchase (See Exhibit E: Franchise Agreement—Sections 3.2 and 10.2).

7. You may not maintain a website, software application, an App (application), social media account (including, but not limited to, an account, group or page on Facebook®, Flickr®, Foursquare®, Google+®, Instagram®, LinkedIn®, Pinterest®, Snapchat®, Tumblr®, Twitter®, YouTube®, Vine®, VKontakte or Weibo®), or otherwise maintain a presence or advertise on the Internet or any other public computer network in connection with your restaurant without our prior written approval (See Exhibit E: Franchise Agreement – Section 3.4).

8. We will not prevent the formation of franchisee cooperatives. We encourage our franchisees to form and operate Cooperatives. Each Cooperative will coordinate advertising and marketing efforts and programs, and will attempt to maximize the efficient use of local advertising media. If a Cooperative is formed for your region, you must financially contribute to the Cooperative as required by us. Failure to do so will be deemed a breach of the Franchise Agreement and you may also, in Franchisor’s sole discretion, lose your right to vote as to Cooperative matters. The membership of the Cooperative is defined by us according to your market area. We are responsible for administering the Cooperative. We may prepare for each Cooperative a statement on the use of advertising collections and expenditures. We reserve

the right at any time, in our sole discretion, to form, change, dissolve, or merge Cooperatives. (See Exhibit E: Franchise Agreement – Section 5.4).

9. We may contribute sums from the Fund to a Cooperative. On our request, you must assist in establishing a Cooperative and in deciding how to allocate contributions from the Fund to your Cooperative. We reserve the right to establish general standards concerning the operation of a Cooperative, advertising agencies the Cooperative retains, and advertising programs the Cooperative conducts. Notwithstanding anything to the contrary, no Cooperative decisions will be made or advertising collections spent without our prior written approval. (See Exhibit E: Franchise Agreement – Section 5.4).

10. We are not, under any circumstances, obligated to contribute any advertising collections to any regional or national advertising account, fund, program, association, or other organization. We are not required to spend any advertising collections on advertising in the area where your restaurant is located. We carry forward any advertising collections not spent in a fiscal year and spend them in the next fiscal year.

Computer System

1. We require you to exclusively use an approved electronic point-of-sale system to record all your sales during the operation of your restaurant, the components of which are identified in the Confidential Manual ("POS System"). Prior to the opening of your restaurant, you will be required to acquire and to exclusively use an approved cash register/computer system POS System during the operation of the Franchised Business. We require that the manufacturer or its authorized representative on an ongoing basis service the POS System, at your cost. You will be required to maintain the POS System in good working order at all times, and to upgrade or update the POS System during the term of your Franchise Agreement as we may require from time to time. There are no contractual limitations on the frequency or cost for the franchisee to upgrade or update the POS System during the term of the Franchise Agreement. It will be your responsibility to enter into contracts for the maintenance, upgrades and updates to the POS System with an approved supplier of such services identified by us on the list of approved vendors and distributors or other notification to you from us advising of suppliers for your market area. Your POS System cost per restaurant will depend, among other things, on your restaurant's size and configuration, the system options you choose and/or we determine (such as drive-thru needs (if any), and printer needs), and the types of telephone and internet access services available. You may be required to obtain a high-speed/always-on internet connection service for your POS System. This requirement shall be defined by the then-current Confidential Manual, which may change from time to time. If high-speed/always-on internet connection service is not available in your area, dial-up Internet access may be used until high-speed/always-on internet connection service becomes available in your area. You may be required, from time to time, to upgrade the POS System's hardware and/or software, at your sole cost and expense, in order to maintain the POS System in conformity with our then current requirements. You must complete training for the POS System as we require. If you are buying an existing restaurant with an older cash register system, it is a requirement for the transfer that you purchase and install the then current POS System in the restaurant. (See Exhibit E: Franchise Agreement – Section 4.6).

a. We require you to use a POS System that meets our specifications in order to: (i) assist you in the operation of your *Cold Stone Creamery* restaurant; (ii) allow us to monitor your gross sales; (iii) enable us to develop chain-wide statistics that may improve purchasing; (iv) assist us in the development of new authorized products or the removal of

existing unsuccessful authorized products; (v) enable us to refine existing authorized products; (vi) generally improve system-wide understanding of our marketing efforts; and (vii) obtain new types of information. The POS System must be configured so that we have independent and remote access to the information and data stored in it. This access allows us to exchange/collect data and other information on such basis as we shall from time to time communicate to you. There are no contractual limitations on our right to access the information in your POS System. All approved cash registers are capable of recording accumulated sales and cannot be turned back or reset, and must be able to retain data in the event of power loss. You must purchase the approved electronic POS System from an approved vendor, as we have required our approved supplier to make special modifications to their equipment and systems to comply with our requirements (See Exhibit E: Franchise Agreement – Section 4.6). You must also purchase approved software for your restaurant. The cost of purchasing the POS System, including the software, ranges from \$4,760 to \$14,000. You must also purchase from us POS Help Desk Phone Support Maintenance on both the software and hardware for your POS System, the cost of which will not exceed \$60 per month. It is recommended that you also purchase hardware support for all modules for the first year you operate your *Cold Stone Creamery* restaurant. The cost is approximately \$150 to \$1,300 per year depending on the equipment installed. This cost is subject to change by the supplier.

b. The approved POS System has in its specifications integrated “card swipe” systems that process debit card, credit card, or other non-cash payment systems including our stored value gift cards, loyalty cards, frequency cards, gift certificates, vouchers, and any other similar electronic card and/or payment programs (collectively, the “Gift/Loyalty Card”) sponsored by us or our affiliates. You must obtain credit card and gift card processing services from our approved vendors. The charges associated with credit card and gift card transactions are compiled per transaction and therefore will vary from restaurant to restaurant. We estimate that the costs associated with credit card transactions will be between 1% and 4% of your gross sales. Gift card transactions will cost you 11% of the gift card redemption, and may increase at any time with a 30 day notice. The Payment Card Industry (“PCI”) requires all companies that process, store, or transmit credit card information to protect the cardholders’ information by complying with the PCI Data Security Standard (“PCI DSS”). Therefore, as a franchisee who accepts credit cards, you are required to be PCI compliant by following and adhering to PCI DSS, completing an annual questionnaire and quarterly network PCI scans and installing a network firewall appliance for logging, tracking, reporting, and security assessment. We may require a particular firewall (hardware and/or software). The PCI compliance is mandated by the Payment Card Industry. The cost for the quarterly network security scans, network firewall appliance and annual questionnaire ranges from \$150 to \$1,300 per year. The cost is subject to change by supplier. You are also required to validate with Kahala that your store is PCI compliant to show validation you must send Kahala your Passing Certificate showing your store is PCI compliant and also verify that you have a PCI compliant firewall appliance installed at your location if you process credit cards via high speed internet connectivity.

c. You must purchase a computer and connect to the Internet so that you can report your gross sales online, so that you can receive online cake orders, so that we can communicate by email, so that you can use Internet and Extranet services, and so that you can receive other electronic information we send. You also must, at your cost, maintain membership in a designated third party network, and maintain an active email account. We may revise our computer specifications. If we do so, we may require you to upgrade or update your computer. There is no contractual limitation on the frequency and cost of this obligation. There may be comparable equivalents on the market for the computer we require, but we have

not yet tested or approved any comparable computer; however, we may do so in the future. You are responsible for backing up and otherwise protecting your data on your computer. You are also responsible for recording and restoring all software license keys. We may require you to upgrade the hardware and software as reasonably necessary to provide reports and information required by us. All Cold Stone Creamery franchisees are required to participate in online ordering and delivery programs, which may in Franchisor's sole discretion require you to pay for certain goods and/or services from Franchisor, Franchisor's affiliate, and/or unaffiliated third-party providers. For example, as of the Disclosure Document's Issuance Date, Franchisees are required to enter into an agreement with and pay corresponding fees to Olo as established by Olo for such goods and/or services. This provider may change, in Franchisor's sole discretion, upon advance notice to you

2. We require that you permit us to poll your sales information on a daily basis, and that you execute a Pre-Authorized Electronic Funds Transfer Form by and payable to Kahala Franchising (which is attached to this Disclosure Document as Exhibit P), permitting us to weekly debit your account for payment of weekly royalty and advertising fees and debit your account as necessary for product purchases from us or our affiliates. (See Exhibit E: Franchise Agreement – Sections 5.2 and 5.3). We may require you to enter weekly inventory information, and if so, would require that you permit us have remote access to that information (See Exhibit E: Franchise Agreement – Section 4.6). We may require you to permit us access to your POS System, restaurant management software, and financial records (or similar tools thereto) to poll your information daily, or more frequently, by electronic or other remote means (See Exhibit E: Franchise Agreement – Section 5.2).

3. The POS System and personal computers contain sales and labor data that can be generated and stored in the systems and that allows for the generation of financial and payroll reports.

ITEM 12: TERRITORY

The franchise is granted only for the location specified in the Franchise Agreement or a location to be approved by us. The specific site of your *Cold Stone Creamery* restaurant is subject to our approval. We will not unreasonably withhold our approval of the location.

You will not receive an exclusive territory. You may face competition from other franchisees, from restaurants that we own, or from other channels of distribution or competitive brands that we control. You will not receive an option, right of first refusal or other rights under the Franchise Agreement to acquire additional franchises. We (and/or our affiliates) may establish other franchised or company-owned *Cold Stone Creamery* restaurants that may compete with your location, including across the street from your location or in the same venue as your location. We (and/or our affiliates) may co-brand *Cold Stone Creamery* with one or more of our other quick service restaurants or allow approved *Cold Stone Creamery* stores to sell additional approved menu items under a trademark license agreement we may have with other third-party restaurant concepts. We presently intend to develop *Cold Stone Creamery* restaurants throughout the United States and internationally. Except as expressly limited in the Franchise Agreement, we (for ourselves, our affiliates and our designees) retain all rights with respect to *Cold Stone Creamery* restaurants, the Service Marks, all confidential and proprietary information, all copyrighted materials and the sale of *Cold Stone Creamery* products anywhere in the world, including, without limitation, the right to implement multi-area marketing programs that may allow us or others to solicit or sell to customers anywhere. We also reserve the right to issue mandatory policies to coordinate such multi-area marketing programs. One or more

future *Cold Stone Creamery* restaurants may have an adverse effect on the revenues and profitability of existing *Cold Stone Creamery* restaurants, including your *Cold Stone Creamery* restaurant.

In addition, we (and/or our affiliates) may market and/or test, directly or indirectly, *Cold Stone Creamery* products or services through channels of distribution other than *Cold Stone Creamery* restaurants operated by us, our affiliates and franchisees, including through the Internet, catalog sales, telemarketing, grocery stores, movie theaters, limited access highway food facilities, mobile units, off-site sales accounts, electronic mail, converting other chains and other distribution opportunities, or vending machines and similar automated dispensing systems ("Other Channels") which generally are not available for us to franchise to you, and typically involve trademark licensing and/or the sale of our branded products. We may also distribute, sell and/or license other persons or entities to distribute and/or sell products through all Other Channels. Where tests prove to be successful, we may expand our sale of products in similar businesses on a regional, national or international level. We reserve the right to establish Other Channels to make sales that may compete with your location using our principal trademarks. These Other Channels could compete with you in the sale of your products. Kahala Franchising is under no obligation to compensate its franchisees on sales Kahala Franchising makes using Other Channels. Kahala Franchising is under no obligation to compensate franchisees for soliciting or accepting orders in the franchisee's territory as the franchisee is granted no exclusive territory. Franchisees may not use Other Channels, including the Internet, catalog sales or telemarketing to make sales except that the Franchisee may provide catering services anywhere as long as such services comply with the current version of our Confidential Manual. All sales made from catering services must be included in the Franchisee's Gross Sales. We reserve the right, directly or through third parties, to manufacture or sell, or both, anywhere, other products which are the same as or similar to those sold in *Cold Stone Creamery* restaurants, but which bear trademarks that are not confusingly similar to any of the trademarks you are authorized to use under the Franchise Agreement.

We reserve the right, either directly or through affiliated entities, to operate or license others to operate businesses other than *Cold Stone Creamery* restaurants anywhere, including, but not limited to, locations of our other quick service restaurant concepts, and you agree that we or our affiliates may do so anywhere.

The NrGize Lifestyle Cafe brand is a business that we franchise under a different trademark than *Cold Stone Creamery* that sells smoothies similar to those offered by *Cold Stone Creamery*. The Kahala Coffee Traders brand is a business that we franchise under a different trademark than *Cold Stone Creamery* that sells smoothies similar to those offered by *Cold Stone Creamery*. In addition, the Surf City Squeeze brand is a business that we franchise under a different trademark than *Cold Stone Creamery* that also sells smoothies, and the Frullati Cafe & Bakery brand is a business that we franchise under a different trademark than *Cold Stone Creamery* that sells blended fruit and vegetable drinks similar to the smoothies offered by *Cold Stone Creamery*. The Maui Wowi brand is a business that we franchise under a different trademark than *Cold Stone Creamery* that sells smoothies and frappes similar to those offered by *Cold Stone Creamery*. The Tasti D-Lite brand is a business we offer under a different trademark than *Cold Stone Creamery* that sells frozen dessert confections with a variety of mix-ins and toppings, shakes, smoothies and frozen cakes and pies similar to those offered by *Cold Stone Creamery*. The Pinkberry brand is a business we franchise under a different trademark than *Cold Stone Creamery* that sells smoothies similar to those offered by *Cold Stone Creamery*. The sweetFrog brand is a business our affiliate franchises under a different trademark than *Cold Stone Creamery* that sells smoothies similar to those offered by

Cold Stone Creamery. The La Diperie brand is a business our affiliate franchises under a different trademark than *Cold Stone Creamery* that specializes in the retail sale of an ice cream product and various dips and toppings that are similar to those offered by *Cold Stone Creamery*. The Planet Smoothie brand is a business we franchise under a different trademark than *Cold Stone Creamery* that sells smoothies and fruit drinks similar to those offered by *Cold Stone Creamery*. The NrGize Lifestyle Cafe franchises are offered under the NrGize Lifestyle Cafe word and design trademarks, the Kahala Coffee Traders franchises are offered under the Kahala Coffee Traders word and design trademarks the Surf City Squeeze franchises are offered under the Surf City Squeeze word and design trademarks, the Frullati Cafe & Bakery franchises are offered under the Frullati Cafe & Bakery word and design trademarks, the Maui Wowi franchises are offered under the Maui Wowi word and design trademarks, the Tasti D-Lite franchises are offered under the Tasti D-Lite word and design trademarks, the Planet Smoothie franchises are offered under the Planet Smoothie trademark, the Pinkberry franchises are offered under the Pinkberry trademark, sweetFrog franchises are offered by our affiliate under the sweetFrog trademark, and the La Diperie franchises are offered by our affiliate under the La Diperie trademark. The NrGize Lifestyle Cafe stores, The Kahala Coffee Traders stores Surf City Squeeze stores, Frullati Cafe & Bakery stores, Maui Wowi mobile and fixed operating units, Pinkberry stores, Planet Smoothie stores, sweetFrog stores and mobile units, La Diperie stores, Tasti D Lite products are primarily franchised, but may also be operated by one of our affiliates. NrGize Lifestyle Cafe franchises have been offered by us from 2006 until March 2010 under the name of Kahala Franchise Corp. and since August 2010 under the name of Kahala Franchising; The Kahala Coffee Traders franchises have been offered by us from November 2011 under Kahala Franchising; Surf City Squeeze franchises have been offered by us from 1994 until 2004 under the name of Malibu Smoothie Franchise Corp. and Surf City Squeeze Franchise Corp., from 2004 until March 2010 under the name of Kahala Franchise Corp., and since August 2010 under the name of Kahala Franchising; Frullati Cafe & Bakery franchises have been offered by us from 1999 until 2004 under the name of Frullati Franchise Systems, Inc., from 2004 until March 2010 under the name of Kahala Franchise Corp., and since August 2010 under the name of Kahala Franchising, Maui Wowi franchises have been offered by us since November 2015, Tasti D-Lite franchises have been by our affiliate from February 2008 until April 2015 under the name of Tasti D-Lite LLC and by us since June 2016 (but only as a co-brand in a Planet Smoothie), Planet Smoothie franchises have been offered us from June 2015 until April 2016 under the name of Tasti D-Lite LLC, and since May 2016 under the name of Kahala Franchising, and Pinkberry franchises have been offered by our affiliate from July 2008 until April 2015 under the name Pinkberry Ventures, Inc. and by us since June 2016. sweetFrog franchises have been offered by our affiliate since September 2018. La Diperie franchises have been offered by our affiliate since April 2019. A Maui Wowi mobile and/or fixed operating unit, an NrGize Lifestyle Cafe, Kahala Coffee Traders restaurant, Planet Smoothie restaurant, Surf City Squeeze, sweetFrog restaurant and/or mobile unit, La Diperie restaurant, Frullati Cafe & Bakery, Tasti D-Lite restaurant and/or a Pinkberry restaurant may be located within the vicinity of your Cold Stone Creamery restaurant. Franchisees of the NrGize Lifestyle Cafe brand, Kahala Coffee Traders brand, Surf City Squeeze brand, Frullati Cafe & Bakery brand, Maui Wowi brand, Tasti D-Lite brand, Pinkberry and La Diperie brand are not currently given an exclusive territory. Traditional Planet Smoothie franchises do have an exclusive territory pertaining to other traditional Planet Smoothie franchises. Kahala Franchising will provide support to all of its concepts regardless of the vicinity of a concept to another concept that sells similar products. The principal business address of these similar concepts is the same as Kahala Franchising's address. Kahala Franchising and MTY USA do not maintain separate offices or separate training facilities for the similar competing business.

We may merge with, acquire and/or be acquired by any other business, including, without limitation, a business that competes with your *Cold Stone Creamery* restaurant, or acquire and convert any retail stores, including, without limitation, retail stores operated by competitors, or otherwise operated independently or as part of, or in association with, any other system or chain, whether franchised or corporately owned.

On July 26, 2016, Franchisor's parent company, Kahala Brands, merged with a wholly-owned subsidiary of MTY. MTY's address is 8150 Transcanada Highway, Suite 200, Saint Laurent, Québec H4S 1MF. As described in Item 1, subsequent to the merger, in addition to the concepts franchised by Kahala Franchising or its current or former affiliates, MTY Canada franchises over sixty (60) different restaurant concepts and sub-franchises two (2) other different restaurant concepts.

Certain of the restaurant concepts franchised by MTY offer goods or services that are the same or similar to those that you will offer under the *Cold Stone Creamery* brand. MTY offers the same or similar goods or services under the La Crémère trademark and sub-franchises under the TCBY trademarks. At this time, the La Crémère concept and sub-franchised TCBY concepts are not franchised or sub-franchised by MTY in the United States and are only offered in Canada by MTY subsidiary, MTY Canada, with no plans at this time to expand to the United States. MTY USA also offers La Diperie which specializes in the retail sale of an ice cream product with various dips and toppings under the La Diperie trademark. The TCBY brand is offered in the United States by Famous Brands International, unrelated to Franchisor or MTY.

You must obtain our prior approval to relocate your *Cold Stone Creamery* restaurant. The approval or rejection by us of any proposed relocation shall be in our sole discretion. In order to relocate your restaurant, you must be in compliance with your Franchise Agreement, the relocation must be for a legitimate business reason, and we must approve the new location. In connection with any relocation, your *Cold Stone Creamery* restaurant may not be closed for business for more than thirty (30) days.

Your Franchise Agreement is for a specific location only, so you may not open additional *Cold Stone Creamery* restaurants under the same Franchise Agreement. You must obtain our prior approval to purchase and open additional *Cold Stone Creamery* restaurants. The approval or rejection by us shall be in our sole discretion. In order to purchase an additional *Cold Stone Creamery* restaurant(s), you must be in compliance with your existing Franchise Agreement(s), you must qualify to operate additional restaurants, you must enter into our then-current form of Franchise Agreement and pay the Initial Franchise Fee, and we must approve the location.

ITEM 13: TRADEMARKS

We will grant you the non-exclusive right to operate the *Cold Stone Creamery* restaurant specified in your Franchise Agreement or any amendments to your Franchise Agreement under the *Cold Stone Creamery* trademarks. You will also be granted the right to use our other current or future trademarks that we may from time to time designate as being available for use by franchisees in the *Cold Stone Creamery* System. By "trademarks" we mean trade names, trademarks, service marks, logos, Trade Dress (as defined below), and product identifiers used to identify your restaurant. "Trade Dress" is defined as the total appearance and image of the *Cold Stone Creamery* restaurant; the ice cream, cakes, pies, smoothies, shakes, specialty beverages, soft drinks and other frozen dessert products and related products and packaging;

all related features such as size, texture, shape, color or color combinations, and graphics of Cold Stone Creamery restaurants and the ice cream, cakes, pies, smoothies, shakes, specialty beverages, soft drinks and other frozen dessert products and related products and packaging, and all advertising and marketing techniques used to promote the franchise, as well as specifically including all signage, menu boards, product displays, and any color schemes and designs utilized in connection with *Cold Stone Creamery* restaurants' interior walls, counters, table tops, chairs, and floors. You must not directly or indirectly contest our right to our trademarks.

You will not have the exclusive right to use the trademarks, nor will you acquire, by use or otherwise, any right, title or interest in or to the trademarks, other than as expressly contained in, and limited by, the Franchise Agreement. Your right to use the trademarks is limited and temporary. Upon expiration or termination of the Franchise Agreement, you may not, directly or indirectly, use the trademarks in any manner or for any purpose, and you may be required by us to renovate the premises of your *Cold Stone Creamery* restaurant to eliminate the trademarks and de-identify such premises to remove all Trade Dress (including, without limitation, the "cold stone"), returning it to a "vanilla shell," at your expense.

The following trademarks have been registered with the United States Patent and Trademark Office on the Principal Register:

| TRADEMARK | REGISTRATION NUMBER | REGISTRATION DATE |
|---|---------------------|--------------------|
| IT'S A GREAT DAY FOR ICE CREAM | 2,492,521 | September 25, 2001 |
| COLD STONE CREAMERY | 2,542,783 | February 26, 2002 |
| COLD STONE | 2,691,919 | March 4, 2003 |
|  | 2,779,570 | November 4, 2003 |
|  | 2,789,528 | December 2, 2003 |
|  | 2,877,683 | August 24, 2004 |
| COLD STONE CREAMERY | 3,161,605 | October 24, 2006 |
| CAKE BATTER ICE CREAM | 3,167,072 | November 7, 2006 |
| MINE | 3,352,116 | December 11, 2007 |

| TRADEMARK | REGISTRATION NUMBER | REGISTRATION DATE |
|---|---------------------|--------------------|
| OURS | 3,352,117 | December 11, 2007 |
| EVERYBODY'S | 3,356,183 | December 18, 2007 |
| 10-MINUTE VACATION | 3,392,391 | March 4, 2008 |
|  | 3,708,030 | November 10, 2009 |
|  | 3,708,156 | November 10, 2009 |
|  | 3,714,496 | November 24, 2009 |
| ULTIMATE ICE CREAM EXPERIENCE | 4,535,838 | May 27, 2014 |
| COLD STONE EXPRESS | 4,719,555 | April 14, 2015 |
| MY COLD STONE CLUB | 4,719,563 | April 14, 2015 |
|  | 4,749,830 | June 2, 2015 |
| LIKE IT | 4,815,807 | September 22, 2015 |
| LOVE IT | 4,815,808 | September 22, 2015 |
| GOTTA HAVE IT | 4,815,809 | September 22, 2015 |
| COLD STONE | 5,311,081 | October 17, 2017 |
|  | 5,456,715 | May 1, 2018 |

All affidavits of use required to be filed to maintain these registrations have been filed.

There are no applications pending with the United States Patent and Trademark Office at this time.

No one other than us or our affiliates has an ownership interest in the above-referenced trademarks. Kahala Franchising is the sole owner of the above-referenced trademarks and has all right, title, and interest in and to the trademarks and goodwill.

No agreements limit our right to use or license the use of our trademarks. You must follow our rules when you use our trademarks. Use of the service marks or trademarks must be accompanied by the registration (®), service mark (SM), trademark (TM) in close proximity to the trademark. You cannot use our trademarks as part of your corporate, partnership, limited liability company or other entity name, or register it as a trade name. You may not use our trademarks in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by us. You may not directly or indirectly contest or aid in contesting the validity of the trademarks or the ownership of the trademarks by us, nor may you directly or indirectly apply to register or otherwise seek to use or control our trademarks or any confusingly similar variation or form in the United States or any other country, nor may you assist any others to do so. You must modify or discontinue the use of a trademark if we modify or discontinue it, at your sole cost.

You must immediately notify us of any apparent infringement of, or challenge to your use of, any of our trademarks, or any claim by any person of any rights in any of our trademarks. You must not communicate with any person other than us and our legal counsel in connection with any such infringement, challenge or claim. We will have the sole discretion to take such action as we may deem appropriate to protect our trademarks and the right to exclusively control any litigation, United States Patent and Trademark Office proceeding, or other proceeding arising out of any such infringement, challenge or claim or otherwise relating to our trademarks. The Franchise Agreement does not require us to take affirmative action when notified of these uses or claims, but indicates we have the sole discretion to take such action as we may deem appropriate. You must execute such documents, render such assistance, and do such acts and things as may, in the opinion of our counsel, be necessary or advisable to protect and maintain our interests in connection with any such litigation or proceeding, or to otherwise protect and maintain our interests in our trademarks.

The Franchise Agreement requires that we will indemnify and hold you harmless for, from and against any and all claims, liabilities, causes of action, demands, obligations, costs and expenses, including reasonable attorneys' fees, arising out of any claim of infringement or unfair competition in connection with your use of our trademarks, provided that such use is in accordance with the provisions of the Franchise Agreement.

We may, in our sole discretion, modify or discontinue use of any of the above-referenced trademarks and/or use one or more additional or substitute service marks or trademarks. If we decide to do so, you must do so also, at your own expense. The Franchise Agreement does not provide you any additional rights if we require you to modify or discontinue using a trademark. However, if we require you to modify or discontinue use of our trademarks and/or use other trademarks in its place at any time other than upon renewal of the Franchise Agreement, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the trademarks infringed upon a third party's rights, we will bear the direct actual and reasonable cost of those modifications or discontinuances.

We do not know of any superior prior rights or infringing uses or effective material determinations of the United States Patent and Trademark Office, Trademark Trial and Appeal Board, trademark administrator of this state or of any court, nor do we know of any pending infringement, opposition or cancellation proceeding that could materially affect your use of our trademark. We do not know of any pending material federal or state court litigation regarding our use or ownership rights in the above registered trademarks or pending applications.

ITEM 14: PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

We own proprietary information and rights in numerous items, such as menu formats, advertising designs, processes, techniques, recipes for *Cold Stone Creamery* ice cream, cakes, pies, smoothies, shakes, specialty beverages or other frozen dessert products, the method of production and storage of products and information contained in the Confidential Manual and related documents. In connection with the operation of the franchise, we may disclose to you certain information in which we claim proprietary rights. For example, our Manual incorporates certain information that we believe is protected under the law of trade secrets, including sales and marketing techniques and restaurant operations. In addition, although we have not registered the copyright with the United States Copyright Office, the Confidential Manual is protected against unauthorized copying under United States Copyright laws for 100 years from the date of creation or 75 years from the date of publication, whichever is shorter. You must use the proprietary information only in the manner required by us and in no other manner. This information is strictly confidential and you may not disclose it to any person, or use any of that information for any purpose, except disclosure to a person who has signed and delivered to us the "Confidentiality Agreement" contained in the Confidential Manual, and you may only use this information as necessary in connection with the operation of your restaurant. In addition, you must fully and strictly comply with all security measures required by us for maintaining the confidentiality of all information designated by us as trade secrets.

No agreements limit our right to use or license the use of our statutory copyright of the Confidential Manual.

If you reproduce any items or materials suitable for copyright protection, you must make sure that each item bears a copyright notice in the form specified by us. You must use the proprietary information only in the manner required by us and in no other manner. This information is strictly confidential and you may not disclose to any person or use any of that information for any purpose, except disclosure to a person who has signed and delivered to us a confidentiality agreement, and use as necessary in connection with the operation of your Franchised Business. In addition, you must fully and strictly comply with all security measures required by us for maintaining the confidentiality of all information designated by us as trade secrets.

You will not have the exclusive right to use the innovations or any of our patents or patent applications, copyrights or proprietary information, nor will you acquire, by use or otherwise, any right, title or interest in or to the innovations, the copyrights or the proprietary information, other than as expressly contained in, and limited by, the Franchise Agreement. Your right to use the innovations, the claimed subject matter of any patents or patent applications, the copyrights and the proprietary information is limited and temporary. Upon expiration or termination of the Franchise Agreement, you may not, directly or indirectly, use the innovations, the claimed subject matter of any patents or patent applications, the copyrights or the proprietary information in any manner or for any purpose.

You must immediately notify us of any conduct that could constitute infringement of or challenge to the innovations, the patents or patent applications, the copyrights and our proprietary information. We will decide, in our sole discretion, whether to institute any action in connection with infringement of or challenge to the innovations, the patents or patent applications, the copyrights and our proprietary information, and will control all proceedings and litigation. The Franchise Agreement does not require us to take affirmative action when notified of infringement, but indicates we have the sole discretion to take such action as we may deem appropriate. We are not required to protect your right to use the innovations, the patents or patent applications, the copyrights and proprietary information. As indicated in the Franchise Agreement, we will indemnify you for all damages for which you are held liable in any lawsuit arising out of your proper use of the innovations, the patents or patent applications, the copyrights and our proprietary information in compliance with the Franchise Agreement.

We may, in our sole discretion, modify or discontinue use of the innovations, the patents or patent applications, the copyrights and our proprietary information and/or use other information and/or rights in its place. If we decide to do so, you must do so also, at your expense. The Franchise Agreement does not provide you any additional rights if we require you to modify or discontinue use of the innovations, the patents or patent applications, the copyrights and our proprietary information. However, if we require you to modify or discontinue use of the innovations, the patents or patent applications, the copyrights and our proprietary information and/or use other information and/or rights in its place at any time other than upon renewal of the Franchise Agreement, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the innovations, the patents or patent applications, the copyrights and the proprietary information infringed upon a third party's rights, we will bear the actual direct and reasonable cost of those modifications or discontinuances. The rights granted in this paragraph are your sole and exclusive remedy for any infringement by any part of the System.

Cold Stone obtained the following design patents from the USPTO:

| TITLE | PATENT NUMBER | ISSUANCE DATE |
|-------------------------------------|---------------|--------------------|
| Combined Cake and Ice Cream Dessert | D550,927 | September 18, 2007 |
| Combined Cake and Ice Cream Dessert | D571,526 | June 24, 2008 |

One issued design patent (D550,927) relates to ornamental features and the design of the ice cream cake sold under the trademark Midnight Delight®. This patent's term is fourteen years from the issuance date of September 18, 2007. The other issued design patent (D571,526) related to ornamental features and the design of the ice cream cake sold under the trademark Strawberry Passion™. This patent's term is fourteen years from the issuance date of June 24, 2008.

We have no pending patent applications that are material to the franchise. We do not know of any current material determinations of the United States Patent and Trademark Office, United States Copyright Office, or of any court, nor do we know of any effective determinations or any material proceedings pending in the United States Patent and Trademark Office or of any court regarding the patent application. We do not know of any patent or copyright infringement that could materially affect the franchisee.

ITEM 15: OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

While the Franchise Agreement does not specifically require you or your principals to personally participate in the direct operation of the franchise, it is our intention to select as *Cold Stone Creamery* franchisees only those who plan to actively participate in the direct operation and daily affairs of the *Cold Stone Creamery* restaurant. The franchise must be personally managed with on-premises supervision and directly operated by you or another partner, shareholder or member of your business organization, or a manager who must have successfully completed the Training Program.

If you are an individual and married, your spouse must: sign the Guaranty of Franchise Agreement in which your spouse agrees to perform, and guarantees, all of the franchisee's obligations to us and our affiliates contained in the Franchise Agreement (see Exhibit F-1) and a Non-Disclosure and Non-Competition Agreement (see Exhibit F-2); if applicable; sign the Guaranty of Sublease in which your spouse agrees to perform, and guarantees, all of the sublessee's obligations to us and our affiliates contained in the Sublease (see Exhibit O); and, if you purchase a corporate restaurant, sign the Guaranty of Promissory Note and Security Agreement and Guaranty of Sublease in which your spouse agrees to perform, and guarantees, all of the franchisee's obligations to us and our affiliates contained in the Promissory Note and Security Agreement, and all of the sublessee's obligations to us and our affiliates contained in the Sublease (see Exhibit D: Guaranty of Promissory Note and Security Agreement and Exhibit O: Guaranty of Sublease). Each person, corporation, partnership, limited liability company or other entity that owns, directly or indirectly, an equity interest in the franchised entity ("Principal"), and each executive officer must sign the Personal Acceptance attached to the Franchise Agreement ("Personal Acceptance") in which the Principal agrees to be bound by the restrictive covenants, the confidentiality provisions and certain other provisions contained in the Franchise Agreement. Each Principal (and his/her spouse, if married) must also: sign the Guaranty of Franchise Agreement in which the Principal (and his/her spouse, if married) agree to perform, and guarantee, all of the franchisee's obligations to us and our affiliates contained in the Franchise Agreement; his/her spouse, if married, sign the Non-disclosure and Non-Competition Agreement; if applicable, sign the Guaranty of Sublease in which the Principal (and his/her spouse, if married) agree to perform, and guarantee, all of the sublessee's obligations to us and our affiliates contained in the Sublease; and if purchasing a corporate restaurant, sign the Guaranty of Promissory Note and Security Agreement and Guaranty of Sublease in which each Principal (and his or her spouse, if married) agrees to perform, and guarantees, all of the franchisee's obligations to us and our affiliates contained in the Promissory Note and Security Agreement and all of the sublessee's obligations to us and our affiliates contained in the Sublease. In the event that any person who has not signed an appropriate guaranty becomes your spouse or the holder of any class or your stock or ownership interests or a spouse of such holder, at any time after the execution of the respective agreement as referenced above, you must cause such person(s) to immediately execute and deliver the required guaranty to us.

We are not seeking to license you to operate a *Cold Stone Creamery* restaurant if your Principals are merely seeking a passive investment.

We strongly recommend that you devote a substantial amount of time to your *Cold Stone Creamery* restaurant, whether or not you hire a manager. Franchisees that do not devote their full time efforts to the establishment and operation of their restaurants may have lower gross sales, higher operating costs and lesser name recognition in their areas than those franchisees that do devote their full efforts to the business. Examples of the types of functions

that you might perform include training and supervision of employees, inventory checks, review of sales and food costs, local store marketing, bookkeeping and all reasonable efforts to ensure smooth and efficient operations.

Additionally, you must employ on a full time basis at least one on-premises supervisor (the "Manager") for the restaurant. The Manager of the restaurant must at all times be a person who meets our criteria as a qualified restaurant operator. The Manager is not required to have any equity interest in the Franchised Business. The Manager must devote his or her entire time during normal business hours to the management, operation and development of the Franchised Business and must maintain the confidentiality of the trade secrets and proprietary information, comply with the use of the proprietary marks, conform with the covenants not to compete, and conform with the operating standards in the Franchise Agreement and Confidential Manual. The Manager is required to sign the Confidentiality Agreement.

In the interest of safe and efficient job performance, business operation and public health and safety, you must have a Manager on each shift who is able to read and understand our written materials and communicate with your employees and customers in the English language. This requirement will not restrict the Manager or your employees from speaking in any other language with you, other employees or customers, and shall not apply to any employee while on personal time or breaks.

All personnel employed by you in connection with the operation of your *Cold Stone Creamery* restaurant must maintain standards of sanitation, cleanliness and demeanor as may be established by us. All personnel must wear a uniform or other clothing approved by us. In addition, you must ensure that all employees whose duties include customer service have sufficient literacy and fluency in the English language (or such other language that is the primary language in your market) to adequately serve the public at your *Cold Stone Creamery* restaurant.

ITEM 16: RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

We require that your business is solely that of a *Cold Stone Creamery* restaurant, and you may not conduct any other business or activity at the site of the restaurant without our prior written approval. For traditional restaurants, you must offer the full menu prescribed by us, subject to change from time to time in our sole discretion. Non-traditional restaurants may offer a more limited menu than the traditional restaurant, as detailed in the Confidential Manual. We have the right to require you to sell additional authorized products and services from time to time that we believe will be successful. You will be obligated to offer and sell those new products and to participate in all local, regional, seasonal and promotional programs, initiatives and campaigns adopted by us in which we require you to participate. We reserve the right to designate which of our franchisees may, or will be required to, participate in new product or service tests, new or modified product or service offerings and other programs and initiatives that we may periodically develop. If we designate you for participation in any such program, initiative or campaign, you must participate when and as required by us. There are no limits on our right to require you to offer and sell those new products or to participate in those programs, initiatives and campaigns. You may not add any item to your menu unless it is first researched and tested through our research and development center and approved by us in writing. In addition, you may not offer or sell any products or services specified by us in any configuration, form or manner (including items for resale) other than those specifically approved by us. You may not market your *Cold Stone Creamery* restaurant or use the Service Marks on the Internet without our prior approval. You are prohibited from offering or selling any products or services

not authorized or approved by us. You may only use products, materials, ingredients, supplies, paper goods, uniforms, fixtures, furnishings, signs, equipment, POS System, debit and credit card and Gift/Loyalty Card processing service, and methods of product preparation and delivery that meet our requirements as specified in the Confidential Manual.

If we believe in good faith that any product offered by you may be unhealthy, unsafe or unsanitary, and we request that you discard that product, you must do so immediately. In addition, we may require you to close your *Cold Stone Creamery* restaurant until we are satisfied that any unhealthy, unsafe or unsanitary condition has been completely corrected.

ITEM 17: RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

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

| Provision | Section in Franchise Agreement | Summary |
|--|--------------------------------|---|
| a. Length of the Term of the Franchise | Section 1.3 | <p>If you are <u>purchasing a new or existing non-operating <i>Cold Stone Creamery</i> Restaurant</u>, the term is (i) 10 years from the date the restaurant opens to the public if you own the property, or enter into a lease directly with the landlord or other third party, or (ii) the term of the sublease if you enter into a sublease with a Kahala Franchising affiliate, excluding any extensions and renewal options. <u>If you are purchasing an existing and operating <i>Cold Stone Creamery</i> restaurant</u>, the term is (i) 10 years from the effective date of the franchise agreement if you own the property, or enter into a lease directly with the landlord or other third party, or (ii) the term of the sublease if you enter into a sublease with a Kahala Franchising affiliate, excluding any extensions or renewal options. <u>If you are purchasing a <i>Cold Stone Creamery</i> Restaurant that will be co-branded into another Kahala-brand Restaurant</u>, the term of your franchise agreement for this brand will equal the remaining term of the existing franchise agreement for the store which this brand will be co-branded into, so both franchise agreements will expire concurrently. <u>If you are entering into a renewal agreement for your <i>Cold Stone Creamery</i> Restaurant</u>, the term is five years from the effective date of your renewal Franchise Agreement.</p> |

| Provision | Section in Franchise Agreement | Summary |
|---|--------------------------------|---|
| b-1. Renewal or extension of the Term | Section 13 (New & Transfer) | If you are not in default and satisfy certain conditions, you may renew for a single renewal term of five years, with no further right to renew at the end of the renewal term. |
| c-1. Requirements for you to renew or extend | Section 13 (New & Transfer) | “Renewal” means to sign a renewal Franchise Agreement (which will be in the form of the Franchise Agreement then customarily used by us in renewing franchises) and all other agreements then customarily used by us in the granting of franchises. The renewal Franchise Agreement may have materially different terms and conditions than the original Franchise Agreement, including higher royalty and advertising fees. If offered, you must: give at least 120 days’ notice prior to the expiration date of the term; not be in default; be in compliance with the terms of the Franchise Agreement and Confidential Manual; not have received more than 3 notices of default or breach of the Franchise Agreement during its term, nor more than 2 such notices during the 5 years immediately before the proposed renewal date; have a premises; sign a new Franchise Agreement which may have materially different terms and conditions than the original Franchise Agreement; pay a renewal franchise fee; remodel or refurbish if necessary; and be current on all financial obligations to us. You must also sign the General Release in form attached to the Disclosure Document as <u>Exhibit Q</u> . |
| b-2. Successor Term | Section 13 (Renewal) | If at the end of your renewal term, you are not in default and satisfy certain conditions, you may apply for a successor term. |
| c-2 Requirements for you to obtain a successor term | Section 13 (Renewal) | Applying for and entering into a “successor” term means to sign a new Franchise Agreement (which will be in the form of the Franchise Agreement then customarily used by us in entering into new franchises) and all other agreements then customarily used by us in the granting of franchises. The successor term Franchise Agreement may have materially different terms and conditions than the original Franchise Agreement, including higher royalty and advertising fees. In the event you desire to apply to us to extend your rights to operate the Franchised Business for a successor term, you must: give at least 120 days’ notice prior to the expiration date of the renewal term; not be in default; be in compliance with the terms of the Franchise Agreement and Confidential Manual; not have received more than 3 notices of default or breach of |

| Provision | Section in Franchise Agreement | Summary |
|--|--|---|
| | | <p>the Franchise Agreement during its term, nor more than 2 such notices during the 5 years immediately before the proposed successor term effective date; have a premises; sign a Franchise Agreement which may have materially different terms and conditions than the original Franchise Agreement; pay an initial franchise fee; remodel or refurbish if necessary; and be current on all financial obligations to us. You must also sign the General Release in form attached to the Disclosure Document as <u>Exhibit Q</u>. We reserve the right to reject your application for a successor term, at our sole discretion, for any reason, without limitation, failure to meet our then-current standards or requirements for new franchisees. If we decide to reject your application for a successor term to operate the Franchise Business, we will give you a notice to that effect within sixty (60) days after you deliver to us your notice of intent to apply for a successor term.</p> |
| d. Termination by you | Not Applicable | ----- |
| e. Termination by us without cause | Not Applicable | ----- |
| f. Termination by us with cause | Sections 3.1 (New and Transfer) and 14.1 | We can terminate only if you are in default under the Franchise Agreement or any other Franchise Agreements or other agreements between You and us. |
| g. "Cause" defined— defaults that can be cured | Sections 14.1 and 14.2 | <p>You have an immediate cure period of less than 24 hours to cure defaults of your violation of our social media policy regarding posting content containing inappropriate public displays of affection, confidential information, violations of health or safety standards, foul or obscene language, or images that have not been consented to. You have 24 hours to cure defaults of your violation of (i) any law, regulation, or order; (ii) our standards relating to health, sanitation, or safety; (iii) our policy regarding posting defamatory or offensive comments on social media sites; or (iv) you cease to operate your store for a period of 48 hours without our consent. You have 48 hours to cure defaults of your violation of our social media policy where you have a social media site in connection with your franchised business without approval or hold out your social media site to be an official site of <i>Cold Stone Creamery</i>, or if you fail to participate in any limited time product offering, value offering, contest, promotion or charity event. You have 7 days to cure defaults of failure to (i) pay us or</p> |

| Provision | Section in Franchise Agreement | Summary |
|-----------|--------------------------------|--|
| | | <p>any Advertising Fund (inclusive of a Cooperative) monies owing; or (ii) maintain insurance. You have 14 days to cure other defaults, except those which have no cure period. If a statute in the state or municipality in which the restaurant is located requires application of that state or municipal law, and that statute requires a cure period for the applicable default which is longer than the cure period listed in the Franchise Agreement, the statutory cure period will apply.</p> |

| Provision | Section in Franchise Agreement | Summary |
|---|------------------------------------|---|
| h. "Cause" defined— defaults that cannot be cured | Sections 12.1, 14.1 and 14.2 | Non-curable defaults: failure to open your restaurant within the time period listed in your Franchise Agreement; non-compliance with applicable laws and regulations, failure to adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct, involvement in any business practice which may be injurious to the System or goodwill associated with the Proprietary Marks; defaulting on your lease or sublease and failure to cure such default, lease or sublease is terminated due to your default, or location is lost for failure to comply with lease or sublease; you, or any owner, co-owner or principal of the franchise, is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that is reasonably likely to adversely affect the System, the goodwill associated therewith, or our interest therein; closing or relocating your restaurant, without our express advance written consent; transferring or attempting to transfer your Franchise Agreement or restaurant to a third party without our express advance written consent; bankruptcy, insolvency and similar events; conviction of felony; making any false representations or warranties; repeated defaults even if previously cured; abandonment; trademark misuse; unauthorized use of any of the components of the System; materially impair the goodwill or reputation of the System; breach of confidentiality or non-competition covenants; fraud with respect to obligations under the Franchise Agreement; you or any of your owners, officers, directors, managers, members, or partners violate any anti-bribery, corruption, or similar law or appear on a "blocked" persons list, or receive funding from any embargoed country; falsify financial data; failure to promptly provide upon request financial data and records specified in the Franchise Agreement; and intentionally underreporting weekly Gross Sales. |
| i. Your obligations on termination/non-renewal | Sections 14.5, 14.6, 14.7 and 14.9 | Obligations include cessation of your operation of the franchised business in all matters, complete de-identification, payment of amounts due us (also see "r" below) including early termination damages if any, transfer of telephone numbers, maintenance of records, and compliance with any confidentiality requirements and covenants not to compete. |
| j. Assignment of contract by us | Section 12.5 | No restriction on our right to assign. |
| k. "Transfer" by you— | Section 12.1 | Any voluntary, involuntary (including by operation of |

| Provision | Section in Franchise Agreement | Summary |
|---|--------------------------------|--|
| definition | | law), direct or indirect assignment, sale, gift or other transfer by you. |
| l. Our approval of transfer by franchise owner | Section 12.1 | We have the right to approve all transfers, but we will not unreasonably withhold approval. |
| m. Conditions for our approval of transfer | Section 12.3 | New franchise owner qualifies, no existing defaults, transfer franchise fee paid, all obligations under the Franchise Agreement are fully paid and satisfied, any local store marketing funds used that were not yet contributed by current franchisee to be reimbursed to us, new franchisee completes training, remodels or refurbishes if necessary, and keeps existing store telephone number, release signed by you, new agreements signed. |
| n. Our right of first refusal to acquire your business | Section 12.2 | We can match any offer. |
| o. Our option to purchase your business | Section 12.2 | We can match any offer. |
| p. Your death or disability | Section 12.4 | If representative of franchisee wants the restaurant to continue operating, it must be transferred within 90 days to an approved buyer. Upon non-compliance, all of franchisee's rights under the Franchise Agreement will be automatically terminated. |
| q. Non-competition covenants during the term of the franchise | Section 14.6 | No involvement in any competing business. |
| r. Non-competition covenants after the Franchise Agreement is terminated or expires | Section 14.6 | No competing business for 2 years, within 10 miles of another <i>Cold Stone Creamery</i> restaurant. |
| s. Modification of the Agreement | Sections 4.5 and 16.13 | Confidential Manual subject to change at any time; otherwise no modifications unless in writing and signed by both parties. |
| t. Integration/merger clause | Section 16.14 | Only the terms of the Franchise Agreement are binding (subject to state law). Any representations or promises outside the Disclosure Document and Franchise Agreement may not be enforceable. |

| Provision | Section in Franchise Agreement | Summary |
|---|---------------------------------------|--|
| u. Dispute resolution by arbitration or mediation | Section 16.3 | Any dispute that cannot be resolved by, or is not subject to, mediation shall be settled by arbitration administered by the American Arbitration Association in Maricopa County, Arizona. This does not apply to a dispute where we bring an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action at law for damage to Kahala Franchising's goodwill, the proprietary information, the trademarks or other property or for fraudulent conduct by franchisee, or if a delay in the mediation process may adversely affect the public. Either party may appeal the arbitrator's final award, if it is over \$100,000, to the appropriate U.S. District Court. |
| v. Choice of forum | Section 16.4 | Litigation must be in Maricopa County, Arizona. |
| w. Choice of law | Section 16.4 | Except to the extent governed by the United States trademark laws or the franchise laws of any state, Arizona law applies. |

Sublease

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

| Provision | Section in Sublease | Summary |
|--|----------------------------|--|
| 1. Term of the Sublease | 2.1 | Ends one day before expiration of Master Lease, including any renewals of Master Lease. |
| 2. Renewal or extension of the term | 2.2 and 2.3 | If the Master Lease contains a renewal option, you must notify us to exercise it. |
| 3. Requirements for you to renew or extend | 2.2 and 2.3 | You must be in good standing and you must notify us of your intent to renew at least 60 (but not more than 90) days before we are required to notify the Master Landlord of intent to renew. |
| 4. Termination by you | Not Applicable | You have no right to terminate the Sublease. |
| 5. Termination by us without cause | Not Applicable | There is no right to terminate the Sublease without cause. |
| 6. Termination by us with cause | 15 | Our Leasing Affiliate may terminate the Sublease for cause. Our Leasing Affiliate can terminate only if you default under the Master Lease, Sublease or the Franchise Agreement. |
| 7. "Cause" defined – curable defaults | 15.1 | Our Leasing Affiliate can terminate if you default in the: (i) payment of any sums you owe; (ii) performance of any of the terms, covenants, or conditions of the Master Lease or Sublease; or (iii) default under the Franchise Agreement or any other agreement between you or your affiliates and us or our affiliates. |

| Provision | Section in Sublease | Summary |
|--|----------------------------|--|
| 8. "Cause" defined – defaults that cannot be cured | 15.1 | Bankruptcy of, or general assignment for the benefit of creditors by, franchisee; defaults under the Master Lease that are not curable |
| 9. Your obligations on termination/nonrenewal | 15 | Our Leasing Affiliate may enter and take possession of the premises and all of the furniture, fixtures, equipment, signage, inventory and other items covered by our lien under Section 4.2 of the Sublease; you are not relieved of further obligations under the Sublease. |
| 10. Assignment of agreement by us | 22 | Our Leasing Affiliate has the right to assign under the Master Lease. |
| 11. "Transfer" by you – defined | 9 and 22 | Approval of Leasing Affiliate is required. |
| 12. Our approval of transfer by you | 9 | Approval of Leasing Affiliate, at its sole discretion, and approval of landlord may be required. |
| 13. Conditions for our approval of transfer | 9 | Our Leasing Affiliate must consent. |
| 14. Our right of first refusal to acquire your business | Not Applicable | None. Our Leasing Affiliate already holds the Master Lease. |
| 15. Our option to purchase your business | Not Applicable | None. Our Leasing Affiliate already holds the Master Lease. |
| 16. Your death or disability | Not Applicable | None |
| 17. Non-competition covenants during the term of the franchise | Not Applicable | None |
| 18. Non-competition covenants after the franchise is terminated or expires | Not Applicable | None |
| 19. Modification of the agreement | Not Applicable | None |
| 20. Integration/merger clause | 24 | The Sublease, including any exhibits, contains the entire agreement of the parties. |
| 21. Dispute resolution by arbitration or mediation | Not Applicable | None |
| 22. Choice of forum | Not Applicable | None |
| 23. Choice of law | 20 | Arizona law applies |

ITEM 18: PUBLIC FIGURES

We currently do not use any public figure to promote our *Cold Stone Creamery* franchise System.

ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS

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

The average gross sales amounts contained in the table below pertain to the historic performance of all Cold Stone Creamery franchised stores located in the United States that were existing outlets that did not open for the first time during the past fiscal year. The time period measured was December 1, 2021, through November 30, 2022

| | Average Gross Sales | Median Gross Sales | Number of Stores Measured | Number of stores that met or exceeded the Average Gross Sales | Percentage of stores that met or exceeded the Average Gross Sales | Number of stores that met or exceeded the Median Gross Sales | Percentage of stores that met or exceeded the Median Gross Sales |
|----------------------------------|---------------------|--------------------|---------------------------|---|---|--|--|
| All franchised outlets | \$607,932 | \$584,934 | 875 | 388 | 44% | 438 | 50% |
| Top 20% of franchised outlets | \$954,586 | \$902,205 | 175 | 61 | 34% | 88 | 50% |
| Bottom 20% of franchised outlets | \$338,789 | \$356,764 | 175 | 106 | 61% | 88 | 50% |

Notes:

- As of November 30, 2022, there were 908 franchised stores open in the United States. Of these 908 outlets, 875 of these outlets were franchised, existing locations that did not open for the first time during the past fiscal year, were located in the United States excluding locations in Guam and were not temporarily closed as of fiscal year end.
- The information is based upon gross sales, which means the total revenue derived from the sales of goods and services less sales tax, discounts, allowances and returns, of franchised, stores

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

4. The above table and information were prepared from (i) weekly sales reports provided to us by franchisees. We have not audited the information provided by the franchisees.

5. We will provide to you the spreadsheets as written substantiation for the representations made in this Item 19 upon reasonable request.

Other than the preceding financial performance representation, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting John Wuycheck, Kahala Franchising, L.L.C., 9311 E. Via De Ventura, Scottsdale, Arizona 85258, (480) 362-4800, the Federal Trade Commission, and the appropriate state regulatory agencies.

ITEM 20: OUTLETS AND FRANCHISEE INFORMATION

Table No. 1

Systemwide Outlet Summary For years 2020 to 2022 (United States)

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------|----------|----------------------------------|--------------------------------|------------|
| | | | | |
| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
| Franchised | 2020 | 895 | 879 | -16 |
| | 2021 | 879 | 889 | 10 |
| | 2022 | 889 | 908 | 19 |
| Company-Owned | 2020 | 3 | 3 | 0 |
| | 2021 | 3 | 5 | 2 |
| | 2022 | 5 | 4 | -1 |
| Total Outlets | 2020 | 898 | 882 | -16 |
| | 2021 | 882 | 894 | 12 |
| | 2022 | 894 | 912 | 18 |

Table No. 2

**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)
For years 2020 to 2022**

| Column 1 | Column 2 | Column 3 |
|----------|----------|---------------------|
| State | Year | Number of Transfers |
| AR | 2020 | 0 |
| | 2021 | 2 |
| | 2022 | 0 |
| AZ | 2020 | 1 |
| | 2021 | 6 |
| | 2022 | 4 |
| CA | 2020 | 12 |
| | 2021 | 17 |
| | 2022 | 11 |
| CO | 2020 | 5 |
| | 2021 | 5 |
| | 2022 | 2 |
| CT | 2020 | 0 |
| | 2021 | 2 |
| | 2022 | 0 |
| DC | 2020 | 0 |
| | 2021 | 2 |
| | 2022 | 0 |
| DE | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 0 |
| FL | 2020 | 12 |
| | 2021 | 4 |
| | 2022 | 5 |
| GA | 2020 | 2 |
| | 2021 | 3 |
| | 2022 | 1 |
| HI | 2020 | 0 |
| | 2021 | 0 |

| | | |
|----|------|---|
| | 2022 | 1 |
| IA | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 0 |
| ID | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 2 |
| IL | 2020 | 1 |
| | 2021 | 3 |
| | 2022 | 1 |
| IN | 2020 | 4 |
| | 2021 | 3 |
| | 2022 | 4 |
| KY | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 2 |
| LA | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 0 |
| MA | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 1 |
| MD | 2020 | 2 |
| | 2021 | 4 |
| | 2022 | 3 |
| MI | 2020 | 1 |
| | 2021 | 1 |
| | 2022 | 0 |
| MN | 2020 | 3 |
| | 2021 | 2 |
| | 2022 | 1 |
| MO | 2020 | 4 |
| | 2021 | 1 |
| | 2022 | 0 |
| MT | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 2 |
| NC | 2020 | 6 |
| | 2021 | 2 |
| | 2022 | 3 |
| NJ | 2020 | 3 |
| | 2021 | 1 |
| | 2022 | 4 |

| | | |
|----|------|----|
| NM | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 11 |
| NV | 2020 | 1 |
| | 2021 | 1 |
| | 2022 | 0 |
| NY | 2020 | 2 |
| | 2021 | 1 |
| | 2022 | 3 |
| OH | 2020 | 4 |
| | 2021 | 3 |
| | 2022 | 4 |
| OR | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 0 |
| PA | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 2 |
| SC | 2020 | 1 |
| | 2021 | 1 |
| | 2022 | 0 |
| TN | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 0 |
| TX | 2020 | 3 |
| | 2021 | 1 |
| | 2022 | 6 |
| UT | 2020 | 0 |
| | 2021 | 3 |
| | 2022 | 1 |
| VA | 2020 | 2 |
| | 2021 | 2 |
| | 2022 | 2 |
| WA | 2020 | 5 |
| | 2021 | 6 |
| | 2022 | 3 |
| WV | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 1 |
| WI | 2020 | 1 |
| | 2021 | 2 |
| | 2022 | 2 |
| WY | 2020 | 0 |

| | | |
|-------|------|----|
| | 2021 | 0 |
| | 2022 | 1 |
| Total | 2020 | 78 |
| | 2021 | 82 |
| | 2022 | 83 |

Table No. 3

**Status of Franchised Outlets
For years 2020 to 2022**

| Col. 1 | Col.2 | Col.3 | Col.4 | Col. 5 | Col. 6 | Col. 7 | Col. 8 | Col. 9 |
|--------|-------|--------------------------|----------------|--------------|--------------|--------------------------|-----------------------------------|----------------------------|
| State | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-renewals | Reacquired by Franchisor | Ceased Operations – Other Reasons | Outlets at End of the Year |
| AL | 2020 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2021 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2022 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| AK | 2020 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| | 2021 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| | 2022 | 5 | 1 | 0 | 0 | 0 | 0 | 6 |
| AZ | 2020 | 39 | 0 | 0 | 0 | 0 | 0 | 39 |
| | 2021 | 39 | 0 | 0 | 0 | 0 | 0 | 39 |
| | 2022 | 39 | 2 | 0 | 0 | 0 | 0 | 41 |
| AR | 2020 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| CA | 2020 | 185 | 2 | 0 | 1 | 0 | 1 | 185 |
| | 2021 | 185 | 2 | 0 | 0 | 0 | 2 | 185 |
| | 2022 | 185 | 7 | 0 | 0 | 0 | 1 | 191 |
| CO | 2020 | 36 | 0 | 0 | 0 | 0 | 1 | 35 |
| | 2021 | 35 | 0 | 0 | 1 | 0 | 0 | 34 |
| | 2022 | 34 | 1 | 0 | 0 | 0 | 0 | 35 |
| CT | 2020 | 7 | 0 | 0 | 0 | 0 | 0 | 7 |
| | 2021 | 7 | 0 | 0 | 0 | 0 | 0 | 7 |
| | 2022 | 7 | 0 | 0 | 0 | 0 | 0 | 7 |
| DE | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| DC | 2020 | 1 | 1 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |

| | | | | | | | | |
|----|------|----|---|---|---|---|---|----|
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| FL | 2020 | 73 | 3 | 0 | 1 | 0 | 2 | 73 |
| | 2021 | 73 | 7 | 0 | 0 | 0 | 1 | 79 |
| | 2022 | 79 | 2 | 0 | 1 | 0 | 0 | 80 |
| GA | 2020 | 20 | 2 | 0 | 0 | 0 | 1 | 21 |
| | 2021 | 21 | 1 | 0 | 0 | 0 | 0 | 22 |
| | 2022 | 22 | 0 | 0 | 1 | 0 | 0 | 21 |
| GU | 2020 | 3 | 0 | 0 | 0 | 0 | 1 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| HI | 2020 | 2 | 0 | 0 | 1 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| ID | 2020 | 9 | 0 | 0 | 0 | 0 | 0 | 9 |
| | 2021 | 9 | 0 | 0 | 0 | 0 | 0 | 9 |
| | 2022 | 9 | 0 | 0 | 0 | 0 | 0 | 9 |
| IL | 2020 | 27 | 0 | 0 | 1 | 0 | 0 | 26 |
| | 2021 | 26 | 1 | 0 | 0 | 0 | 0 | 27 |
| | 2022 | 27 | 0 | 0 | 0 | 0 | 0 | 27 |
| IN | 2020 | 18 | 0 | 0 | 0 | 0 | 1 | 17 |
| | 2021 | 17 | 0 | 0 | 1 | 0 | 0 | 16 |
| | 2022 | 16 | 0 | 0 | 0 | 0 | 0 | 16 |
| IA | 2020 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2021 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2022 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| KS | 2020 | 9 | 0 | 0 | 0 | 0 | 0 | 9 |
| | 2021 | 9 | 0 | 0 | 0 | 0 | 0 | 9 |
| | 2022 | 9 | 1 | 0 | 0 | 0 | 0 | 10 |
| KY | 2020 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2021 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2022 | 10 | 0 | 0 | 0 | 0 | 1 | 9 |
| LA | 2020 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2021 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2022 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| MD | 2020 | 30 | 0 | 0 | 0 | 0 | 1 | 29 |
| | 2021 | 29 | 1 | 0 | 0 | 0 | 0 | 30 |
| | 2022 | 30 | 0 | 0 | 1 | 0 | 0 | 29 |
| MA | 2020 | 11 | 0 | 0 | 0 | 0 | 1 | 10 |
| | 2021 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2022 | 10 | 0 | 0 | 0 | 0 | 0 | 11 |
| MI | 2020 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| | 2021 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| | 2022 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |

| | | | | | | | | |
|----|------|----|---|---|---|---|---|----|
| MN | 2020 | 24 | 0 | 0 | 1 | 0 | 1 | 22 |
| | 2021 | 22 | 0 | 0 | 0 | 2 | 0 | 20 |
| | 2022 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| MO | 2020 | 13 | 0 | 0 | 1 | 0 | 0 | 12 |
| | 2021 | 12 | 1 | 0 | 0 | 0 | 0 | 13 |
| | 2022 | 13 | 1 | 0 | 0 | 0 | 0 | 14 |
| MT | 2020 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| | 2021 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| | 2022 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| NC | 2020 | 33 | 0 | 0 | 1 | 0 | 0 | 32 |
| | 2021 | 32 | 1 | 0 | 0 | 0 | 0 | 33 |
| | 2022 | 33 | 0 | 0 | 0 | 0 | 0 | 33 |
| ND | 2020 | 5 | 1 | 0 | 1 | 0 | 0 | 5 |
| | 2021 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| | 2022 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| NE | 2020 | 8 | 0 | 0 | 0 | 0 | 0 | 8 |
| | 2021 | 8 | 0 | 0 | 0 | 0 | 0 | 8 |
| | 2022 | 8 | 0 | 0 | 0 | 1 | 0 | 7 |
| NH | 2020 | 3 | 0 | 0 | 0 | 1 | 2 | 0 |
| | 2021 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2022 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| NJ | 2020 | 24 | 0 | 0 | 1 | 0 | 0 | 23 |
| | 2021 | 23 | 1 | 0 | 0 | 0 | 0 | 24 |
| | 2022 | 24 | 0 | 0 | 1 | 0 | 0 | 23 |
| NM | 2020 | 8 | 0 | 0 | 0 | 0 | 0 | 8 |
| | 2021 | 8 | 0 | 0 | 0 | 0 | 0 | 8 |
| | 2022 | 8 | 0 | 0 | 0 | 0 | 0 | 8 |
| NV | 2020 | 11 | 0 | 0 | 0 | 0 | 0 | 11 |
| | 2021 | 11 | 0 | 0 | 0 | 0 | 0 | 11 |
| | 2022 | 11 | 0 | 0 | 0 | 0 | 0 | 11 |
| NY | 2020 | 27 | 0 | 0 | 1 | 0 | 0 | 26 |
| | 2021 | 26 | 1 | 0 | 1 | 0 | 0 | 26 |
| | 2022 | 26 | 2 | 0 | 0 | 0 | 0 | 28 |
| OH | 2020 | 22 | 0 | 0 | 0 | 0 | 0 | 22 |
| | 2021 | 22 | 0 | 0 | 0 | 0 | 0 | 22 |
| | 2022 | 22 | 1 | 0 | 0 | 0 | 1 | 22 |
| OK | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| OR | 2020 | 11 | 0 | 0 | 1 | 0 | 0 | 10 |
| | 2021 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2022 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| PA | 2020 | 19 | 0 | 0 | 1 | 0 | 0 | 18 |

| | | | | | | | | |
|------------|------|-----|----|---|----|---|----|-----|
| | 2021 | 18 | 0 | 0 | 0 | 0 | 0 | 18 |
| | 2022 | 18 | 0 | 0 | 0 | 0 | 1 | 17 |
| PR | 2020 | 15 | 0 | 0 | 0 | 0 | 0 | 15 |
| | 2021 | 15 | 0 | 0 | 0 | 0 | 0 | 15 |
| | 2022 | 15 | 1 | 0 | 0 | 0 | 0 | 16 |
| RI | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| SC | 2020 | 9 | 1 | 0 | 0 | 0 | 0 | 10 |
| | 2021 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2022 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| SD | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| TN | 2020 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 1 | 0 | 0 | 0 | 0 | 5 |
| TX | 2020 | 23 | 1 | 0 | 0 | 0 | 1 | 23 |
| | 2021 | 23 | 2 | 0 | 0 | 0 | 0 | 25 |
| | 2022 | 25 | 5 | 0 | 0 | 0 | 0 | 30 |
| UT | 2020 | 23 | 0 | 0 | 0 | 0 | 0 | 23 |
| | 2021 | 23 | 0 | 0 | 0 | 0 | 0 | 23 |
| | 2022 | 23 | 0 | 0 | 1 | 0 | 0 | 22 |
| VA | 2020 | 34 | 1 | 0 | 0 | 0 | 0 | 35 |
| | 2021 | 35 | 0 | 0 | 0 | 0 | 0 | 35 |
| | 2022 | 35 | 2 | 0 | 0 | 0 | 0 | 37 |
| WA | 2020 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| | 2021 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| | 2022 | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| WI | 2020 | 16 | 0 | 0 | 2 | 0 | 0 | 14 |
| | 2021 | 14 | 0 | 0 | 0 | 0 | 0 | 14 |
| | 2022 | 14 | 0 | 0 | 0 | 0 | 0 | 14 |
| WV | 2020 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2021 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2022 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| WY | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| Total - US | 2020 | 895 | 12 | 0 | 14 | 1 | 11 | 879 |
| | 2021 | 879 | 18 | 0 | 3 | 2 | 3 | 889 |
| | 2022 | 889 | 27 | 0 | 5 | 1 | 4 | 908 |

Table No. 4

**Status of Company Owned Outlets
For years 2020 to 2022**

| Col. 1 | Col.2 | Col.3 | Col.4 | Col. 5 | Col. 6 | Col. 7 | Col. 8 |
|--------|-------|--------------------------|----------------|------------------------------------|----------------|----------------------------|----------------------------|
| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
| AZ | 2020 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 1 |
| MA | 2020 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 1 | 0 |
| MN | 2020 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2021 | 0 | 0 | 2 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 2 |
| NE | 2020 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2021 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2022 | 0 | 0 | 1 | 0 | 0 | 1 |
| NH | 2020 | 0 | 0 | 1 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 1 | 0 |
| OR | 2020 | 1 | 0 | 0 | 0 | 1 | 0 |
| | 2021 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |
| Totals | 2020 | 3 | 0 | 1 | 0 | 1 | 3 |
| | 2021 | 3 | 0 | 2 | 0 | 0 | 5 |
| | 2022 | 5 | 0 | 1 | 0 | 2 | 4 |

Table No. 5

Projected Openings as of November 30, 2022

| Column 1 | Column 2 | Column 3 | Column 4 |
|----------|----------|----------|----------|
| | | | |

| State | Franchise Agreements Signed but Outlet Not Opened | Projected New Franchised Outlets in the Next Fiscal Year | Projected New Company-Owned Outlets in the Next Fiscal Year |
|-------|---|--|---|
| AK | 1 | 1 | 0 |
| AL | 1 | 0 | 0 |
| AZ | 5 | 2 | 0 |
| CA | 17 | 11 | 0 |
| CO | 1 | 1 | 0 |
| DC | 2 | 0 | 0 |
| FL | 21 | 5 | 0 |
| GA | 6 | 1 | 0 |
| ID | 1 | 0 | 0 |
| IL | 1 | 1 | 0 |
| KS | 1 | 1 | 0 |
| KY | 1 | 1 | 0 |
| LA | 1 | 0 | 0 |
| MD | 7 | 1 | 0 |
| MI | 1 | 0 | 0 |
| MO | 1 | 1 | 0 |
| MT | 1 | 0 | 0 |
| NC | 2 | 2 | 0 |
| NJ | 5 | 1 | 0 |
| NM | 1 | 1 | 0 |
| NV | 1 | 0 | 0 |
| NY | 12 | 2 | 0 |
| OH | 2 | 1 | 0 |
| PA | 1 | 0 | 0 |
| PR | 1 | 1 | 0 |
| SC | 1 | 0 | 0 |
| TN | 3 | 1 | 0 |
| TX | 16 | 6 | 0 |
| UT | 1 | 0 | 0 |
| VA | 9 | 4 | 0 |
| Total | 124 | 45 | 0 |

A list of the names of all franchisees and the address and telephone number of each of their outlets is attached to this Disclosure Document as Exhibit U.

We had 6 franchise owners who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreements during the year ending November 30, 2022 totaling outlets that were terminated, reacquired or closed.

Franchisees who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreements during the year ending

November 30, 2022.

| Former Franchisee Company | Former Franchisee Names | City | State | Phone |
|---------------------------------------|---|------------------------|-------|--|
| Obispo, Enrique and Rosa | Enrique Obispo,Rosa Obispo | Chula Vista | CA | 619-397-0378 |
| Purple Mango Inc. | Nirav Shah,Vaishali Shah | Parker | CO | 720-285-3004 |
| Humphrey & Reanesey Enterprises, Inc. | Franklin Hok,Mom Kok,Reangsey Kok | Bellflower,Lapalma | CA | 562-277-4801,562-606-8018,562-786-1321 |
| Chicago Scoops, LLC | Antonio Gracias,Jonathan Shulkin,Kyle Welch,Tim Watkins | Chicago | IL | 312-493-5359 (home),312-683-1900 |
| Hari Krishna Creamery LLC | Chandrakant Patel,Mitul Chothani,Nikunj Kumar Rabadiya | Fort Myers, Greensburg | FL,PA | 239-850-2835,239-938-5943,757-525-0373 |
| All About Ice Cream, LLC | Sheik Sabir Hussain | West Lafayette | IN | 765-361-5870 |

We also had 78 franchise owners who had an outlet transfer during the year ending November 30, 2022. The name, city and state and current business telephone number, or if unknown, the last known home telephone number, of these franchisees is as follows:

Franchisees who had an outlet transfer during the year ending
November 30, 2022

| Prior Company Name | Prior Franchisee Names | City | State | Prior Franchisee Phone |
|-------------------------------------|---------------------------------------|-----------------------|-------|----------------------------|
| University Creamery, LLC | Lisa Gies | Tucson | AZ | 520-751-1301 |
| Niagara Investments Company, L.L.C. | Jeraldine Fitzgerald, Mike Fitzgerald | Centennial | CO | (303) 771-8561 |
| Lucky In Sweets, Inc. | Douglas Robbins, Heather Robbins | Lompoc, Santa Barbara | CA | 805.963.5450, 805-895-7183 |
| Gies, Lisa | Lisa Gies | Tucson | AZ | 520-751-1301 |
| Shiv Service LLC | Dilen Ganatra | Chula Vista | CA | 619-675-6081 |
| KESKIN | Ozgul Keskin, Selcuk | Ladera | CA | 9494397834, 949-768-3715 |

| | | | | |
|----------------------------------|--|-----------------------|-------|---|
| BROTHERS, INC. | "Chuck" Keskin | Ranch,Mission Viejo | | |
| Rishtaa Inc. | Neha Patel,Niraj Patel | El Dorado Hills | CA | 916.358.5808,916-358-5808 |
| Sweet Dreams, LLC | Chris Anatra,Christine (Krysia) Anatra | Guilford | CT | ,475-221-8215 |
| AAI Shree Delight LLC | Harshaben Sarvaiya,Tejaskumar Sarvaiya | Johns Creek | GA | 770-476-0367,770-476-0376 |
| GDL Enterprises, INC | Guy Della Lucia | Farmington, | UT | 801-451-0480 |
| Li, Hsiang-Ling & Hsueh-Hui Wang | Hsiang-ling Li,Hsueh-Hui Wang | Irvine,Tustin | CA | 714-435-4968,949-551-6742 |
| Shree Balaji Foods Inc | Mukesh Kumar,Rishabh Singh | Santa Clara | CA | ,408-234-1502 |
| Maple Iced Delight LLC | Kinnaryben Patel,Meghna Patel,Pinklekumar Patel,Rakesh Patel | Eden Prairie,Plymouth | MN | 763-203-5608,763-772-5482,952-486-9038,952-486-9943 |
| EKO Enterprises LLC | Gagandeep Oberoi,Tejinder Arora | Mukilteo | WA | 425-244-0917,425-345-4460 |
| Kim, David and Sun | David Kim,Sun Kim | Corona | CA | ,909-856-5033 |
| Dayton Frozen Delights, LLC | Anil Patel,Ken Sharp | Ft Mitchell,Mason | KY,OH | 513.258.2670,859-393-8567 |
| Saimira LLC | Minu Nagarajan | San Jose | CA | 310-957-4361 |
| Vyas and Sons LLC | Nishant Vyas | Mountain View | CA | 415-370-2645 |
| Business House of Moeens Inc. | Ayesha Moeen,Moeen UI Haq | Porter Ranch | CA | 818-238-9931,818-887-0524 |
| JJM Enterprises LLC | James Morrison,MaryJane Morrison | Parker | CO | 303.668.9416 |
| Stauros Enterprises, Inc. | Karen Shelton,Timothy Shelton | Yelm | WA | ,253-820-6332 (Tim) |
| Gill, Harjinder | Harjinder Gill | Dubuque | IA | 703-380-5630 |
| Half Moon Ventures, LLC | Dianna Lee Johnson,Roger Eric Johnson,Roger Victor Johnson | Bellevue,Colbert | WA | (509) 464-4988,206-407-3574,509-998-1907 |
| JKCI VALRICO CORPORATION | Joshua Cook,Kelly Cook | Valrico | FL | 813-295-5734,813-486-4601 |
| Calabash, LLC | Eric Hemmen,Jeffrey Hemmen | Renton | WA | 425.306.9344,425.351.4606 |
| Twin Grins II, LLC | Paul Weber | Highlands Ranch | CO | 303-683-7174 |

| | | | | |
|--|--|-------------------------------|--------|--|
| Sweet Dreams, LLC | Chris Anatra, Christine (Kryisia) Anatra | Guilford | CT | ,475-221-8215 |
| Sindiana Food, LLC | Abdallah Al Saadan, Jamal Naboulsi | La Jolla | CA | 858-352-6255 |
| Sindiana Food, LLC | Jamal Naboulsi | La Jolla | CA | 858-352-6255 |
| Sobe, Inc. | Ozgul Keskin, Selcuk "Chuck" Keskin | Ladera Ranch, Mission Viejo | CA | 9494397834, 949-768-3715 |
| TAP Restaurant Group LLC | Amy White, Thomas Friedel | Toledo | OH | 419-346-5524, 419-346-9063 |
| Megha LLC | Jay Megha, Purvi Megha | Henderson | NV | 702-332-1905, 702-514-0866 |
| MCREEK VENTURES LLC | Dianna Lee Johnson, Roger Eric Johnson, Roger Victor Johnson | Bellevue, Colbert | WA | (509) 464-4988, 206-407-3574, 509-998-1907 |
| Sadda Pallavi and Prabhu Pitchai | Prabhu Pitchai, Sadda Pallavi | Aldie | VA | 703-348-7180, 703-470-4253 |
| Peterson, Keith and Julie | Julie Peterson, Keith Peterson | , Sparta | , NJ | , 973-729-3371 |
| Dandy Land Corporation | Ederlina Balboa Banez, Susan Baik | Venice Beach | CA | 3104806735, 3109898820 |
| SSJ Enterprises, Corp. | James Morrison, Steve Selenke | Aurora, Parker | CO | 303.668.9416, 303-317-7461 |
| South Carolina Armenian Properties LLC | Karen Petrosyan | Burbank | CA | 424-333-2032 |
| Sahn Corporation | Justin Ahn | Olney | MD | 240-672-2725 |
| Shreenath Jabu LLC | Pooja Mehta, Romil Mehta | Germantown | MD | 240-479-6607, 240-855-2205 |
| I Scream Durango, Inc. | Ali Arnold, Patrick Arnold | Westminster | CO | (303) 469-9276 (Ali) |
| Honeydew Creamery, Inc. | Darren Houe, Patricia Houe | Sunnyvale | CA | 408-738-2815 |
| Lakeland Creamery, Incorporated | Catherine Byrne, John McKey, Mary McKey, Robert Chip Byrne | , Lakeland, Odesa | , FL | , 813/926-2023, 813-926-2023, 813-979-1601 |
| S & J Sweets, LLC | Steven Tizzano | Champlin | MN | 763-433-0422 |
| JKCI VALRICO CORPORATION | Joshua Cook, Kelly Cook | Valrico | FL | 813-295-5734, 813-486-4601 |
| A&Y Group LLC | Ahmed Hassan, Mohamed Elmasry | Edison, Rolling Hills Estates | CA, NJ | 347-922-4634, 908-494-6334 |
| SHK United, LLC | Noah Sperling, Omar Kabbani | Fenton | MI | 810.265.6739, 810.577.1122 |

| | | | | |
|---|---|-----------------------|---------------|----------------------------|
| Rockport International Investment Corp. | Mumtaz Jaffer, Saleem Jaffer | Leavenworth, Lynden | WA | 360-922-0836, 509-264-6737 |
| Kodiak Management LLC | Brian White, David White, sheryl lashoff | Albany, Altamont | NY | 518-452-5757, 5185424316 |
| C&C Investments of Tampa, Inc | Catherine Byrne, Robert Chip Byrne | Odessa | FL | 813/926-2023, 813-926-2023 |
| Sweet Dream Dunwoody LLC | Salima Jiwani, Sanih Jiwani, Suleman Jiwani | Tucker | GA | 404-964-7867 |
| Shah Ventures LLC | Numaan Shah, Syed Saif UI Islam Shah | Pomfret, White Plains | MD | 301-934-4678 |
| Dream Cream LLC | Elizabeth Villegas, Jose "Alfredo" Villegas | Lubbock | TX | 806-787-7000, 806-787-7780 |
| Huddlestun Creamery, Inc. | Ruth Huddlestun, William Huddlestun | Oswego | IL | 630-554-9092, 630-802-3431 |
| Business House of Moeens Inc. | Ayesha Moeen, Moeen UI Haq | Porter Ranch | CA | 818-238-9931, 818-887-0524 |
| Purnell, Fason | Fason Purnell | Davidsonville | MD | 410-956-6695 |
| Kodiak Management LLC | Brian White, David White, sheryl lashoff | Albany, Altamont | NY | 518-452-5757, 5185424316 |
| Shining Music, LLC | Ning Pan, Xi Lin, Zhi Lin | Austin, Fishers | IN, TX | 317.596.0637, 601.209.4424 |
| Lisa A. Gies | Lisa Gies | Tucson | AZ | 520-751-1301 |
| Great Lakes Creamery of Valparaiso LLC | Florence Moos, Joseph Moos | Valparaiso | IN | 219-465-7309 |
| Khoiriyah LLC | Putri Khoiriyah | Brentwood | CA | 925-529-7085 |
| SF Group, Inc | Angela Still, Dawn Funderburk, James Funderburk, Mark Still | Branson | MO | 417-334-6602, 417-335-0256 |
| AMBA Groups LLC | Damodhar Shankar, Priya Shankar | De Pere | WI | 920-217-2677, 920-497-5025 |
| Creamery on the Pond, LLC | Erica Reisberger, Trent Reisberger | Graham | NC | 919.452.4102 |
| R D Lucky, LLC | Nengyou Zheng, Qing Ye | COLLUMBUS, Columbus | OH, OH - Ohio | 6143057186, 614-305-7186 |
| SFG ROGERS, LLC | Angela Still, Dawn Funderburk, James Funderburk, Mark Still | Branson | MO | 417-334-6602, 417-335-0256 |
| SFG FAYETTEVILLE, LLC | Angela Still, Dawn Funderburk, James Funderburk, Mark Still | Branson | MO | 417-334-6602, 417-335-0256 |
| Huddlestun Creamery, Inc. | Ruth Huddlestun, William | Oswego | IL | 630-554-9092, 630-802-3431 |

| | | | | |
|--|---|--|-----------|---|
| | Huddlestun | | | |
| Creme Fraiche of NC, LLC | Muhammad Masood Yousef | Cary | NC | 919-949-1574 |
| Lake Effect Ice Cream Company, Inc. | Dan Carriero | Lakeview | NY | 716-627-4653 |
| Triple Scoop II LLC | Brian Davis, Jean Marie Davis, Sue Ann Davis | MESA | AZ | ,480-354-4577 |
| Dreamy Creamy, LLC | Caylie Sadin, Victoria Sadin | New Orleans | LA | 504-231-9183, 504-231-9620 |
| MP Ice Cream Enterprises, Inc. | Sharon Gottlieb | Santa Ana | CA | 949-382-0368 |
| Great Lakes Creamery of Crown Point, LLC | Florence Moos, Joseph Moos | Valparaiso | IN | 219-465-7309 |
| Miles of Smiles Inc. | Joni Hackwell, Richard Hackwell | Price | UT | 435-637-8332, 435-637-8900 |
| Gies, Lisa | Lisa Gies | Tucson | AZ | 520-751-1301 |
| Dreamery Creamery Group LLC | Salima Jiwani, Sanih Jiwani, Suleman Jiwani | Tucker | GA | 404-964-7867 |
| Frassenesse, LLC | Blake Della Lucia, Guy Della Lucia | Farmington,, Per ry | UT | 801-451-0480, 801-979-2978 |
| SV Dunkirk LLC | Numaan Shah, Syed Saif UI Islam Shah | Pomfret, White Plains | MD | 301-934-4678 |
| CostaGuys LLC | Mani Chalasani, Naga Sai Anil Kumar Veeramachaneni, Sireesh Chigurupati | Aldie, Bolingbrook | IL, VA | 410-868-9946, 630-991-0255, 9035269219 |
| Samad Khan Rajal Patel Parul Patel Sweet Treats Corp | Parul Patel, Rajal Patel, Samad Khan Olatunji Umaru | CHICAGO, Cooville, Plainfield Washington | IL, TN DC | 7739643972, 773-964-3972, 931-265-6435 202-413-7521 |

We have not had any franchisees who have not communicated with us for the 10-week period before the date of this Disclosure Document. We had three franchisees who had its Franchise Agreement terminated or canceled during the year ending November 30, 2022 for a restaurant that never opened. The name, city and state and current business telephone number, or if unknown, the last known home telephone number, of this franchisee is as follows:

| Franchisee Company Name | Franchisee Names | City | State | Phone |
|-------------------------|---------------------------------|----------|-------|--------------|
| | | | | |
| Gurpar Foods Inc | Amit K Tikyani | Secaucus | NJ | 201-240-2303 |
| | Singh, Komal & Singh, Gagandeep | Prosper | TX | 469-888-2794 |

| | | | | |
|--|------------------------------------|---------|----|----------------|
| | Singh, Komal & Singh, Gagandeep | Prosper | TX | (469) 888-1394 |
|--|------------------------------------|---------|----|----------------|

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the *Cold Stone Creamery* franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

If you are purchasing a company-owned outlet from one of our affiliates that was previously owned by a franchisee but is now owned and operated corporately by our affiliate, we will provide you with an addendum to this Disclosure Document disclosing additional information for that outlet for the last five fiscal years. A sample form of the addendum is attached to this Disclosure Document as Exhibit X.

We have a trademark-specific franchisee organization associated with the Cold Stone Creamery franchise system; it is an elected council that provides advice and guidance to us. The name of the council is the National Advisory Board (“NAB”). The NAB was created by Cold Stone Creamery, Inc. and is sponsored by us. The NAB members are elected by the franchisees as a whole to serve on the NAB. The members of the NAB can be reached through us at 9311 E. Via de Ventura, Scottsdale, AZ 85258 (480) 362-4800. The email address for the NAB is ColdStoneNAB@kahalamgmt.com. Neither council has a Web address.

ITEM 21: FINANCIAL STATEMENTS

Attached to this Disclosure Document as Exhibit V are the audited consolidated financial statements of Franchisor’s parent company, MTY Franchising USA, Inc. (“Guarantor”) for the fiscal years ended November 30, 2022, 2021, and 2020.

Guarantor absolutely and unconditionally guarantees to assume the duties and obligations of Franchisor under its franchise registration in each state where the franchise is registered, and under the Franchise Agreement, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns. (See Exhibit W: Performance Guaranty).

ITEM 22: CONTRACTS

Attached to this Disclosure Document are the following franchise-related contracts:

- Exhibit D Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee) with Promissory Note and Security Agreement and Guaranty (if applicable)
- Exhibit E-1 Franchise Agreement (New)
- Exhibit E-2 Franchise Agreement (Renewal)

| | |
|--------------|---|
| Exhibit E-3 | Franchise Agreement (Transfer) |
| Exhibit F-1 | Guaranty of Franchise Agreement |
| Exhibit F-2 | Non-Disclosure and Non-Competition Agreement |
| Exhibit G | Collateral Assignment and Irrevocable Special Power of Attorney |
| Exhibit H | Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand) |
| Exhibit H-1 | Rocky Mountain Chocolate Factory Addendum to Franchise Disclosure Document and Amendment to Franchise Agreement |
| Exhibit I | Amendment to Franchise Agreement (for co-branded non-traditional locations) |
| Exhibit J | In-Store Training Release and Waiver of Liability Agreement |
| Exhibit K | Addendum to the Franchise Agreement for SBA Loans |
| Exhibit L | Required Lease Terms (Lease Addendum to Lease Agreement) |
| Exhibit L -1 | RMCF Required Lease Terms (Lease Addendum to Lease Agreement) |
| Exhibit M | Lease Guaranty Acknowledgment |
| Exhibit N | Lease Review and/or Negotiation Agreement and Release and State Addenda |
| Exhibit O-1 | Sublease and Guaranty of Sublease (Franchisee pays rent directly to Landlord) |
| Exhibit O-2 | Sublease and Guaranty of Sublease (Franchisor or its affiliate collects rent from Franchisee and pays to Landlord) |
| Exhibit P | Pre-Authorized Electronic Funds Transfer Form |
| Exhibit P-1 | Participation Agreement |
| Exhibit Q | General Release for Renewal of Franchise Agreement |
| Exhibit R-1 | Consent to Transfer and Release Agreement (without Sublease) |
| Exhibit R-2 | Consent to Transfer and Release Agreement (with Sublease) |
| Exhibit S | State Addenda to Franchise Documents |
| Exhibit W | Performance Guaranty |
| Exhibit X | Addendum for Sale of Company-Affiliated Owned Stores |
| Exhibit Y | Receipts |

ITEM 23: RECEIPTS

Exhibit Y to this Disclosure Document is a detachable receipt. You are to keep one copy and return the other copy to us.

EXHIBIT A

TO THE FRANCHISE DISCLOSURE DOCUMENT

State Addenda to Franchise Disclosure Document

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF CALIFORNIA**

- A. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.**
- B. Neither the franchisor, franchise broker nor any person in Item 2 of the Disclosure Document are subject to any currently effective order of any National Securities Association or National Securities Exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78A et seq., suspending or expelling such person from membership in such association or exchange.**
- C. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law. (11 U.S.C.A. Sec. 101 et seq.).**
- D. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the agreements. This provision may not be enforceable under California law.**
- E. The Franchise Agreement requires application of the laws of the State of Arizona. This provision may not be enforceable under California Law.**
- F. Section 31125 of the California Corporations Code requires us to give you a disclosure document, in a form containing the information that the commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.**
- G. YOU MUST SIGN A GENERAL RELEASE IF YOU RENEW OR TRANSFER YOUR FRANCHISE. CALIFORNIA CORPORATIONS CODE §31512 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE INVESTMENT LAW (CALIFORNIA CORPORATIONS CODE §§31000 THROUGH 31516).**
- H. BUSINESS AND PROFESSIONS CODE §20010 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE RELATIONS ACT (BUSINESS AND PROFESSIONS CODE §§20000 THROUGH 20043).**
- I. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.**
- J. If the Franchisee resides in the State of California or the franchised business is located within the State of California, the venue for any dispute may be within the State of California. Business and Professions Code Section 20040.5 voids restricting a venue to a forum outside California with respect to any claim arising under or relating to a Franchise Agreement involving a franchise business operating in California.**
- K. OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENTS OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at www.dbo.ca.gov.**

- L. **No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.**

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF HAWAII**

These franchises will be/have been filed under the Franchise Investment Law of the State of Hawaii. Filing does not constitute approval, recommendation or endorsement by the Director of Commerce and Consumer Affairs or a finding by the Director of Commerce and Consumer Affairs that the information provided herein is true, complete and not misleading.

The Franchise Investment Law makes it unlawful to offer or sell any franchise in this state without first providing to the prospective franchisee, or subfranchisor, at least seven days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least seven days prior to the payment of any consideration by the franchisee, or subfranchisor, whichever occurs first, a copy of the Disclosure Document, together with a copy of all proposed agreements relating to the sale of the franchise.

This Disclosure Document contains a summary only of certain material provisions of the Franchise Agreement. The contract or agreement should be referred to for a statement of all rights, conditions, restrictions 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 Disclosure Document to the prospective franchisee at the earlier of (1) fourteen calendar days before the signing of any franchise or related agreement; or (2) fourteen calendar days before any payment. The prospective franchisee must also receive a Franchise Agreement containing all material terms at least seven calendar days prior to the signing of the Franchise Agreement.

If this Disclosure Document 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 to Hawaii Department of Commerce and Consumer Affairs which administers and enforces the Hawaii Franchise Disclosure Act.

Registered agent in the state authorized to receive service of process:

Department of Commerce and Consumer Affairs
Business Registration Division
Commissioner of Securities
Securities Compliance Branch
335 Merchant Street, Room 203
Honolulu, Hawaii 96813

1. The following paragraph is added to Item 17:

Section 482E-6(3) of the Hawaii Revised Statutes provides that upon termination or refusal to renew the Franchise Agreement, Kahala Franchising, L.L.C. is obligated to compensate you for the fair market value, at the time of the termination or expiration of the Franchise

Agreement, of your inventory, supplies, equipment and furnishings purchased from Kahala Franchising, L.L.C. or a supplier designated by Kahala Franchising, L.L.C.; provided that personalized materials which have no value to us need not be compensated for. If Kahala Franchising, L.L.C. refuses to renew a Franchise Agreement for the purpose of converting your business to one owned and operated by Kahala Franchising, L.L.C., in addition to the remedies provided above, shall compensate you for the loss of goodwill. Kahala Franchising, L.L.C. may deduct from such compensation reasonable costs incurred in removing, transporting and disposing of your inventory, supplies, equipment and furnishings pursuant to this requirement, and may offset from such compensation any monies due Kahala Franchising, L.L.C.

2. The following list reflects the status of the franchise registration of the Franchisor in the states which require registration:

A. The states in which this proposed registration is effective: None.

B. The states in which this proposed registration is or will be shortly on file: California, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, Wisconsin.

C. The states, if any, which have refused, by order or otherwise, to register these franchises: None.

D. The states, if any, which have revoked or suspended the right to offer these franchises: None.

E. The states, if any, in which the proposed registration of these franchises has been withdrawn by the Franchisor: None.

3. Section 482E-3(a) of the Hawaii Franchise Investment Law requires the franchisor to give you a copy of the Franchise Disclosure Document at least 7 calendar days prior to signing the franchise agreement. The Receipt is amended to reflect the 7 calendar-day waiting period.

4. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF ILLINOIS**

1. Items 17.f and 17.i are supplemented with the following language:

The conditions under which your Franchise Agreement may be terminated and your rights upon non-renewal may be affected by Illinois Law, 815 ILCS 705/19 and 705/20.
2. Items 17.f, 17.g, 17.t, 17.v, and 17.w are supplemented with the following language:

This summary applies to both the Franchise Agreement and the Area Representative Agreement.
3. The Summary in Item 17.v is deleted and replaced by the following Summary:

Litigation in Illinois.
4. The Summary in Item 17.w is deleted and replaced by the following Summary:

Illinois law applies.
5. Section 41 of the Illinois Franchise Disclosure Act states that “any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void.”
6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.

DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF INDIANA

1. Item 17.c may be modified by Indiana Code § 23-2-2.7.
2. The Summary in Item 17.r. is deleted and replaced with the following Summary:

For one year after the termination of your Franchise Agreement, you may not establish a similar type of business within your exclusive territory.
3. Item 17.t is supplemented with the following language:

However, you do not waive any rights under the Indiana Statutes with regard to prior representations made by Kahala Franchising, L.L.C. in the Disclosure Document.
4. Items 17.v and 17.w are supplemented with the following language:

Except that under Indiana law, you may have the right to bring an action in Indiana, and have Indiana law apply.
5. The Indiana Deceptive Franchise Practices Act, IC 23-2-2.7-1 (10) prohibits the limitation of litigation brought for breach of a Franchise Agreement including any limitation on the forum chosen. Any provision in the Franchise Agreement, specifying a forum contrary to Indiana law, shall not apply to any claims brought under the Indiana Deceptive Franchise Practices Act and/or the Indiana Franchise Act, Ind. Code ANN.§§ 1-51 (1994).
6. The Indiana Deceptive Franchise Practices Act, IC 23-2-2.7-1 (10) prohibits the limitation of litigation brought for breach of a Franchise Agreement. Any provision in the Franchise Agreement requiring the application of another state's law shall not apply to any claims brought under the Indiana Deceptive Franchise Practices Act and/or the Indiana Franchise Act, Ind. Code ANN.§§ 1-51 (1994).
7. Indiana Code § 23-2-2.5-9 (2) requires a franchisor to give you a copy of the Franchise Disclosure Document at the earlier of: (i) 10 days prior to signing the franchise agreement; or (ii) 10 days prior to franchisor's receipt of any consideration. The Receipt is amended to reflect the 10 day waiting period.
8. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF MARYLAND**

1. Item 5 of the Franchise Disclosure Document and all agreements in this offering are amended to disclose the following:

Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement.

2. The following amends Item 11 and replaces the last sentence of paragraph 8.a. under the section titled "During the operation of the Franchised Business:"

A Franchisee may, at any time after 120 days following the end of the calendar year, obtain an accounting of expenditures for the Advertising Fund and any Cooperative Regional Funds for the entire preceding calendar year by submitting a written request to Kahala Franchising, L.L.C.'s Chief Financial Officer at the principal business address listed in Item 1 of the Franchise Disclosure Document.

3. The Summary in Item 17.v is deleted, and the following Summary is inserted in its place:

A Franchisee may file a civil lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

4. Item 17 is amended to disclose the following:

Any general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

5. The following paragraph is added to the end of Item 17:

The Franchise Agreement provides for termination upon Franchisee's bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law (11 U.S.C. Section 101 et seq.).

Item 17 is amended to disclose the following:

This franchise agreement provides that disputes are resolved through arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other

person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT
FOR THE STATE OF MICHIGAN**

Section 445.1508(1) of the Michigan Franchise Investment Law requires franchisor to give you a copy of the Franchise Disclosure Document earlier of: (i) 10 business days prior to signing the Agreement; or (ii) 10 business days prior to franchisor's receipt of any consideration.

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU:

- (A) A prohibition on the right of a franchisee to join an association of franchisees.
- (B) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a Franchise Agreement, from settling any and all claims.
- (C) A provision that permits a franchisor to terminate a Franchise Agreement prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the Franchise Agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (D) A provision that permits a franchisor to refuse to renew a Franchise Agreement without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration, of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchised business are not subject to compensation. This subsection applies only if: (i) the term of the Franchise Agreement is less than five (5) years; and (ii) the franchisee is prohibited by the Franchise Agreement or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the Franchise Agreement or the franchisee does not receive at least six (6) months advance notice of franchisor's intent not to renew the Franchise Agreement.
- (E) A provision that permits the franchisor to refuse to renew a Franchise Agreement on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (F) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (G) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
 - (i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
 - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

- (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
- (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the Franchise Agreement existing at the time of the proposed transfer.

(H) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the Franchise Agreement and has failed to cure the breach in the manner provided in subdivision (c).

(I) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

(J) No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.

Any questions regarding this notice shall be directed to:

STATE OF MICHIGAN
DEPARTMENT OF THE ATTORNEY GENERAL
ATTENTION: FRANCHISE SECTION
P.O. BOX 30213
LANSING, MICHIGAN 48909
(517) 373-7117

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF MINNESOTA**

1. The following legends are added to the Risk Factors on the Cover Page:
THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE MINNESOTA FRANCHISE ACT. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OF MINNESOTA OR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE, AND NOT MISLEADING.

THE MINNESOTA FRANCHISE ACT MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WHICH IS SUBJECT TO REGISTRATION WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE AT LEAST 7 DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION, BY THE FRANCHISEE, WHICHEVER OCCURS FIRST, A COPY OF THIS PUBLIC OFFERING STATEMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE FRANCHISE. THIS PUBLIC OFFERING STATEMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

IF THIS DISCLOSURE DOCUMENT 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 TO THE COMMISSIONER OF SECURITIES, DEPARTMENT OF COMMERCE, SECURITIES DIVISION, 85 7TH PLACE EAST, SUITE 500, ST. PAUL, MINNESOTA 55101, WHICH ADMINISTERS AND ENFORCES THE MINNESOTA FRANCHISE ACT.

2. Pursuant to Minnesota Rules 604.113, in Item 6, the table entry in the second column pertaining to "Amount" for "Non-Sufficient Funds Fee" is hereby deleted and replaced with the following:

\$30 for each electronic funds transfer returned for non-sufficient funds; \$25 for each check or draft returned for non-sufficient funds

3. The following paragraph is added to Item 13:

The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name.

Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes, Section 80C.12, Subd. 1(g).

4. The following statement is added at the end of Item 17.c and 17.m:

Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

5. The following statement is added at the end of 17.v and 17.w.:

Minnesota Statutes, Section 80C.21 and Minnesota Rules 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J.

Also, a court will determine if a bond is required.

6. The following statement is added at the end of Item 17:

With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement and (2) that consent to the transfer of the franchise will not be unreasonably withheld.

7. The Summary in Item 17.v is deleted, and the following Summary is inserted in its place:

The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

8. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF NEW YORK**

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

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT B OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23RD FLOOR, NEW YORK, NEW YORK 10271.

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

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

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

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

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

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

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

5. The following language replaces the “Summary” section of Item 17(d), titled “Termination by franchisee”:

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

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

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

7. The franchisor may, if it chooses, negotiate with you about items covered in the prospectus. However, the franchisor cannot use the negotiating process to prevail upon a prospective franchisee to accept terms which are less favorable than those set forth in this prospectus.

8. The Franchise Agreement and the other documents to be signed by the franchisee provide that we do not grant you any exclusive or protected territory for your restaurant.

9. The Franchise Agreement and the other documents to be signed by you further allow the franchisor to locate franchised or corporate-owned locations of food concepts similar to *Cold Stone Creamery* in the immediate vicinity of your restaurant. There may also be locations of food concepts similar to *Cold Stone Creamery* that are owned by affiliates of the franchisor already open and operating in the immediate vicinity of your restaurant.

10. Section 683.8 of the General Business Law of the State of New York requires franchisor to give you a copy of the Franchise Disclosure Document at the earlier of: (i) the first personal meeting; (ii) 10 business days before the execution of the Franchise Agreement; or (iii) 10 business days before the payment of any consideration that relates to the franchise relationship.

FACTORS TO BE CONSIDERED:

Any disputes, differences or controversies that arise pursuant to the Franchise Agreement or breach thereof which cannot be settled by mediation shall be settled by arbitration. All such proceedings shall be held in Maricopa County, Arizona. This information should be taken into consideration in determining whether or not to purchase this franchise.

The franchisor represents that this prospectus does not knowingly omit any material fact or contain any untrue statement of a material fact.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise

ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF NORTH DAKOTA

ALTHOUGH THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF NORTH DAKOTA, REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE STATE OF NORTH DAKOTA THAT THE INFORMATION PROVIDED IN THIS DISCLOSURE DOCUMENT IS TRUE, COMPLETE, ACCURATE, OR NOT MISLEADING.

NORTH DAKOTA LAW MODIFICATIONS

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota Law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 through 51-19-17 (1993). To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchisee is required in the Franchise Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the North Dakota Franchise Investment Law, and such acknowledgements shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term and upon termination or expiration of the Franchise Agreement are enforceable only under certain conditions according to North Dakota Law. If the Franchise Agreement contains a covenant not to compete which is inconsistent with North Dakota Law, the covenant may be unenforceable.
- c. If the Franchise Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void with respect to claims under the North Dakota Franchise Investment Law.
- d. If the Franchise Agreement requires that it be governed by a state's law, other than the State of North Dakota, to the extent that such law conflicts with the North Dakota Franchise Investment Law, the North Dakota Franchise Investment Law will control.
- e. If the Franchise Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon prior to the arbitration or if the parties cannot agree on a location, the location will be determined by the arbitrator.
- f. If the Franchise Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.

- g. Section 51-19-08 of the North Dakota Franchise Investment Law requires franchisor to give you a copy of the Franchise Disclosure Document at the earlier of: (i) seven days prior to signing the franchise agreement; or (ii) seven days prior to franchisor's receipt of any consideration.

2. THE SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (SECTION 51-19-09, N.D.C.C.):

- A. Restrictive Covenants: Franchise Disclosure Documents which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to the statute.
 - B. Situs of Arbitration Proceedings: Franchise agreements providing that the parties must agree to the arbitration of disputes at a location that is remote from the site of the franchisee's business.
 - C. Restrictions on Forum: Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.
 - D. Liquidated Damages and Termination Penalties: Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.
 - E. Applicable Laws: Franchise agreements which specify that they are to be governed by the laws of a state other than North Dakota.
 - F. Waiver of Trial by Jury: Requiring North Dakota Franchises to consent to the waiver of a trial by jury.
 - G. Waiver of Exemplary & Punitive Damages: Requiring North Dakota Franchisees to consent to a waiver of exemplary and punitive damage.
 - H. General Release: Franchise Agreements that require the franchisee to sign a general release upon renewal of the franchise agreement.
 - I. Limitation of Claims: Franchise Agreements that require the franchisee to consent to a limitation of claims. The statute of limitations under North Dakota law applies.
 - J. Enforcement of Agreement: Franchise Agreements that require the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees.
3. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

4. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF RHODE ISLAND**

RHODE ISLAND LAW MODIFICATIONS

1. The Rhode Island Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R.I. Gen. Law. ch. 395 Sec. 19-28.1-1 – 19-28.1-34. To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchise Agreement restricts jurisdiction or venue to a forum other than the State of Rhode Island, the requirement is void under Rhode Island Franchise Investment Act Sec. 19-28.1-14.
 - b. If the Franchise Agreement requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that such law conflicts with Rhode Island Franchise Investment Act it is void under Sec. 19-28.1-14.
 - c. If the Franchisee is required in the Franchise Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, such release shall exclude claims arising under the Rhode Island Franchise Investment Act, and such acknowledgements shall be void with respect to claims under the Act.
2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.
3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO KAHALA FRANCHISING, L.L.C. DISCLOSURE DOCUMENT
FOR THE STATE OF SOUTH DAKOTA**

1. The Director of the South Dakota Division of Securities requires that certain provisions contained in franchise documents be amended to be consistent with South Dakota law, including the South Dakota Franchise Investment Law, South Dakota Codified Laws, Title 37, Chapter 37-5B, Sections 37-5B-1 through 37-5B-53 (2008). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the South Dakota Franchise Investment Law, and such acknowledgements shall be void with respect to claims under the Law.
- b. Covenants not to compete upon termination or expiration of the Agreement are generally unenforceable in the state of South Dakota, except in certain limited instances as provided by law. If this Agreement contains a covenant not to compete which is inconsistent with South Dakota Law, the covenant may be unenforceable.
- c. Regardless of the terms of the Agreement concerning termination, if Franchisee fails to meet performance and quality standards or fails to make any royalty payments under the Agreement, Franchisee will be afforded thirty (30) days' written notice with an opportunity to cure the default before termination.
- d. If the Agreement requires payment of liquidated damages that are inconsistent with South Dakota law, the liquidated damage clause may be void under SDCL 53-9-5.
- e. If the Agreement requires litigation to be conducted in a forum other than the State of South Dakota, the requirement is void with respect to any cause of action otherwise enforceable under South Dakota Law.
- f. If the Agreement requires that it be governed by a state's law, other than the State of South Dakota, matters regarding franchise registration, employment, covenants not to compete, and other matters of local concern will be governed by the laws of the State of South Dakota; but as to contractual and all other matters, the Agreement and all provisions of this Amendment will be and remain subject to the application, construction, enforcement, interpretation under the governing law set forth in the Agreement.
- g. If the Agreement requires that disputed between Franchisor and Franchisee be mediated/arbitrated at a location that is outside the State of South Dakota, the mediation/arbitration will be conducted at a location

mutually agreed upon by the parties. If the parties cannot agree on location for the mediation/arbitration, the location shall be determined by the mediator/arbitrator selected.

- h. Any condition, stipulation or provision in the Agreement requiring Franchisee to waive compliance of a provision under the South Dakota Franchise Investment Law is void.
2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the South Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.
 3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO KAHALA FRANCHISING, L.L.C. DISCLOSURE DOCUMENT
FOR THE STATE OF VIRGINIA**

1. The following amends Item 17 and is stated at the end of Item 17:

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

2. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF WASHINGTON

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

1. If any provisions governing termination or non-renewal disclosed herein are inconsistent with Washington law, then Washington law shall apply. The applicable law reads as follows:

Section 19.100.180. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

(2) For the purpose of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and violation of this chapter for any person to:

(a) Restrict or inhibit the right of the franchisees to join an association of franchisees.

(b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.

(c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is: (i) Reasonable, (ii) based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time, or is based on other proper and justifiable distinctions considering the purposes of this chapter, and (iii) is not arbitrary. However, nothing in (c) of this subsection precludes negotiation of the terms and conditions of a franchise at the initiative of the franchisees.

(d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.

(e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.

(f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.

(g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter, except as otherwise permitted by RCW [19.100.220](#).

(h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.

(i) Refuse to renew a Franchise Agreement without fairly compensating the franchisee for the fair market value, at the time of expiration of the Franchise Agreement, or the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchised business: PROVIDED, that compensation need not be made to a franchisee for good will if: (i) the franchisee has been given one year's notice of nonrenewal; and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to franchisor.

(j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, that after three willful and material breaches of the same term of the Franchise Agreement occurring within a twelve month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the Franchise Agreement upon any subsequent month period without providing notice or opportunity cure: PROVIDED FURTHER, that a franchisor may terminate a Franchise Agreement without prior notice or opportunity to cure a default if the franchisee: (i) is adjudicated bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchised business; (iii) voluntarily abandons the franchised business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchised business. Upon termination for good cause the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of: (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchised business; and (iii) if the franchisee is to retain control of the premises of the franchised business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor."

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

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

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

5. Ranch*1, Inc. and its subsidiaries, all affiliates of Kahala Franchising, L.L.C., filed for Bankruptcy Protection Code Chapter 11 of the United States Bankruptcy Code on July 3, 2001. Full disclosure of the particulars of this filing is in Item 4 of this Disclosure Document.

6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE KAHALA FRANCHISING, L.L.C.
DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF WISCONSIN**

THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE WISCONSIN FRANCHISE INVESTMENT LAW. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE, AND NOT MISLEADING.

WISCONSIN LAW MODIFICATIONS

1. The Securities Commissioner of the State of Wisconsin requires that certain provisions contained in franchise documents be amended to be consistent with Wisconsin Fair Dealership Law, Wisconsin Statutes, Chapter 135 ("Fair Dealership Law") and the Wisconsin franchise Investment Law, Chapter 553. To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:
 - a. The Wisconsin Fair Dealership Law, among other things, grants you the right, in most circumstances, to 90 days' prior written notice of non-renewal and 60 days within which to remedy any claimed deficiencies. If the Franchise Agreement contains a provision that is inconsistent with the Wisconsin Fair Dealership Law, the provisions of the Franchise Agreement shall be superseded by the Law's requirements and shall have no force or effect.
 - b. The Wisconsin Fair Dealership Law, among other things, grants you the right, in most circumstances, to 90 days' prior written notice of termination and 60 days within which to remedy any claimed deficiencies. If the Franchise Agreement contains a provision that is inconsistent with the Wisconsin Fair Dealership Law, the provisions of the Franchise Agreement shall be superseded by the Law's requirements and shall have no force or effect.
 - c. If the Franchise Agreement requires that it be governed by a state's law, other than the State of Wisconsin, to the extent that any provision of the Franchise Agreement conflicts with the Wisconsin Fair Dealership Law such provision shall be superseded by the law's requirements.
 - d. Any condition, stipulation or provision in the Agreement requiring Franchisee to waive compliance with any provision under the Wisconsin Franchise Investment law may be void.
2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Wisconsin law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.
3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

EXHIBIT B

TO THE FRANCHISE DISCLOSURE DOCUMENT

Directory of State Agencies and Administrators

DIRECTORY OF STATE AGENCIES AND ADMINISTRATORS

| | | |
|--|---|--|
| <p><u>CALIFORNIA</u> Department of Business Oversight 320 West 4th Street, Suite 750 Los Angeles, CA 90013 (213) 576-7500</p> <p><u>HAWAII</u> Department of Commerce and Consumer Affairs Business Registration Division Commissioner of Securities King Kalakaua Building 335 Merchant Street, Room 205 Honolulu, Hawaii 96813 (808) 586-2744</p> <p><u>ILLINOIS</u> Illinois Attorney General's Office Franchise Bureau 500 South Second Street Springfield, IL 62701 (217) 782-1090</p> <p><u>INDIANA</u> Indiana Secretary of State Securities Division 302 W. Washington St, Room E111 Indianapolis, IN 46204 (317) 232-6681</p> <p><u>MARYLAND</u> Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202 (410) 576-6360</p> <p><u>MICHIGAN</u> Michigan Department of Attorney General Corporate Oversight Division G. Mennen Williams Building 525 W. Ottawa Street Lansing, MI 48909 (517) 373-7117</p> | <p><u>MINNESOTA</u> Minnesota Department of Commerce, 85 7th Place East, Suite 280, Saint Paul, MN 55101, (651) 539-1600</p> <p><u>NEW YORK</u> Office of the Attorney General New York State Department of Law Investor Protection Bureau 28 Liberty Street New York, NY 10005 (212) 416-6684</p> <p><u>NORTH DAKOTA</u> Securities Commissioner 600 E. Boulevard Ave State Capitol, 5th Floor Bismarck, ND 58505 (701) 328-4712</p> <p><u>RHODE ISLAND</u> Department of Business Regulation, Securities Division, Franchise Section 1511 Pontiac Avenue, Building 69-2 Cranston, Rhode Island 02920 (401) 462-9500</p> <p><u>SOUTH DAKOTA</u> Division of Insurance Securities Regulation 124 S. Euclid Ave., 2nd Floor Pierre, SD 57501-3185 (605) 773-3563</p> | <p><u>VIRGINIA</u> State Corporation Commission Division of Securities and Retail Franchising P.O. Box 1197 Richmond, VA 23218 (804) 371-9051</p> <p><u>WASHINGTON</u> Department of Financial Institutions Securities Division 150 Israel Rd SW Tumwater, WA 98501 (360) 902-8760</p> <p><u>WISCONSIN</u> State of Wisconsin Department of Financial Institutions Division of Securities 4822 Madison Yards Way, North Tower Madison, WI 53705 (608) 266-2139</p> |
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EXHIBIT C

TO THE FRANCHISE DISCLOSURE DOCUMENT

Franchisor's Agent for Service of Process

FRANCHISOR'S AGENT FOR SERVICE OF PROCESS

ARIZONA

CT CORPORATION SYSTEM
3800 North Central Avenue, Suite 460
Phoenix, AZ 85012

CALIFORNIA

COMMISSIONER OF BUSINESS OVERSIGHT
320 West 4th Street, Suite 750
Los Angeles, CA 90013

HAWAII

COMMISSIONER OF SECURITIES
King Kalakua Building
335 Merchant Street, Room 205
Honolulu, Hawaii 96813

ILLINOIS

ILLINOIS ATTORNEY GENERAL
500 South Second Street
Springfield, Illinois 62701

INDIANA

SECRETARY OF STATE
302 W. Washington St, Room E111
Indianapolis, IN 46204

MARYLAND

MARYLAND SECURITIES COMMISSIONER
200 St. Paul Place
Baltimore, Maryland 21202-2020

MINNESOTA

Minnesota Department of Commerce, 85 7th
Place East, Suite 280, Saint Paul, MN 55101-
2198

NEW YORK

SECRETARY OF STATE
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

NORTH DAKOTA

SECURITIES COMMISSIONER
600 E. Boulevard Ave
State Capital, 5th Floor
Bismarck, North Dakota 58505

RHODE ISLAND

Director Of The Rhode Island Department Of
Business Regulation, Securities Division,
Franchise Section

1511 Pontiac Avenue, Building 69-2
Cranston, Rhode Island 02920

SOUTH DAKOTA

Division of Insurance
Securities Regulation
124 S. Euclid Ave., Suite 104
Pierre, SD 57501-3185

VIRGINIA

CLERK OF THE STATE CORPORATION
COMMISSION
Tyler Building
1300 East Main Street
Richmond, Virginia 23219

WASHINGTON

DIRECTOR OF FINANCIAL INSTITUTIONS
150 Israel Rd SW
Tumwater, WA 98501

WISCONSIN

ADMINISTRATOR, DEPARTMENT OF
FINANCIAL INSTITUTIONS, DIVISION OF
SECURITIES
4822 Madison Yards Way, North Tower
Madison, WI 53705

If a state is not listed, Kahala Franchising, L.L.C. has not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed above in which Kahala Franchising, L.L.C. has appointed an agent for service of process. There may also be additional agents appointed in some of the states listed.

EXHIBIT D
TO THE FRANCHISE DISCLOSURE DOCUMENT

Asset Purchase Agreement
(For Sale of a Corporate Store to a Franchisee)
with
Promissory Note and Security Agreement and Guaranty (if applicable)

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT ("Agreement"), dated _____ ("Execution Date") and which will be effective as of the Closing Date as defined in Section 5(a) below is by and between [SELLING ENTITY], a [state] [Corporation/Limited Liability Company, etc.] [LIQUOR LICENSE ENTITY if applicable] ("Seller" or as may be applicable the "seller Parties"), and _____, a [state] [Corporation/Limited Liability Company, etc.] ("Purchaser"). Seller [or as applicable the Seller Parties] and Purchaser may also be referred to in this Agreement each individually as a "Party" and collectively as the "Parties."

Recitals

A. Seller owns certain assets of, maintains certain licenses of, and operates Cold Stone Creamery restaurant no. _____ ("Franchised Business") located at [store address, city and state] ("Premises"). [LIQUOR LICENSE ENTITY if applicable] owns certain assets of and maintains certain licenses of the Franchised Business [and executed a master lease] with respect to the Premises.

B. [LEASING ENTITY,] a(n) _____ affiliated with Seller ("Sublessor"), has executed a lease with respect to the Premises. [MONTH TO MONTH LANGUAGE IF APPLICABLE: Notwithstanding the foregoing, the Lease Agreement is currently on a month-to-month basis, and Purchaser is currently in direct negotiations with the landlord for the Premises to enter into a new lease directly with the landlord. Upon execution of said newly negotiated lease, the Lease Agreement shall be terminated and become null and void.]

C. Seller desires to sell and transfer to Purchaser, and Purchaser desires to purchase and acquire from Seller, substantially all of the assets owned by Seller and to be used in connection with the operation of the Franchised Business.

D. In conjunction with the execution of this Agreement, Purchaser executed a franchise agreement[, as amended,] to be effective as of the Closing Date (collectively, the "Franchise Agreement") with Kahala Franchising, L.L.C., an Arizona limited liability company, affiliated with Seller ("Franchisor").

E. In conjunction with the execution of this Agreement, Purchaser executed a sublease to be effective as of the Closing Date ("Sublease Agreement") with Sublessor and shall comply with all terms and conditions in the Sublease, including but not limited to, paying any additional security deposits, if required. [MONTH TO MONTH LANGUAGE IF APPLICABLE: Notwithstanding the foregoing, the Sublease Agreement is currently on a month-to-month basis and may be terminated by Sublessor with thirty (30) days prior written notice to Purchaser. As stated above, Purchaser is currently in direct negotiations with the landlord for the Premises to enter into a new lease directly with the landlord and upon execution of said newly negotiated lease, the Sublease Agreement shall be terminated and become null and void.]

Agreement

NOW, THEREFORE, in consideration of the foregoing promises and the mutual covenants and

agreements contained herein, the Parties hereby agree as follows:

1. Sale of Assets.

(a) **The Transferred Assets.** On the Closing Date (as defined in Section 5(a), below), Seller shall sell, transfer, convey, assign and deliver to Purchaser, and Purchaser shall purchase and acquire from Seller, all of the furniture, fixtures and equipment and other items owned by Seller and to be used in connection with the Franchised Business (excluding cash, company record books and tax records) (collectively, "Transferred Assets"), and to Seller's knowledge, free and clear of all liens, claims, charges, encumbrances and security interests of any nature or type whatsoever][**OR**][subject to the terms of the Franchise Agreement]. A list of the Transferred Assets is attached hereto as **Schedule 1** to **Exhibit A**. Seller makes no representation or warranty, express or implied, regarding the merchantability of the Transferred Assets or the condition or quality thereof AND HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE and the Parties hereby agree that the Transferred Assets are being purchased in as "**AS IS**" condition. Each reference in this Agreement to the "Transferred Assets" of the Franchised Business shall mean and refer to the following:

- (i) All of the fixtures, equipment, signs and other tangible assets of the Franchised Business ("Equipment") as more fully described on **Schedule 1** attached to this Agreement and incorporated into this Agreement by reference.
- (ii) [IF LIQUOR LICENSE: The State of [_____] [State Agency Name] ("____") liquor license no. [_____] issued on [_____] and maintained by [entity] and used by [entity] in the operation of the Franchised Business ("License"), to the extent that such license is fully transferable or partially transferable in connection with Purchaser securing its own continuing operations permit (or something similar) with the [State Agency Name].

(b) **Excluded Assets.** The following assets shall be excluded from this transaction ("Excluded Assets"):

- (i) All cash in any safe located at the Franchised Business or any cash in banks and/or other financial institution accounts associated with the Franchised Business.
- (ii) The business records which relate to the operations of the Franchised Business for all periods prior to the date immediately preceding the Closing Date ("Business Records").
- (iii) All refunds of federal, state or local income or franchise taxes or worker's compensation insurance premiums due to either Seller Party, as may be applicable, as of the date immediately preceding the Closing Date.
- (iv) All intellectual property rights of either Seller Party and/or Franchisor, as applicable.

(c) **Inventory.** The Purchase Price (as defined in Section 2) does not include: (i) consumable inventory including food products, perishables and paper products; or (ii) cash on hand.

2. Purchase Price.

(a) In consideration of the sale of the Transferred Assets, Purchaser shall pay:

[Simultaneously with the execution and delivery of this Agreement, the Purchase Price (as defined in Section 2(b) below) by electronic funds transfer, wire transfer, or cashiers' or certified check of immediately available funds.]

[OR]

[Simultaneously with the execution and delivery of this Agreement, the Purchase Price (as defined in Section 2(b) below) payable as set forth in the attached Promissory Note ("Deferred Payment").]

[OR]

[(i) Simultaneously with the execution and delivery of this Agreement, a non-refundable deposit in the amount of XX Thousand Dollars (**\$XX,000**) ("Deposit"), by electronic funds transfer, wire transfer, or cashiers' or certified check of immediately available funds; and

(ii) On the Closing Date, an amount equal to the difference between the Purchase Price (as defined in Section 2(b) below) minus the Deposit (such difference is referred to as "Purchase Price Balance"), by electronic funds transfer, wire transfer, or cashiers' or certified check of immediately available funds. OR On the Closing Date, XX Thousand Dollars (**\$XX,000**) ("Deferred Payment"), payable as set forth in the attached Promissory Note.]

(b) The "Purchase Price" is XX Thousand Dollars (**\$XX,000**), which shall be allocated as follows: [(i) XX Thousand Dollars (**\$XX,000**) to the leasehold improvements at the Premises;] [(ii) XX Thousand Dollars (**\$XX,000**) to the Transferred Assets, including all furniture, fixtures and equipment, as more fully described in **Schedule 1** to the Bill of Sale, attached hereto as **Exhibit A**, and incorporated herein by reference.]

3. Representations and Warranties.

(a) To induce Purchaser to enter into this Agreement and to perform Purchaser's obligations hereunder, and with full knowledge that Purchaser will rely thereon, Seller represents and warrants as follows:

(i) Seller has title to and rightful possession to the Transferred Assets, and each of the Transferred Assets is and shall, upon the delivery thereof to Purchaser, be free and clear of recorded and publicly available liens, claims, charges, encumbrances and security interests.

(ii) Seller is a limited liability company duly organized, validly existing and in good standing under the law of the State of [State].

(iii) Seller has full right, power and authority to execute and deliver this

Agreement, and to consummate the transactions contemplated hereby.

- (iv) This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.
 - (v) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will conflict with, violate or result in a breach of or default under (with or without the giving of notice or the passage of time, or both): (a) any license, instrument, contract or agreement to which Seller is a party or by which Seller is bound, or (b) the articles of incorporation or the bylaws of Seller. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will result in the creation of any lien, claim, charge, encumbrance or security interest of any nature or type whatsoever with respect to the Transferred Assets. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will require any consent or approval of, or any filing with, any governmental entity or other person.
 - (vi) On the Closing Date, the Transferred Assets are being purchased in “**AS IS**” condition and will comprise all of the assets and property necessary to conduct the Franchised Business in accordance with Franchisor’s confidential operations manual (“Confidential Manual”).
 - (vii) The development and/or conduct of the Franchised Business, and the ownership and use of the Transferred Assets in accordance with Franchisor’s Confidential Manual, complies, or will (as of the Closing Date) comply, with all applicable federal, foreign, state and local laws, regulations and ordinances; provided, however, that Purchaser may be required to obtain certain licenses and permits in connection with the operation of the Franchised Business.
- (b) To induce Seller to enter into this Agreement and to perform Seller’s obligations hereunder, and with full knowledge that Seller will rely thereon, Purchaser represents and warrants as follows:
- (i) Purchaser is a [type of entity] duly organized, validly existing and in good standing under the law of the State of [state].
 - (ii) Purchaser has full right, power and authority to execute and deliver this Agreement, and to consummate the transactions contemplated hereby.
 - (iii) This Agreement has been duly executed and delivered by Purchaser and constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.
 - (iv) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will conflict with, violate or result in a breach of or default under (with or without the giving of notice or the passage of time, or both): (a) any license, instrument, contract

or agreement to which Purchaser is a party or by which Purchaser is bound, or (b) the certificate of incorporation or the bylaws (or other comparable charter documents) of Purchaser. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will require any consent or approval of, or any filing with, any governmental entity or other person.

- (v) Purchaser acknowledges that:
 - (a) There are several potential locations for the location of Purchaser's Cold Stone Creamery restaurant;
 - (b) The decision to establish and operate Purchaser's Cold Stone Creamery restaurant at the Premises was made solely by Purchaser, without any reliance upon any information provided (if any), recommendation made (if any) or approval given by Seller, any area representative, Sublessor, or any of their respective shareholders, directors, officers, employees, representatives, agents or affiliates;
 - (c) Seller's selection and approval of the Premises as a site for a Cold Stone Creamery restaurant provides no assurance or guaranty as to Purchaser's results of operations in connection with its Cold Stone Creamery restaurant at the Premises;
 - (d) Purchaser has reviewed the lease (including all amendments and addendums) with respect to the Premises and approves of the terms thereof, including rental payment amounts;
 - (e) Purchaser accepts full responsibility for the consequences of Purchaser's decision to open and operate a Cold Stone Creamery restaurant at the Premises.

4. Interim Period [ONLY IF APPLICABLE].

- (a) Between the Execution Date and the Closing Date, as applicable, Seller has operated the Franchised Business, in accordance with Seller's standard operating procedures for operating Cold Stone Creamery restaurants and the Franchised Business is open to the public for business.
- (b) Purchaser shall attend Franchisor's training program, if so required by Franchisor in the Franchise Agreement.

5. Closing.

- (a) Subject to the conditions set forth in Sections 5(b) and 5(c) hereof, the transactions contemplated by this Agreement shall be consummated on the date that Seller turns over the Franchised Business to Purchaser which is estimated to be on or around _____ ("Closing Date") at an office designated by Seller or at another mutually agreeable location.

(b) The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction at or prior to the Closing Date of the following conditions, any of which may be waived by Seller, in its sole discretion. Purchaser shall use its best efforts to cause each and every one of the following conditions to be satisfied at or before the Closing Date.

[(i) Purchaser shall have delivered to Seller the [Purchase Price] or [Purchase Price Balance], as set forth in Section 2 of this Agreement;]

[OR]

[(i) Purchaser shall have executed and delivered to Seller the Promissory Note and Security Agreement attached hereto as **Exhibit B** (“Promissory Note”) in the amount of the Deferred Payment and any upfront, non-refundable payments due pursuant to Section 2 in the form of cash or by cashiers’ or certified check;]

(ii) Purchaser shall have executed and delivered to Franchisor the Franchise Agreement and to Sublessor the Sublease with respect to the Premises, in the forms then being executed by new franchisees of Franchisor and sublessees of Sublessor;

(iii) Purchaser shall have delivered to Sublessor the Sublease Security Deposit in the amount of _____ Dollars (\$_____) as defined in the Sublease [and a Lease Security Deposit in the amount of _____ Dollars (\$_____)] as defined in the Sublease in connection with the Premises as contemplated by the Sublease and pursuant to Section 5(d) below, as applicable;

(iv) Purchaser shall have delivered to Franchisor the Initial Franchise Fee in the amount of _____ Dollars (\$_____) as defined in the Franchise Agreement; and

(v) The representations and warranties of Purchaser contained in this Agreement shall be true and correct on and as of the Closing Date, and each and all of the terms, covenants, conditions and agreements to be performed or complied with by Purchaser on or before the Closing Date shall have been performed or complied with. This provision shall be self-executing, and the consummation of the transactions contemplated by this Agreement by Purchaser shall constitute Purchaser’s certification of the conditions stated herein.

Assuming that Seller satisfied all of the conditions precedent contained in Section 5(c), if any of the requirements of this Section 5(b) have not been satisfied by the Closing Date, Purchaser shall be in breach of its obligations hereunder.

(c) The obligations of Purchaser to consummate the transactions contemplated by this

Agreement are subject to the satisfaction at or prior to the Closing Date of the following conditions, any of which may be waived by Purchaser, in its sole discretion. Seller shall use its best efforts to cause each and every one of the following conditions to be satisfied at or before the Closing Date.

- (i) As of the Closing Date, there shall have been no material adverse change in the Franchised Business, the Transferred Assets or the Premises, or the condition thereof, since the date of this Agreement, other than changes contemplated by Section 5;
- (ii) Seller shall have delivered to Purchaser the Bill of Sale executed by Seller; and
- (iii) The representations and warranties of Seller contained in this Agreement shall be true and correct on and as of the Closing Date, with the same effect as though such representations and warranties had been made on and as of the Closing Date; and each and all of the terms, covenants, conditions and agreements to be performed or complied with by Seller on or before the Closing Date shall have been performed or complied with. This provision shall be self-executing, and the consummation of the transactions contemplated by this Agreement by Seller shall constitute Seller's certification of the conditions stated herein.

Assuming that Purchaser has satisfied all of the conditions precedent contained in Section 5(b) if any of the requirements of this Section 5(c) (other than the requirement contained in clause (i) if such material adverse change shall be beyond the control of Seller) has not been satisfied by the Closing Date, Seller shall be in breach of its obligations hereunder.

- (d) The rent payable pursuant to the lease for the Premises shall be paid by Sublessor for the month in which the Closing Date occurs and Purchaser shall pay to Sublessor (on a per diem basis, based upon a thirty (30)-day month) an amount equal to the rent prepaid by Sublessor with respect to the period on and after the Closing Date, via an EFT, ACH, or other type of debit authorized by Seller or Sublessor, as may be applicable will bill Purchaser for such pro-rated rent amount.
- (e) Seller shall be responsible for all compensation to employees of the Franchised Business for the period through the date immediately preceding the Closing Date. Purchaser shall be responsible for all compensation to employees of the Franchised Business for the period on and after the Closing Date. Notwithstanding anything contained in this Agreement to the contrary, Purchaser shall not be obligated to employ any of Seller's employees after the Closing Date.
- (f) Seller shall be responsible for all costs, fees and expenses relating to the Franchised Business, including but not limited to CAM reconciliation charges, and property taxes, on a pro-rated basis for the period through the date immediately preceding the Closing Date. Purchaser shall be responsible for all costs, fees and expenses relating to the Franchised Business, including but not limited to, CAM reconciliation charges, property taxes, etc., on a pro-rated basis for the period on and after the Closing Date.

- (g) As of and after the Closing Date, Purchaser shall assume, acquire, take over, become responsible for, and promise to pay all contracts, leases, agreements and other liabilities (collectively the “Assumed Liabilities”) in connection with the Franchised Business except for those contracts, leases, agreements and other liabilities which are specifically excluded as set forth below:

__ [List all contracts, leases, agreements and other liabilities which Purchaser is NOT assuming] OR [List “None”] __

- (h) Purchaser shall indemnify, defend and hold Seller free and harmless from and against any and all “Losses” (as defined below), which Seller shall incur or suffer which arise or result from the operation or conduct of the business of the Franchised Business by Purchaser as of and after the Closing Date, including, but not limited to, any Losses arising from any default of Purchaser arising under the Franchise Agreement or Sublease, and from any default of Purchaser with respect to the Assumed Liabilities. “Losses” shall mean any and all obligations, liabilities, costs (including reasonable attorneys’ fees), expenses, damages and losses actually incurred by Seller, net of any insurance proceeds and material tax adjustments, benefits, savings or reductions to which Seller is entitled by virtue of such obligations, liabilities, costs, expenses, damages and losses; provided however, that “Losses” exclude all consequential damages of any kind (including, but not limited to, loss of revenue or income, cost of capital or loss of business reputation or opportunity). As of and prior to the Closing Date, Seller shall have good and marketable title to the Transferred Assets, free and clear of any and all liens, claims, judgments, taxes, encumbrances, security interests, debts or other adverse claims or rights of any kind, except as otherwise provided herein. Seller agrees to indemnify Purchaser of any and all liens, claims, judgments, taxes, encumbrances, security interests, debts or other adverse claims or rights of any kind, which accrued up through the date immediately preceding the Closing Date, whether or not known by either Seller or Purchaser. Seller further agrees to indemnify Purchaser of any and all liens, claims, judgments, taxes, encumbrances, security interests, debts or other adverse claims or rights of any kind, which accrued up to the date immediately preceding the Closing Date, even if such liens, claims, judgments, taxes, encumbrances, security interests, debts or other adverse claims or rights of any kind are discovered at any future date. Any and all liens, claims, judgments, taxes, encumbrances, security interests, debts or other adverse claims or rights of any kind which accrue on or after the Closing Date are the sole obligation and responsibility of the Purchaser.

6. Notices. All notices, consents, approvals or other instruments required or permitted to be given by either Party pursuant to this Agreement shall be in writing and given by (a) hand delivery, (b) facsimile, (c) express overnight delivery service or (d) certified or registered mail, return receipt requested, and shall be deemed to have been delivered upon (i) receipt, if hand-delivered, (ii) transmission, if delivered by facsimile, (iii) the next business day following the date of deposit with the delivery service, if delivered by express overnight delivery service, or (iv) the third business day following the day of deposit of such notice with the United States Postal Service, if sent by

certified or registered mail, return receipt requested. Notices shall be provided to the Parties at the addresses and facsimile numbers specified below:

If to Seller: [Selling Entity]
Attention: Legal Department
9311 East Via De Ventura
Scottsdale, Arizona 85258
Telephone Number: (480) 362-4800
Facsimile Number: (480) 362-4819

If to Liquor License Entity (if applicable) [Liquor License Entity]
Attention: Legal Department
9311 East Via De Ventura
Scottsdale, Arizona 85258
Telephone Number: (480) 362-4800
Facsimile Number: (480) 362-4819

If to Purchaser: [Purchaser]
[address]
Telephone Number:
Facsimile Number: OR Email:

Any Party may change its address or facsimile number by giving notice in writing, stating its new address or facsimile number, to the other Party to this Agreement as provided in the foregoing manner.

7. **[USE ONLY IF BROKER INVOLVED WITH SALE, OTHERWISE RESERVE][Brokers' Fees.** Seller has retained Broker Entity ("Broker") as broker in connection with the sale of the Transferred Assets contemplated hereby. The Seller shall be solely responsible for the payment of any fees due Broker in connection with the sale of the Transferred Assets contemplated hereby.]

8. **Survival.** Each of the representations, warranties and covenants contained herein shall survive the Closing Date, irrespective of any investigation or inquiry made by, or any knowledge of, any Party.

9. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective assigns, legal representatives, executors, heirs and successors.

10. **Amendment, Modification or Waiver.**

- (a) No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the Parties and specifying with particularity the nature and extent of the amendment, modification or waiver. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion.

- (b) Failure on the part of any Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long the failure continues, shall not constitute a waiver by that Party of its rights under this Agreement.

11. Entire Agreement. This Agreement, including the exhibits hereto, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between the Parties with respect to such subject matter. Each of the exhibits is incorporated in this Agreement by this reference and constitutes a part of this Agreement.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

13. Dispute Resolution.

- (a) Except as otherwise provided herein, any dispute, claim or controversy arising out of or relating to this Agreement, the breach hereof, the rights and obligations of the Parties hereto or the relationship between the Parties, or the entry, making, interpretation, or performance of either Party under this Agreement ("Dispute"), which cannot be resolved by mediation under Section 13(d) below or is not subject to mediation under the terms of this Agreement, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules as modified below.
- (b) Any arbitration shall take place before a sole arbitrator in Maricopa County, Arizona or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration shall take place in the county in which our principal place of business is located at the time the arbitration is commenced. Purchaser agrees to conducting the arbitration where Seller is located is appropriate. The Parties agree that the arbitrator shall be an attorney licensed to practice law in the United States and must have a minimum of five (5) years of experience in franchise law. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator shall, in the award, allocate all of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorney's fees of the prevailing Party, against the Party who did not prevail. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any other dispute, arbitration proceeding or litigation, except to the extent such issue may have been specifically determined in another proceeding between the Parties. This agreement to arbitrate shall survive any termination or expiration of this Agreement, however effected. The Parties agree that any arbitration shall be solely between them (including any affiliates) and shall not include as a Party, by consolidation, joinder, or in any other manner, any other person or entity, unless both Parties consent in writing. Both Parties shall have the absolute right to refuse such consent. Further, the Parties expressly waive any right to bring and/or participate in any class or other consolidated, joined or multi-party arbitration claim or proceeding, whether or not permissible under the AAA Commercial Arbitration Rules, including, but not limited to, any claim brought on their behalf by an association of which it, he or she is a member. At the request of any Party, the arbitration shall be conducted in a manner that maintains the

confidentiality of the proceedings.

- (c) The arbitrator(s) will issue a reasoned award, with findings of fact and conclusions of law. Actions to enforce an express obligation to pay monies may be brought under the Expedited Procedures of the AAA's Commercial Arbitration Rules. The Federal Arbitration Act shall govern, excluding all state arbitration laws. Arizona law will govern all other issues. With respect to discovery, the arbitrator shall require each Party to make a good cause showing before any discovery exceeding that specifically authorized by the AAA Commercial Arbitration Rules will be granted.
- (d) Prior to the commencement of an arbitration proceeding, the Parties must first submit any Dispute to non-binding mediation. At the request of any Party, the mediation will be confidential. The mediation shall be conducted in Maricopa County, Arizona or in the county in which our headquarters are located at the time of mediation, unless the Parties shall mutually agree to a different location. The Parties to the mediation will share equally in its costs and expenses, except those costs and expenses incurred separately by each Party, including, without limitation, counsel fees and expenses. The mediation process will be deemed "Completed" when the Parties agree that it has been completed, the mediator declares that any impasse exists or sixty (60) days have elapsed since the date of the initiating Party's notice to the other Party that it is initiating the mediation process, whichever occurs first.
- (e) Notwithstanding anything contained in this Agreement to the contrary, the provisions of Sections 13(a), 13(b), 13(c) and 13(d) do not apply to a Dispute where: (i) Seller brings an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action at law for damage to Seller's goodwill, the confidential information, the proprietary marks or for fraudulent conduct by Purchaser; or (ii) the delay resulting from the mediation process may endanger or adversely affect the public (for example, unhealthy, unsafe or unsanitary conditions would continue to exist). For such disputes, Seller may bring an action in any federal or state court having jurisdiction, whether for monetary damages and/or for temporary preliminary and permanent injunctive relief or specific performance in addition to, and not exclusive of, any other remedies available to Seller. Purchaser hereby consents to and waives any objection or defense and agrees not to contest venue, forum non conveniens or jurisdiction of such court or arbitration.
- (f) Disputes concerning the validity or scope of arbitration, including whether a dispute is subject to arbitration, are beyond the authority of the arbitrator(s) and will be determined by a court of competent jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq., as amended from time to time.
- (g) Either Party may appeal the final award of the arbitrator, if it is over One Hundred Thousand Dollars (\$100,000), to the appropriate U.S. District Court. The Court's review of the arbitrator's findings of fact will be under the clearly erroneous standard, and the Court's review of all legal rulings will be *de novo*. If it should be determined that this provision for federal court review is not enforceable, then either Party may appeal the arbitrator's final award, if it is over One Hundred Thousand Dollars (\$100,000), to a panel of three arbitrators chosen under AAA

procedures, which will employ the same standards of review stated immediately above.

14. Applicable Law and Forum; Waiver of Jury; Statute of Limitations.

Except to the extent that the United States Trademark Act of 1946, as amended (15 U.S.C., § 1051 et seq.) or the franchising laws of any state that may be applicable, the laws of the State of Arizona govern all rights and obligations of the Parties under this Agreement. Seller and Purchaser agree, subject to the mandatory mediation and arbitration provisions of Section 13 of this Agreement, that any appropriate state or federal court located in Maricopa County, Arizona has exclusive jurisdiction over any Dispute arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy. Notwithstanding the foregoing, any action initiated by Seller may, at Seller's election, be brought in any jurisdiction where Purchaser is domiciled or that has jurisdiction over Purchaser. The Parties hereto irrevocably submit to the jurisdiction of, and venue in, any such court, and hereby waive any objection or defense thereto. THE PARTIES AGREE THAT ALL DISPUTES SUBMITTED TO THE COURT PURSUANT TO THIS SECTION SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

Notwithstanding anything contained in this Agreement to the contrary, the Parties agree that any claims under, arising out of, or related to, this Agreement must be brought within two (2) years of the date on which the underlying cause of action accrued, and Seller and Purchaser hereby waive any right to bring any such action after such two-year period except for the collection of any unpaid amounts due to Seller or its affiliate.

15. Attorneys' Fees. In the event of any claim, controversy or dispute arising out of or relating to this Agreement, or the breach thereof, the prevailing Party may recover reasonable attorneys' fees incurred in connection with any court or arbitration proceeding.

16. Remedies Cumulative. The remedies of the Parties under this Agreement are cumulative and shall not exclude any other remedies to which any Party may be lawfully entitled.

17. Captions. Captions used throughout this Agreement are for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

18. Additional Actions. Each Party agrees to do all acts and things and to make, execute and deliver such written instruments as may from time to time be reasonably required to carry out the terms and provisions of this Agreement.

19. Construction. The Parties acknowledge that each Party was represented (or had the opportunity to be represented) by legal counsel in connection with this Agreement, the exhibits hereto and the transactions contemplated by this Agreement and that each of them and its counsel have reviewed this Agreement, or have had an opportunity to do so, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or any exhibits hereto or thereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto, by and through its respective representatives with full rights, power and authority to enter into and bind his or her respective Party without further consent or approval of any kind, has duly executed and delivered this Agreement as of the Effective Date.

SELLER:

[SELLING ENTITY,]
a(n) _____

By: _____
[Name,] [Title]

[Liquor License Entity (if applicable)]:

[ENTITY,]
a(n) _____

By: _____
[Name,] [Title]

PURCHASER:

[PURCHASER],
a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

EXHIBIT A
TO ASSET PURCHASE AGREEMENT
(BILL OF SALE)

BILL OF SALE

This BILL OF SALE, dated _____, executed by [SELLING ENTITY], a(n) _____ [IF LIQUOR LICENSE ENTITY] ("Grantor") in favor of [PURCHASER], a(n) _____ ("Grantee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby convey, grant, bargain, sell, transfer, set over, assign, alien, remise, release, deliver and confirm unto Grantee, its successors and assigns forever, free and clear of all liens, security interests, claims, charges or encumbrances of any kind, the assets listed on **Schedule 1** attached hereto (collectively, "Transferred Assets"), TO HAVE AND TO HOLD all of the Assets unto Grantee, its successors and assigns to their own use and behoof forever.

The following are excluded assets and are excluded from **Schedule 1**:

- a. Cash deposits, including, but not limited to, any utility and security deposits, banks accounts, certificates of deposit, securities or evidences of indebtedness received prior to and including the date of this Bill of Sale;
- b. Credit card or house accounts receivable from sales generated from the Franchised Business and constituting a part thereof, prior to and including the date of this Bill of Sale, any other accounts receivable, or choses of action accruing on or before the Closing Date, as defined in the Asset Purchase Agreement; and
- c. Consumable inventory including, but not limited to, food products, perishables, paper products, cash on hand and other goods.

EXECUTED as of the date first set forth above.

[IF LIQUOR LICENSE ENTITY]

GRANTOR:

[SELLING ENTITY],
a(n) _____

By: _____
[Name, Title]

Schedule 1 to Bill of Sale

List of Assets

1. All telephone numbers used in connection with the Franchised Business, including, without limitation, the following:
2. The leasehold under the master lease along with all improvements which may be associated with the Franchised Business.
3. All goodwill associated with the Franchised Business.
4. [IF LIQUOR LICENSE: The License maintained by [Entity] as may be transferrable under [applicable State] law.
5. All of Grantor's furniture, fixtures and equipment, appliances and personal property located at the Franchised Business, including, without limitation, the following:

Quantity

Description

Serial Number

EXHIBIT B
TO ASSET PURCHASE AGREEMENT

(PROMISSORY NOTE AND SECURITY AGREEMENT)

[Attached]

[Not Applicable] [OR] [Applicable only if Purchaser enters into a Promissory Note and Security Agreement]

PROMISSORY NOTE AND SECURITY AGREEMENT

Note Amount:
[\$AMOUNT]

Scottsdale, Arizona
[DATE]

1. Promise to Pay. For value received, [NAME], a(n) [_____ corporation / limited liability company / individual] ("Maker"), promises to pay to the order of [Holder Entity], a [state] [Corporation/Limited Liability Company, etc.] ("Holder"), at 9311 East Via De Ventura, Scottsdale, Arizona 85258, or at such other address as Holder may designate at any time by written notice to Maker, in lawful money of the United States of America, the principal sum of XX Thousand Dollars (**\$XX,000.00**) together with all then-accrued and unpaid interest and other amounts that are Maker's obligations under this Promissory and Security Agreement ("Note"), if any. Maker and Holder may also be referred to in this Agreement as a "Party" and collectively as "Parties." The Note balance represents the principal amount owing by Maker to Holder for the purchase price of the Store (as defined below) due under the Asset Purchase Agreement in the aggregate amount of XX Thousand Dollars (**\$XX,000.00**) [plus the UCC-1 filing fee (as described in Section 7) in the amount of One Hundred Dollars (\$100)([collectively,]"Debt")] for the Cold Stone Creamery store number ___ at the following location _____ ("Store").

2. Computation of Interest. Except as otherwise set forth in this Note, this Note shall [not bear interest OR bear interest at the rate of ___% per annum] based on a ___ [month/year] amortization schedule.

3. Required Payments; Method of Payment. Principal and interest, if any, shall be repaid to Holder in a total of _____ (XX) [weekly/monthly] installments, consisting of the first _____ (XX) installments in the amount of _____ **AND xx/100 DOLLARS (\$_____.)**, and the final installment in the amount of _____ **AND xx/100 DOLLARS (\$_____.)** which installments shall be due on the [day of the week, or date of the month] (X^{xx}) of each consecutive [week / month], with the first installment due on [DATE] and the final installment due on [DATE], all as set forth on the Amortization Schedule attached hereto as **EXHIBIT "1"** and incorporated herein by reference. Maker authorizes Holder (or one of its affiliates) to deduct payments owed by Maker (or one of its affiliates) to Holder under this Note out of Maker's bank accounts via electronic funds transfer in the same way Holder (or one of its affiliates) is authorized to collect payment under the Franchise Agreement entered into by and between Holder and Maker dated _____, 20__ or other franchise documents that Maker (or a related entity) entered into with Holder (or one of its affiliates) for the Store (individually and collectively, "Franchise Agreement"). All payments due under this Note shall be deducted by Holder's close of business from Maker's Depository Account (as defined in the Franchise Agreement) on the day they are due (or the preceding banking business day if such date is a holiday or falls on a weekend). Holder shall not be responsible for any interest charges for any overage collected due to Maker's failure to timely authorize payment. Additionally, Holder shall not be responsible for any bank service charges incurred by Maker which result in the withdrawal of funds from Maker's Depository Account. Maker shall pay Holder FIFTY AND 00/100 DOLLARS (\$50.00) for each withdrawal attempted from Maker's Depository Account pursuant to this Section 3 that is returned for non-sufficient funds. Maker shall also reimburse Holder for all other costs incurred by Holder in collecting or attempting to collect funds due Holder from the Depository Account (for example, without limitation, charges for non-sufficient funds, uncollected funds or other discrepancies in deposits or maintenance of the Depository Account balance in accordance with the terms of the Franchise Agreement). Holder does not have to make or give "presentment, demand, protest or notice" to get paid. Maker hereby waives any right to "presentment, demand, protest and notice"

as set forth in Section 10 below.

4. Application of Payments. All payments and other credits due under this Note shall be applied: [if part of Note balance a non-refundable fee (i) first to the amount of principal allocated to the Initial Franchisee Fee/Renewal Fee/Transfer Fee,] [(i) first][[(ii) second,] to fees, costs and expenses payable by Maker under this Note, [(ii) second,][[(iii) third,] to accrued and unpaid interest, if any, and [(iii) third][[(iv) fourth,] to principal.

5. Collection Costs. If suit, arbitration, or other legal proceeding or any non-judicial foreclosure proceeding is instituted or any other action is taken by Holder to collect all or any part of the indebtedness evidenced hereby or to proceed against the Collateral (as defined below) for any portion of such indebtedness or against any guarantor of the payment of any portion of the indebtedness, Maker promises to pay Holder's attorneys' fees and other costs (to be determined by the court and not by a jury) incurred thereby. Such fees and costs shall be included in any judgment or arbitration award obtained by Holder, and shall bear interest at the default rate set forth in Section 12.

6. Optional Prepayments. Maker shall have the option to prepay this Note, in full or in part, at any time and from time to time, without penalty. Maker shall identify each optional prepayment of principal as such by written notice to Holder at the time of payment, and no such prepayment shall decrease or defer the monthly installment payments required by Section 3 above.

7. Security Interest. The indebtedness evidenced by this Note shall be secured by, and Maker hereby grants to Holder, a security interest in the equipment, inventory, leasehold improvements, and all proceeds thereof, and all increases, additions, accessories, accessions, substitutions, and replacements thereto located at the Store including, without limitation, insurance proceeds ("Collateral"). A description of the Collateral is attached hereto as **EXHIBIT "2"** and incorporated herein by reference. Concurrent with the execution of this Note or at any time after the execution of this Note so long as a balance remains outstanding under this Note, Maker shall execute and deliver to Holder, or alternatively Maker gives Holder permission to file, at Maker's expense, a UCC-1 financing statement, evidencing the security interest granted by this Section 7.

8. Guaranty of Promissory Note and Security Agreement. [If Maker is an individual and married, Maker represents and warrants that Maker's obligations under this Note are guaranteed by Maker's spouse and/or any other individuals requested by Holder as consideration for its agreements herein (together, "Guarantors"), pursuant to the Guaranty of Promissory Note and Security Agreement attached hereto as **EXHIBIT "3"** and incorporated herein by reference.] If Maker is a corporation, limited liability company, or other business entity, Maker represents and warrants that Maker's obligations under this Note are guaranteed by each of the persons who are shareholders, members, or other owners, direct or indirect, of Maker (and their respective spouses, if married); and/or any other individuals requested by Holder as consideration for its agreements herein (together, also "Guarantors"), pursuant to the Guaranty of Promissory Note and Security Agreement attached hereto as **EXHIBIT "3"** and incorporated herein by reference. In the event any person who has not previously signed a Guaranty of Promissory Note and Security Agreement becomes Maker's spouse; person who is a shareholder, member, or other owner, direct or indirect, of Maker (or their respective spouses, if married); and/or any other individual requested by Holder as consideration for its agreements herein, at any time after the execution of this Agreement, Maker must cause such person(s) to immediately execute and deliver a Guaranty of Franchise Agreement to Holder.

9. Maker's Representations and Warranties. Maker represents and warrants the following:

A. Collateral.

(i) Maker will make sure that the Collateral is maintained and in good operating condition, necessary to the conduct of Maker's business. All maintenance must also comply with any legal or regulatory requirements.

(ii) Maker will make sure that Maker has not suffered any material adverse change in Maker's financial condition or operations.

(iii) Maker will protect and preserve the Collateral and Holder's security interest therein, and assist Holder in all ways in enforcing Holder's security interests in the Collateral.

(iv) Maker will not incur any debts beyond Maker's ability to pay such debts as they mature.

(v) Maker will pay, before they become delinquent, all taxes and claims, assessments, charges, and the like, as well as all amounts due under all agreements with third parties.

(vi) Maker will take all actions necessary or appropriate to protect the Collateral that consists of technology and proprietary information. This includes, without limitation, filing all applicable documentation with the United States and foreign patent and trademark offices.

(vii) Holder will give Maker prior notice if Holder, or Holder's agents, want to inspect the Collateral. Holder may inspect the Collateral during regular business hours. Holder will take reasonable steps not to interfere with Maker's business operations during any such inspection. If Holder finds during an inspection that Maker is not complying with this Note or if Maker is otherwise in default under this Note, Maker (and not Holder) will pay Holder's reasonable travel, meals and lodging costs, Holder's salary costs, and Holder's costs and fees and those of Holder's agents for re-inspection. Maker will promptly cure any problems with the Collateral that are discovered during Holder's inspections.

(viii) Maker will use the Collateral only for business purposes. Maker will obey all legal and regulatory requirements in Maker's use of the Collateral and the conduct of Maker's business.

(ix) Maker will make all additions, modifications and improvements to the Collateral to the extent necessary. Otherwise, Maker will not alter the Collateral without Holder's written permission.

(x) Maker will not remove the Collateral from the Store location.

(xi) Maker has and will continue to have good and merchantable title to all of the Collateral, free and clear of all security interests, liens and other encumbrances, with the exception of Holder's lien described in Section 7 above.

(xii) Maker will not convey, assign, sell, mortgage, transfer, encumber, pledge, hypothecate, grant a security interest in, grant options with respect to, lease or otherwise dispose of all or any part of any interest whatsoever in or to any or all of the Collateral, or any interest therein.

B. Insurance.

(i) Until Maker has made all payments to Holder under this Note in full, Maker will keep the Collateral insured. The amount of insurance, the coverage, and the insurance company must be acceptable to Holder.

(ii) If Maker does not provide Holder with written evidence of insurance that is acceptable to Holder, Holder may buy the insurance, at Maker's expense. Maker will promptly pay Holder the cost of this insurance. Holder has no obligation to purchase any insurance. Any insurance that Holder purchases will be Holder's insurance, and not Maker's, and Holder may insure the Collateral beyond the date of satisfaction of the Debt.

(iii) Insurance proceeds may be used to repair or replace damaged or lost Collateral or to pay Holder the present value of the payments described herein.

(iv) Maker appoints Holder as Maker's "attorney-in-fact" to make claims under the insurance policies, to receive payments under the insurance policies, and to endorse Maker's name on all documents, checks or drafts relating to insurance claims for Collateral. Upon request by Maker, Holder will provide Maker with copies of any and all documents signed as Maker's attorney-in-fact. Holder agrees to pay Maker any insurance proceeds received by Holder in excess of the any and all amounts due Holder under this Note.

10. Waivers and Acknowledgments. Maker, and any sureties, endorsers and guarantors of all or any portion of the indebtedness evidenced by this Note waive: (a) demand, notice, diligence, protest, presentment for payment, and notice of extension, dishonor, protest, demand and nonpayment of this Note; and (b) any release or discharge by reason of (i) any release or substitution of, or other change in, any security given for the indebtedness evidenced by this Note or the obligation of any other person or entity who or which is now or may become directly or indirectly liable for all or any portion of the indebtedness evidenced by this Note, or (ii) any extension or other modification of the time or terms of payment of all or any portion of the indebtedness evidenced by this Note. Maker, and any sureties, endorsers and guarantors agree that their liability for the indebtedness evidenced hereby shall be joint and several.

11. Default, Take-Back Rights and Additional Remedies.

A. Default. Maker will be in default if any of the following occurs:

(i) Maker does not pay Holder, within seven (7) days after written notice is received by Maker from Holder, any payment that Maker owes Holder under this Note, the Franchise Agreement (including, but not limited to, royalty and advertising fees) or any other agreement, loan, debt, lease or other financial arrangement that Maker has with Holder or one of its affiliates (each a "Payment Default").

(ii) Any of the financial information that Maker gives Holder is not materially true and complete, or Maker fails to tell Holder anything that would make the financial information not materially misleading.

(iii) Maker does something it is not permitted to do, or Maker fails to do anything that is required of them, under this Note, the Franchise Agreement or any other lease, loan, debt or other financial arrangement that Maker has with Holder and such breach continues uncured for a period of seven (7) days after Holder has given written notice of such default to Maker, provided that such cure period shall not apply to any covenant relating to insurance covering the Collateral described in Section 7.

(iv) An event of default occurs under the Franchise Agreement, or under any other lease, loan, debt or obligation of Maker (or any guarantor) that exceeds Fifty Thousand Dollars (\$50,000) in the aggregate that results in the acceleration or mandatory prepayment thereof.

(v) Maker files bankruptcy, or involuntary bankruptcy is filed against Maker or any guarantor and such involuntary bankruptcy is not dismissed within sixty (60) days.

(vi) Maker is subject to any other insolvency proceeding other than bankruptcy (for example, a receivership action or an assignment for the benefit of creditors) and such proceeding that is involuntary is not dismissed within sixty (60) days.

(vii) Without Holder's permission, Maker sells all or a substantial part of Maker's assets, merges or consolidates (other than with an affiliate where Maker is the surviving entity), or a majority of Maker's voting stock or interests (or any guarantor's voting stock or interests) is transferred.

(viii) There is a material adverse change in Maker's financial condition, business or operations.

B. "Take Back Rights." In the event of a Payment Default, Maker hereby grants Holder the following "Take Back Rights" (as defined below in this Section 11.B.) with respect to the Store. Maker shall have seven (7) days after receipt of written notice from Holder to cure any such Payment Default. If Maker does not timely cure the Payment Default, Maker hereby grants Holder the irrevocable right to immediately enter the Store and take possession and full ownership of the Store going forward, and further agrees to execute any and all reasonably necessary documents to transfer ownership of the Store, including all assets located therein, to Holder or its designee and to assign the lease for the premises of the Store to Holder or its designee ("Take Back Rights"). In the event of an uncured Payment Default, Maker further acknowledges and agrees to the following: (i) the Take Back Rights represent Holder's liquidated damages for Maker's Payment Default; (ii) that such damages are reasonable under the circumstances; (iii) that Maker shall have no right to contest, and hereby waives any such rights to contest or appeal, Holder's Take Back Rights, including Holder's entry into the Store and subsequent possession, control; and ownership of the Store thereafter; and (iv) that Maker shall receive no compensation or other monetary consideration from Holder for the Store. For purposes of the Take Back Rights under this Section 11, all notices shall be sent by certified mail, return receipt requested, or via overnight delivery service, to the other Party at the addresses listed in Section 16.

C. Acceleration in the Event of Default. In the event of any default, including

a Payment Default, under this Note which is not cured within seven (7) calendar days after receipt of written notice from Holder, the principal sum hereof, together with all accrued and unpaid interest, shall, at the option of the Holder (and without limiting any remedies available to Holder), become immediately due and payable without further notice or demand by the Holder.

D. Consent to Credit Reports. Maker hereby agrees that upon notice of default or upon an uncured default of this Note, the Franchise Agreement or any other agreement between Maker (or a legal entity thereof) and Holder or its affiliates, and with no prior notice, Maker consents to Holder's (or its affiliates' or third-party contractors') acquisition and use of non-business consumer credit reports on Maker in order to evaluate as necessary the financial condition of Maker as principal(s), member(s), manager(s), franchisee(s), and/or guarantor(s) in connection with the collection of monetary obligations as contemplated by this Note, Maker's Franchise Agreement, the Guaranty of Agreement, or any other agreements between Maker (or a legal entity thereof), and Holder or its affiliates.

E. Acceleration in the Event of the Sale of the Store. In the event Maker sells the Store (as defined in Section 1 above) effective on or before _____, then the entire principal balance (plus all accrued interest) shall become due and payable upon the closing of the transaction of the sale of the Store.

12. Default Interest. After maturity, including maturity upon acceleration as described in Section 11 above, or at any time that Maker is more than seven (7) calendar days delinquent in the payment of money as required by this Note (whether or not Holder has given any notice of default or any cure period has expired), then all amounts outstanding hereunder and any advances thereafter made from the Debt evidenced hereby and any accruing costs and reasonable attorneys' fees which are the obligation of Maker shall thereafter bear interest at the rate of eighteen percent (18%) per annum until paid.

13. Indemnity. Maker shall indemnify, defend and hold Holder harmless for, from and against any and all claims, expenses and reasonable attorneys' fees actually incurred by Holder concerning or arising from the Collateral, this Note, or Maker's breach of any material representation, warranty or covenant. It includes, without limitation, any claims, losses or charges actually incurred concerning, arising out of or in connection with the manufacture, selection, delivery, possession, use, operation or return of the Collateral and any claims, losses or damages actually incurred concerning, arising out of or in connection with this Note. This obligation of Maker's to indemnify Holder continues even after satisfaction of this Note.

14. No Waiver by Holder. Failure of the Holder to exercise any option hereunder shall not constitute a waiver of the right to exercise the same in the event of any subsequent default or in the event of continuance of any existing default after demand for strict performance thereof.

15. Time of Essence. Time is of the essence of this Note.

16. Notices. All notices required or permitted to be given by either Party pursuant to this Note shall be in writing and given by (a) hand delivery, (b) express overnight delivery service or (c) certified or registered mail, return receipt requested, and shall be deemed to have been delivered upon (i) receipt, if hand delivered, (ii) the next business day following the date of deposit with the delivery service, if delivered by express overnight delivery service, or (iii) the third business day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the Parties at the addresses and facsimile numbers specified below:

If to Holder: [Seller Entity]
Attention: Legal Department
9311 East Via De Ventura
Scottsdale, Arizona 85258
Telephone Number: (480) 362-4800
Facsimile Number: (480) 362-4819

If to Maker: _____

Telephone Number:
Facsimile Number:

17. Governing Law. This Note shall be construed according to the substantive laws and judicial decisions of the State of Arizona, without regard to any conflict of laws principles. Any action brought to enforce this Note may be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa. Maker and any sureties, endorsers and guarantors irrevocably consent to jurisdiction and venue in such court for such purposes.

18. RELEASE. IN EXCHANGE FOR HOLDER'S AGREEMENT TO ARRANGE FOR MAKER'S PAYMENT OF THE DEBT, MAKER AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES' RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH MAKER "MAKER PARTIES"), HEREBY IRREVOCABLY AND UNCONDITIONALLY RELEASE, REMISE AND FOREVER DISCHARGE HOLDER AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH HOLDER "HOLDER PARTIES"), FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, DEBTS, DUTIES, ACCOUNTS, COVENANTS, CONTRACTS, AGREEMENTS, PROMISES, DAMAGES, JUDGMENTS, TAXES, LIABILITIES AND OBLIGATIONS, BOTH CONTINGENT AND FIXED, KNOWN AND UNKNOWN, NOW EXISTING OR HEREAFTER, OF EVERY KIND AND NATURE WHATSOEVER, IN LAW OR EQUITY, OR OTHERWISE, UNDER LOCAL, STATE, OR FEDERAL LAW OR THE LAW OF ANY OTHER APPLICABLE JURISDICTION, THAT ANY OF THE MAKER PARTIES HAVE AGAINST ANY OF THE HOLDER PARTIES, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM, IN CONNECTION WITH OR RELATING TO: (I) THE FRANCHISE AGREEMENT (INCLUDING ANY AMENDMENTS OR MODIFICATIONS THERETO); (II) THE OPERATION, LEASING OR SUBLEASING OF THE STORE; AND (III) THE OFFERING AND SALE OF THE FRANCHISE FOR THE STORE; ARISING FROM AN ACT, OMISSION, CONDUCT OR ACTIVITY OCCURRING BEFORE AND INCLUDING THE DATE OF THIS NOTE WRITTEN ABOVE.

IT IS UNDERSTOOD BY MAKER THAT IF THE FACTS OR LAW WITH RESPECT TO THE FOREGOING RELEASE HEREAFTER TURN OUT TO BE DIFFERENT FROM THE FACTS OR LAW KNOWN TO BE OR BELIEVED BY MAKER TO BE TRUE AT THE TIME OF EXECUTION OF THIS NOTE, THEN MAKER EXPRESSLY ASSUMES THE RISK OF THE FACTS OR LAW TURNING OUT TO BE SO DIFFERENT, AND AGREES THAT THE FOREGOING RELEASE SHALL BE IN ALL RESPECTS EFFECTIVE AND NOT SUBJECT TO TERMINATION OR RESCISSION, IN WHOLE OR IN PART, BASED UPON SUCH DIFFERENCES.

19. Counterparts; Signatures. This Note may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Note and all of which, when taken together, shall be deemed to constitute one and the same Note. The signatures required for execution may be transmitted to the other Party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other Party, may be admitted in evidence and shall fully bind the Party and person making such signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Maker, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective Party without further consent or approval of any kind, has duly executed and delivered this Note as of the date first written above.

MAKER:

_____, a(n) _____

By: _____
[Name, Title]

EXHIBIT "1" TO PROMISSORY NOTE
AMORTIZATION SCHEDULE

(Attached)

EXHIBIT "2" TO PROMISSORY NOTE

COLLATERAL

All assets owned by [NAME], a(n) [State] [corporation / limited liability company] ("Borrower"), whether now owned or hereafter acquired by Borrower and located at the following location: [Store Address], including, without limitation, the following properties of Borrower:

- (a) All accounts, contract rights, rights to payment, accounts receivable, chattel paper, leases, instruments, notes, securities, documents of title, deposit accounts, certificates of deposit and general intangibles;
- (b) All inventory, including, without limitation, raw materials, work-in-process or materials used or consumed in the business of Borrower, whether in the possession of Borrower, warehouseman, bailee or any other person or entity;
- (c) All machinery, furniture, fixtures and other equipment;
- (d) All negotiable and nonnegotiable documents of title;
- (e) All proceeds of any of the above-described property;
- (f) All books and records pertaining to any of the above-described property, including, without limitation, any computer readable memory and any computer hardware or software necessary to process such memory;
- (g) All rights under contracts of insurance covering any of the above-described property;
- (h) All attachments, accessions, tools, parts, supplies, increases and additions to and all replacements of and substitutions for any of the above-described property; and
- (i) All products of any of the above-described property.

EXHIBIT "3" TO PROMISSORY NOTE

**[GUARANTY OF PROMISSORY NOTE AND SECURITY AGREEMENT] or [NOT
APPLICABLE]**

GUARANTY OF PROMISSORY NOTE AND SECURITY AGREEMENT

This GUARANTY OF PROMISSORY NOTE AND SECURITY AGREEMENT ("Guaranty") is dated as of [Date] ("Effective Date"), and is executed by each of the undersigned ([individually and collectively,]"Guarantor") in favor of [SELLING ENTITY], a [state] [Corporation/Limited Liability Company, etc.] ("Seller"). To the extent this Guaranty contains terms and conditions that differ from those contained in the Note (as defined in Recital A below), this Guaranty shall control. All capitalized terms not otherwise defined in this Guaranty will have the same meanings ascribed to such terms in the Note.

Recitals

A. As an inducement for Seller to provide debt to [Franchisee], a [State] [corporation/limited liability company], ("Franchisee"), and to perform Seller's obligations under the Promissory Note and Security Agreement dated [Start Date] ("Note") in the amount of _____ Dollars (\$_____), Guarantor has agreed to jointly and severally guarantee the obligations of Franchisee under the Note.

B. Franchisee and Kahala Franchising, L.L.C. signed a Franchise Agreement, as amended, with respect to Cold Stone Creamery Store No. _____ ("Franchise") dated [Franchise Agreement Date] ("Franchise Agreement").

C. Guarantor is an individual who owns, directly or indirectly, a five percent (5%) or greater equity interest in the Franchise, has agreed to guarantee the Franchisee's obligations pursuant to the Franchise Agreement and Note, or is Franchisee's spouse.

NOW THEREFORE, in consideration of the foregoing, the execution and delivery of the Note by Seller, and the performance of Seller's obligations under the Note, Guarantor agrees, for the benefit of Seller and its affiliates as follows:

Agreement

1. Guarantor unconditionally guarantees and promises to pay to Seller and/or its affiliates and to perform, for the benefit of Seller and/or its affiliates, on demand, any and all obligations and liabilities of Franchisee in connection with, with respect to, or arising out of, the Note and all Schedules entered into in connection therewith ("Obligations").

2. This is a guaranty of payment and not of collection. This Guaranty will remain in full force and effect until all amounts payable by Guarantor have been validly, finally and irrevocably paid-in-full and all Obligations will have been validly, finally and irrevocably satisfied or performed-in-full.

3. Guarantor's Obligations under this Guaranty are joint and several and are independent of the obligations of Franchisee. A separate action or actions may be brought and prosecuted against Guarantor regardless of whether an action is brought against the Franchisee or whether the Franchisee (or, if more than one Guarantor, the other Guarantors) is joined in any such action. Guarantor waives the benefit of any statute of limitations affecting Guarantor's liability under this Guaranty or the enforcement of this Guaranty. Guarantor waives its rights under A.R.S. Section 12-1641, *et seq.* and Rule 17(f) of the Arizona Rules of Civil Procedure for the Superior Courts of Arizona, which set forth certain rights and obligations among guarantors, debtors and creditors, if applicable, including the right to require Seller to bring an action against the Franchisee prior to enforcing its rights under this Guaranty. Guarantor waives any right to require Seller to proceed against or exhaust any security interest held in the property of Franchisee or to pursue any other remedies that Seller may have. Guarantor waives all

requirements as to presentment, demand for performance, notice of non-performance, protest, notice of protest, notice of dishonor, and notice of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations or indebtedness.

4. Guarantor authorizes Seller, without notice or demand and without affecting Guarantor's liability under this Guaranty to renew, compromise, modify, extend, accelerate or otherwise change the terms of any present or future Obligations and/or agreements between Franchisee and Seller or Seller's affiliates. Any change in the Obligations and/or agreements will have no effect on Guarantor's liability under this Guaranty. Guarantor will remain liable for the Obligations as set forth in this Guaranty if Franchisee fails to satisfy any of its obligations.

5. If any one or more of the provisions in this Guaranty will be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision of this Guaranty, and this Guaranty will be construed as if such provision had never been contained herein. Notwithstanding the foregoing, if the provision held invalid, illegal or unenforceable is a material part of this Guaranty, as determined by Seller, the Parties shall promptly negotiate a substitute provision consistent with then-current law and the Parties' original intent to replace the provision held to be invalid, illegal or unenforceable.

6. If Seller is required to take any legal action to enforce its rights under this Guaranty, Seller may recover from Guarantor Seller's costs and expenses in connection therewith, including, without limitation, reasonable attorneys' fees, whether or not suit is filed, and all costs of collection, suit, and preparation for suit (whether at the trial or appellate level).

7. Nothing in this Guaranty will constitute a waiver or limitation of any other rights or remedies of Seller or its affiliates against Franchisee or Guarantor. No failure or delay on the part of Seller or its affiliates in exercising its rights under this Guaranty will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any right will be effective unless given in writing, specifying with particularity the nature of the waiver. No waiver of any right will be deemed a waiver of any other right. The rights provided for in this Guaranty are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law.

8. Guarantor agrees that it will not exercise any rights of subrogation that Guarantor may acquire due to any payment or performance of the Obligations of the Franchisee pursuant to this Guaranty unless and until all amounts payable to Seller or its affiliates, and all Obligations for the benefit of Seller or its affiliates, due under the Note will have been validly, finally and irrevocably paid and performed in full.

9. This Guaranty will be binding upon Guarantor and its respective successors, heirs and assigns, and will inure to the benefit of Seller, its affiliates and their respective successors and assigns.

10. If more than one person signs this Guaranty, each Guarantor's obligations will be joint and several. Guarantor acknowledges and agrees that Seller will materially rely upon Guarantor's promises and obligations under this Guaranty.

11. [The undersigned _____][include name(s) here of each of the undersigned who is not married] each represents that he/she is not married as of the Effective Date.

This Guaranty will be governed by, and construed and enforced in accordance with, the law of the State of Arizona, notwithstanding any conflict of law provisions to the contrary.

Guarantor agrees that any litigation in connection with this Guaranty will be commenced and maintained only in the courts located in Maricopa County, Arizona, and Guarantor consents to the jurisdiction of such courts.

GUARANTOR:

[Name], an individual

[Name], an individual

[Name], an individual

[Name], an individual

EXHIBIT E-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

Franchise Agreement (New)

COLD STONE CREAMERY

**FRANCHISE AGREEMENT
(New)**

between

KAHALA FRANCHISING, L.L.C.

and

_____, a(n) _____

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**COLD STONE CREAMERY
FRANCHISE AGREEMENT**
(“Agreement”)

PARTIES:

KAHALA FRANCHISING, L.L.C.,
an Arizona limited liability company
Attn: Legal Department
9311 E. Via De Ventura
Scottsdale, Arizona 85258

(“Franchisor”)

a(n) _____

Telephone No.: _____

([individually and collectively,] “Franchisee”)

RESTAURANT NO.: _____

EFFECTIVE DATE: _____

(“Effective Date”)

TRADITIONAL RESTAURANT (YES or NO): _____

RESTAURANT DESCRIPTION IF NON-TRADITIONAL: _____

A “traditional” restaurant is a restaurant that is easily accessible by the general public, such as a free-standing building, inline retail shop, shopping mall and street front location. A traditional *Cold Stone Creamery* restaurant normally offers a full menu. A “non-traditional” restaurant is a *Cold Stone Creamery* restaurant that is located in a non-traditional marketplace, as determined by us (in our sole discretion), such as an airport, amusement park, sports or entertainment venue, train station, travel plaza, toll roads, cafeteria, retail store, convenience store, military base, hospital, office building, movie theater, hotel, casino, kiosk, cart, or high school or college campus. A non-traditional restaurant may also be a *Cold Stone Creamery* restaurant that is co-branded into another brand restaurant, at Franchisor’s sole discretion. A non-traditional *Cold Stone Creamery* restaurant normally offers a limited version of the full *Cold Stone Creamery* menu.

To simplify the language in this Agreement, the terms “we,” “us,” “our” and the like may be used to refer to the Franchisor, and the terms “you,” “your” and the like may be used to refer to the Franchisee. The term “you” as used herein is applicable to one (1) or more persons, a corporation, partnership, trust, other entity, association or form of organization as the case may be, and the singular usage includes the plural, masculine, neuter, feminine, and possessive usages. Franchisor and Franchisee may individually be referred to as a “party” and collectively referred to as the “parties.”

RECITALS:

This Agreement is entered into with reference to the following facts and circumstances:

A. We have, over a period of time and at considerable expense, developed and established a uniform and unique method of operation, customer service, advertising, publicity, processes, recipes, techniques and technical knowledge in connection with the restaurant business, specializing in super-premium ice cream, cakes, pies, smoothies, shakes, specialty beverages, other dessert with frozen confections, and other related beverage and food items. These restaurants do business under the trade name "*Cold Stone Creamery*[®]". These Cold Stone Creamery recipes, techniques, processes and methods constitute our "Trade Secrets." All of our knowledge, experience, Trade Secrets, processes, methods, specifications, techniques, Proprietary Marks (as defined in Recital B.), System Standards (as defined in *Section 1.4*) and information are referred to in this Agreement as the "System." The System may be changed, supplemented, improved and further developed by us from time to time.

B. We have owned and issued franchises to others for the operation of franchised restaurants in the United States and in other countries. We have registered and applied for proprietary marks with the United States Patent and Trademark Office and with offices in other countries serving similar functions. These proprietary interests, trademarks, service marks, logos, insignias, trade names and trade dress are referred to in this Agreement as the "Proprietary Marks."

C. We are engaged in the business of licensing the right to use the Proprietary Marks in connection with the operation and promotion of the System.

D. You understand and recognize that: (1) our Trade Secrets, Proprietary Marks, developments and other properties as recited above are of considerable value; and (2) it is of importance to us and all of our franchisees to maintain the development of the System in a uniform and distinctive manner, allowing you and our other franchisees to enjoy a public image and reputation greater than most single franchisees could establish.

E. You desire to make use of the "*Cold Stone Creamery*[®]" trademark and to enjoy the benefits of that mark, the other Proprietary Marks, and the System; and to establish a "*Cold Stone Creamery*" franchise to be operated in accordance with System Standards set forth from time to time by us. System Standards are set forth in, without limitation, the confidential "ops package," which consists of the "operations manual" ("Operations Manual"), "ops toolkit" and related printed and electronic documents, both now existing and hereinafter developed (individually and collectively, "Confidential Manual"). We are willing to grant you the right to do so under the terms, conditions and provisions set forth in this Agreement, which includes any and all appendices, addenda, amendments, attachments and exhibits.

F. You recognize the necessity and desirability of protecting our reputation, goodwill, Trade Secrets, and other confidential business information; and that disclosure of Trade Secrets and confidential business information, including specifics of the System to any third-party, will cause irreparable damage and harm to us.

AGREEMENT:

The parties agree as follows:

ARTICLE 1. GRANT OF FRANCHISE; TERM; SYSTEM STANDARDS

1.1 Franchise Grant.

We hereby grant to you a *Cold Stone Creamery* franchise that includes the right to use the System ("Franchised Business") as provided in this Agreement, at the following location:

Arena, Mall, Facility, or Center Name: _____
(if applicable)

Street Address: _____

City/State/Zip Code: _____ ("Location")

1.2 Location of the Franchised Business; No Exclusive Territory or Other Rights.

You must operate the Franchised Business only from the Location, including any catering services of *Cold Stone Creamery* menu items you provide. You acknowledge that the *Cold Stone Creamery* franchise granted under this Agreement is non-exclusive, that we are not granting you any territorial protection or any other exclusive rights, and that we, directly or through one (1) or more affiliates, reserve the right in our sole discretion, and without compensating you or seeking your prior approval: (i) to establish, and grant to other franchisees or licensees the right to establish, a *Cold Stone Creamery* restaurant or any other business using the Proprietary Marks, the *Cold Stone Creamery* System or any variation thereof, in any location other than the approved Location (including locations in the immediate vicinity of your Location), on any terms and conditions that we deem appropriate; (ii) to establish, and grant to other franchisees or licensees the right to establish, any restaurant concept other than *Cold Stone Creamery* in any location on any terms and conditions that we deem appropriate (including locations in the immediate vicinity of the Location); (iii) to sell products identified by the Proprietary Marks or other trademarks, service marks or commercial symbols in any location through any distribution channels, including grocery stores, convenience stores, supermarkets, club stores, vending machines, delivery services and restaurants other than *Cold Stone Creamery* restaurants; and (iv) to take any other action that we are not expressly prohibited from taking under this Agreement.

We hereby grant to you during the term of this Agreement, a non-exclusive right and license to operate a single restaurant at the Location only, according to the System Standards and subject to the terms, conditions and restrictions contained in this Agreement. This Agreement is limited to the operation of one traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.

Except as expressly limited in this Agreement, we (for ourselves and our affiliates and designees) retain all rights with respect to all Proprietary Marks and the sale of *Cold Stone Creamery* products anywhere in the world with no compensation or liability to you, including the right to:

- a. Establish and operate (or license to any other person or entity the right to establish and operate) *Cold Stone Creamery* restaurants owned or licensed by us at any location;

b. Develop, market, own, operate and participate in any other business under the Proprietary Marks or any other trademarks (including trademarks identified in the Franchise Disclosure Document ("Disclosure Document") and other trademarks we or our affiliates own or have the right to license);

c. Develop, lease and license the use of, at any location, trademarks other than the Proprietary Marks, in connection with the operation of a system that offers products or services that are the same as, or similar to, those offered by us under this Agreement on any terms or conditions that we deem advisable, in our sole discretion;

d. Merge with, acquire or be acquired by any other business, including a business that competes with your Franchised Business, or acquire and convert any retail stores, including retail stores operated by competitors, or otherwise operated independently or as part of, or in association with, any other system or chain, whether franchised or corporate-owned;

e. Distribute, sell and license other persons or entities to distribute and sell products through all other channels of distribution, including catalog sales, telemarketing, grocery stores, warehouses, big box shops, specialty shops, limited access highway food facilities, vending machines and similar automated dispensing systems, mobile units, off-site sales accounts, electronic mail, Internet sales, and movie theaters (individually and collectively, "Other Channels"); and

f. Implement multi-area marketing programs that may allow us or others to solicit or sell to customers anywhere. We also reserve the right to issue mandatory policies to coordinate such multi-area marketing programs.

1.3 Term of Agreement.

This Agreement will commence on the Effective Date and continue as set forth in either *Section 1.3a.* or *1.3b.* below ("Term").

a. If you are purchasing a new or existing non-operating Franchised Business, the Term will expire on either: (1) the ten (10) year anniversary of the date you open this Franchised Business to the public if you own the property where this Franchised Business is located or if you enter into a lease directly with the landlord or other third-party for the property where this Franchised Business is located; or (2) if you have entered into a sublease with one of our affiliates, the expiration of the term of the sublease for the Location excluding any extensions or renewal options, unless terminated earlier in accordance with *Article 14* or any other provisions of this Agreement, renewed in accordance with *Article 13*, or transferred in accordance with *Article 12*; or

b. If you are purchasing an existing and operating Franchised Business, the Term will expire on either: (1) the ten (10) year anniversary of the Effective Date if you own the property where this Franchised Business is located or if you enter into a lease directly with the landlord or other third-party for the property where this Franchised Business is located; or (2) if you have entered into a sublease with one of our affiliates, the expiration of the term of the sublease for the Location excluding any extensions or renewal options, unless terminated earlier in accordance with *Article 14* or any other provisions of this Agreement, renewed in accordance with *Article 13*, or transferred in accordance with *Article 12*.

1.4 System Standards.

You shall operate the restaurant in accordance with our standards, including the following:

- a. restaurant design, maintenance, health and safety and remodeling;
- b. types, models, brands and suppliers of required fixtures, furnishings, equipment, signs, materials and supplies;
- c. recipes and ingredients, menu items and menu design;
- d. cooperation with and participation in sales, marketing, advertising and promotional programs (including discount coupons, discount gift cards, special menu promotions, and entering into product and service agreements directly with third-party vendors and service providers as required by us) and materials and media used in those programs, including discontinued use and removal of promotional materials as directed by us;
- e. use and display of the Proprietary Marks;
- f. restaurant operations, including matters related to the management of the restaurant; training of your employees consistent with the System Standards; and commercial impression of the Franchised Business to the public;
- g. cooperation with and participation consistent with our responses and resolutions in response to customer feedback;
- h. cooperation with and participation in: (i) market research and testing; and (ii) product and service development programs;
- i. acceptance of our stored value gift cards, including gift cards sold at a discount, loyalty cards, frequency cards, gift certificates, vouchers, and any other similar electronic card and payment programs (individually and collectively, "Gift/Loyalty Card"), credit and debit cards, other payment systems, check verification services and use of point of sale computer systems; You agree to enter into a separate participation agreement with the approved vendor for data processing services;
- j. bookkeeping, accounting, data processing and record keeping systems; computer hardware and software; connections to the Internet or to proprietary networks; forms, methods, formats, content and frequency of reports to us of Gross Sales (as defined in *Article 5*), financial performance and condition; and providing tax returns and other operating and financial information to us; and
- k. conduct and maintain the Franchised Business and Location so as not to distract from or interfere with the integrity of the System (individually and collectively, "System Standards"). We may, in whole or in part, change, improve, update and further develop the System Standards, from time to time during the term. You shall comply with the updated System Standards as directed by us.

The operation and maintenance of your restaurant according to the System Standards are essential to the well-being and vitality of the System and to preserve the goodwill of the

Proprietary Marks for us and for all other franchisees operating under the System. It is critical to the *Cold Stone Creamery* System for all restaurants operating under the *Cold Stone Creamery* System to present a uniform and professional image to *Cold Stone Creamery* customers regardless of which location the customer visits. Any information regarding the operation of the restaurant will be considered a mandatory System Standard, unless it is clear from the express language of our communication that the information is merely optional or is intended by us as a suggestion, rather than a requirement.

You agree that System Standards constitute binding provisions of this Agreement as if they were an integral part of this Agreement.

ARTICLE 2. SELECTION OF LOCATION; CONSTRUCTION AND RELOCATION

2.1 Location Selection Procedures.

You must select a Location that satisfies our minimum site requirements (such confirmation will be provided to you by us in writing), for your Franchised Business within one (1) year from the Effective Date. If you cannot secure an acceptable Location for your Franchised Business within one (1) year from the Effective Date, then we may terminate this Agreement by giving you notice to that effect. You are ultimately responsible for the selection of the Location. We will not have any liability to you with respect to your selection of the Location, any assistance we provide you in making your selection, our recommendation of any location or a third party to assist you in selecting a location, or our allowing you to move forward on any location. You agree that your selection of the Location will be based on your own independent investigation of the suitability of the Location.

2.2 Lease and Purchase Approval.

If you intend to lease the Location for your Franchised Business, the lease will be subject to our prior limited review and acknowledgment so that we can confirm that certain lease terms are incorporated into the lease. You must provide us, at least thirty (30) days prior to executing the lease, a copy of the lease and details relating to square footage, rent per square foot, the term of the lease, and either confirmation that such other terms as we reasonably require are incorporated into the lease or that you and the landlord agree to incorporate the lease addendum to lease agreement as an exhibit to the lease. You or your attorney shall be responsible for negotiating the terms of the lease, which shall be subject to our final limited review and acknowledgment. If you do not submit all of the required documents to us, we will not allow you to move forward with your lease. We have no liability to you regarding the terms or negotiations of the lease.

If, prior to executing the lease, you or your attorney request a full review of your lease, including any and all exhibits attached thereto, and we or our designated affiliate review your entire lease and exhibits and provide to you or your attorney its review of the entire lease and suggested changes to the lease ("Lease Review"), you must pay a Lease Review Fee (as defined in *Section 5.7*) to compensate for time and effort in reviewing the lease. The Lease Review is optional and only completed by us or our designated affiliate at your or your attorney's request. The Lease Review Fee is due only in the event that you or your attorney request us or our affiliate to complete a Lease Review. Each lease must contain the required lease terms set forth in the Lease Addendum to Lease Agreement, and must specifically state that we are a third-party beneficiary of the lease. If we cure any default by you under the lease, any amounts

that we pay to cure the default will be payable by you to us on demand, together with interest thereon, at the lesser rate of one and one-half percent (1½%) or the maximum rate that does not violate applicable state usury laws (“Default Rate”) per month from the date we make such payment.

You acknowledge and agree that on the earlier of thirty (30) days after: (i) you receive a fully executed copy of your lease for the Location of your Franchised Business; or (ii) you open your Franchised Business to the public, you must provide a fully-executed copy of your lease for the Location to us. Failure to timely provide us with a fully-executed copy of the lease will result in a default under this Agreement.

If you intend to purchase the Location for your Franchised Business, the terms of such purchase shall be subject to our prior approval, and you must provide us, at least thirty (30) days prior to executing the purchase agreement, a copy of the purchase agreement and details relating to square footage, price per square foot and such other terms as we reasonably require.

You acknowledge and understand that our confirmation that you may move forward with any specific location, lease or purchase agreement does not in any way guarantee or ensure the success or profitability of the Franchised Business, or the conformity of the Location, lease or purchase agreement to applicable laws, and such confirmations are only for our own benefit.

2.3 Construction.

a. You must, at your sole cost and expense, construct, furnish, make improvements to and equip, if necessary, the Franchised Business at the Location selected by you and meeting our minimum site requirements, in accordance with plans and specifications approved by us or our third-party approved architect, if applicable. Our approval of plans is solely for complying with our System Standards and not for determining compliance with codes, ordinances and other legal requirements, including the Americans with Disabilities Act (“ADA”) or any requirements under the lease for your Location. You are solely responsible for ensuring that your Location conforms to all codes and ordinances, including the ADA, and all lease-specific requirements. You must, at your sole cost and expense, use our designated and approved third-party design architect (“Design Architect”) to prepare the initial design drawings for any construction, alterations or improvements, as applicable, for your Franchised Business. The Design Architect must provide us with one (1) set of the design drawings, including landscaping and parking spaces if applicable, which are the detailed plans and specifications (“Plans”) for your Franchised Business. We will provide you with a copy of the Plans upon our approval of the Plans. You must also, at your sole cost and expense, retain a licensed architect of record to prepare the permitted construction set of drawings for any construction, alterations or improvements. The permitted construction set of drawings must be submitted to us for our files prior to the start of construction, alterations or improvements. In addition, you must obtain the appropriate construction documents and all mechanical, plumbing, electrical and architectural plans must be sealed and stamped, as we may require, even if local laws in the jurisdiction where your restaurant is located do not require same.

b. Any material modifications to the approved Plans must be submitted to us for approval and you will not undertake any construction, alterations or improvements until such modifications have been approved by us. Approval of such modifications does not constitute any representation by us of compliance with applicable zoning laws, building codes or other laws.

c. You will be solely responsible for the cost and expense of obtaining all necessary governmental construction permits and licenses, and you must, at your sole cost and expense, comply with all laws, zoning ordinances, rules and regulations of any governmental agencies that may govern any construction, alterations or improvements of the Franchised Business in accordance with the approved Plans. We will have the right, but are not required, to meet with the Design Architect and to inspect any construction, alterations or improvements during its course to ensure that the provisions of this *Section 2.3* are being observed; and you agree to allow our authorized representatives, at any and all times while construction, alterations or improvements are in progress, to meet with the licensed architect and general contractor and enter onto the Location for this purpose. If we determine in good faith that the provisions of this *Section 2.3* are not being observed, you will, at your sole cost and expense, immediately take all necessary corrective action.

d. You must, at your sole cost and expense, use a general contractor that is licensed, and if applicable, registered in the state and local jurisdiction where your restaurant is located for any and all construction, alterations and improvements. The general contractor must have prior experience in the construction, alterations and improvement of quick-service restaurants.

e. You acknowledge that the design and appearance of the *Cold Stone Creamery* restaurant is part of the System, and that uniformity is essential to the System. Therefore, you agree that after the restaurant has been constructed, altered or improved, you will not make any material changes to the building plan or design or its appearance without our prior written consent, and you will, at your sole cost and expense, maintain the interior and exterior décor of the restaurant in a first class condition and in such manner as we may reasonably prescribe from time to time. In addition to any remodeling required by us upon the transfer of the Franchised Business and upon the renewal of this Agreement, as set forth in *Articles 12 and 13*, respectively, you will, upon thirty (30) days' prior notice from us, and at your sole cost and expense, remodel and make all alterations and improvements in and to your Franchised Business as reasonably determined by us to reflect the then-current *Cold Stone Creamery* System specifications, standards, format, image and appearance.

f. A certificate of occupancy for your Franchised Business must be submitted to us approximately six (6) days prior to the day you open your Franchised Business to the public and as otherwise requested by us throughout the Term.

2.4 Signage.

You will acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, signs for advertising and identifying the Franchised Business as a *Cold Stone Creamery* restaurant. All signs must be in accordance with the System Standards, specifications and any local governing body (i.e., city or county governments), as well as any other applicable laws, including the Americans with Disabilities Act ("ADA"), and exterior signage must be the maximum size allowed by the landlord and local governing body. You acknowledge that quality control is essential to protect and promote our Proprietary Marks, standards, and uniform image, and you shall acquire all signs only from approved suppliers. In addition, you shall prominently display on all communications, forms, advertising, business stationery and business cards, and in a sign easily visible to consumers at the Franchised Business, the following words: "INDEPENDENTLY OWNED AND OPERATED."

2.5 Relocation.

a. If you desire to relocate the Franchised Business, you may request our consent upon the following conditions:

(i) Not less than sixty (60) days prior to the desired date of relocation (unless prior notice is impractical because of a required relocation, due to a third-party or our request, in which event notice shall be made as soon as possible), you must make a written request for consent to relocate, describing the reasons for the relocation and providing details respecting any proposed new location.

(ii) Within twenty-one (21) days after receiving your written request, we shall advise you in writing if the proposed new location meets our minimum real estate site requirements as provided in *Section 2.1* and if you have our authorization to proceed with the relocation. In the event of our denial to proceed with the relocation, you may request an alternative proposed new location pursuant to the provisions of this *Section 2.5*.

(iii) The Term will not be extended in connection with the requested relocation.

b. At the time you request to relocate the Franchised Business, you must also meet each of the following requirements:

(i) You must not be in default under this Agreement or any other agreement or note then in effect between us or you and any affiliate of ours, and no event shall have occurred that, with the giving of notice, the passage of time, or both, would constitute a default under this Agreement;

(ii) You must neither have received more than three (3) notices of default or breach during the Term; nor more than two (2) notices of default or breach during the five (5) years immediately preceding the effective date of the proposed relocation;

(iii) The equipment, fixtures and signage used in connection with the operation of the Franchised Business must either meet our then-existing System specifications and System Standards, or you must agree, within a timeframe required by us, to replace or refurbish such items, and otherwise modify the methods of operation of the Franchised Business at your cost and expense, in order to comply with our System specifications and System Standards then applicable to new franchise owners; and

(iv) You shall have paid to us a Relocation Fee (as defined in *Section 5.14*).

c. If we approve the relocation of your Franchised Business, (i) you and we must execute an amendment to this Agreement indicating the address for your relocated Franchised Business, and (ii) you must open your Franchised Business at the new location within thirty (30) days after you close your Franchised Business at the current Location. Provided that you comply with all of the terms and conditions set forth in this Agreement including this Section 2.5, during the period of time between the closure of your Franchised Business at the current Location, and the opening of the Franchised Business at the approved relocation address, you will not owe the Royalty Fee (as defined in *Section 5.2*).

2.6 Restricted Use of Restaurant Location.

You may not wholly or partially sublet the Location without our prior written consent. The Location may be used only for the operation of a *Cold Stone Creamery* restaurant in compliance with this Agreement and the System Standards. You shall not conduct other businesses or activities at the Location without our prior written consent.

2.7 Not Applicable.

ARTICLE 3. OPERATIONS

3.1 Commencing Operations.

You agree to start operating your *Cold Stone Creamery* restaurant at the confirmed Location within one (1) year from the Effective Date. You acknowledge that before starting operations you must, at your own expense, do the following (in addition to any other requirements set forth in this Agreement):

- a. Complete a food safety training program at your sole cost and expense. We will accept the certificate for the required program through your local county or state health department or any other nationally recognized food safety program. You must provide us with a copy of your certificate prior to commencing training;
- b. Successfully complete the Training Program described in *Section 4.1*;
- c. Purchase, lease or otherwise acquire from the list of approved sources provided by us all the signage, supplies, equipment, fixtures, inventory and other items necessary to operate the *Cold Stone Creamery* Franchised Business; and
- d. Obtain liability insurance in accordance with the requirements described in *Section 9.5* and provide to us evidence that such insurance has been obtained.

Prior to opening the Franchised Business, you must notify us that you have satisfied all requirements to begin operations, and provide us with such documents as we may reasonably request that show your compliance with all such requirements. Upon receipt of our acknowledgment that such requirements have been satisfied, you will have five (5) days to begin operations of your *Cold Stone Creamery* restaurant. If you do not begin operations of your restaurant at the confirmed Location before the expiration of the one (1) year period from the Effective Date, then we may terminate this Agreement by giving you notice to that effect.

3.2 Supplies and Promotional Materials; Rollouts.

You agree to sell only those menu items, products and services authorized under the terms of this Agreement and as specified in the Confidential Manual, and you shall use only supplies and ingredients in making those menu items that are in compliance with the standards as set forth in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You shall purchase all such services, supplies and ingredients only from approved vendors and utilize approved distributor(s) as specified in the documents provided by, or approved by, us as they presently exist or may exist in the future. You must purchase promotional materials containing the Proprietary Marks, including stationery, business

cards, promotional and advertising materials and similar items, from suppliers approved by us, except that we must first approve all such promotional and advertising materials before you use them, and all such printed materials containing any of the Proprietary Marks shall be accompanied by the words "INDEPENDENTLY OWNED AND OPERATED." Additionally, during the Term, you agree to participate in any Rollout of new products and suppliers, as defined in *Section 9.3*.

3.3 Fixtures, Furnishings, and Equipment.

Unless otherwise approved by us in writing, you will: (1) acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, fixtures, furnishings, and equipment to be used in the operation of your Franchised Business that is in accordance with the System Standards, specifications set forth by us in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future, and with applicable laws including, without limitation, including the Americans with Disabilities Act ("ADA"); and (2) procure the fixtures, furnishings, and equipment from suppliers or vendors previously approved in writing by us.

3.4 Online Presence.

You may not maintain a website, software application, an App (application), social media account (including an account, group or page on Facebook[®], Flickr[®], Foursquare[®], Google+[®], Instagram[®], LinkedIn[®], Pinterest[®], Snapchat[®], Tumblr[®], Twitter[®], YouTube[®], Vine[®], VKontakte or Weibo[®]), or otherwise maintain a presence or advertise on the Internet or any other public computer network (individually and collectively, "Site") in connection with the Franchised Business without our prior written approval, which we may withhold in our sole discretion. If we grant you written approval, you agree to submit to us for approval before use, true and correct printouts, of all Site pages you propose to use in connection with the Franchised Business. You understand and agree that our right of approval of all such Site pages is necessitated by the fact that such Site pages will include and be inextricably linked with our Proprietary Marks. If we approve your use of a Site, you may only use Site pages that we have approved. Your Site must conform to all online presence requirements, policies and procedures per our System Standards. You agree to provide all information regarding your online presence that we require. If we grant approval for a Site, you may not use any of the Proprietary Marks on the Site except as we expressly permit. You may not post any of our proprietary, confidential or copyrighted material or information on the Site without our prior written permission. If you wish to modify your approved Site, all proposed modifications must also receive our prior written approval. You explicitly understand that you may not post on any Site (whether yours or someone else's) any material in which a third-party has any direct or indirect ownership interest (including video clips, photographs, sound bites, copyrighted text, trademarks or service marks, or any other text or image which any third-party may claim intellectual property or other rights in). If we grant approval, you agree to list on the Site any website and social media account maintained by us, and any other information we require in the manner we dictate. You agree to obtain our prior written approval for any Internet domain name, home page address and Uniform Resource Locator. The requirement for our prior approval set forth in this *Section 3.4* will apply to all activities on the Internet or other communications network to be conducted by you, except that you may maintain one (1) or more e-mail addresses and may conduct individual e-mail communications without our prior written approval. You agree to obtain our prior approval as provided above if you propose to send advertising to multiple addressees via e-mail or text messages. You may not use a Site to represent that: (1) the Site is an official account,

application, page or group of, or video produced by us; or (2) you are the owner of the *Cold Stone Creamery* brand. On any Site you use in connection with the Franchised Business, you must affirmatively state: (a) that you are a franchisee and the opinion and content being expressed are your own and not that of the *Cold Stone Creamery* brand; and (b) the Location of your Franchised Business.

3.5 Continuing Working Capital Requirement.

You must have Fifteen Thousand Dollars (\$15,000) in working capital at the time you open your Franchised Business.

ARTICLE 4. TRAINING, ASSISTANCE AND START-UP MATERIALS

4.1 Training Program.

We will provide up to two (2) natural persons (individually and collectively, "Trainees") with a training program designed to inform the participants as to the fundamentals of operating the Franchised Business prior to your opening of the Franchised Business. At minimum, one (1) of the two (2) natural persons must have an ownership interest in the Franchised Business. The remaining position may be filled by a natural person with an ownership interest in or management responsibility for the Franchised Business. The training program is made up of the "In-Store Training," which is approximately eighty (80) hours, and "New Owner Training," which is approximately forty (40) hours (collectively, "Training Program"). You will be solely responsible for all transportation costs, food, lodging and other personal expenses incurred by you and your employees in connection with the Training Program. The New Owner Training will be conducted either online or in person at our sole discretion. If the New Owner Training is conducted in person, it will be at the Franchisor training and education center in Scottsdale, Arizona or at such other location as we may designate at our sole discretion and the In-Store Training will be conducted at a training store in Arizona or such other location as we may designate at our sole discretion. You acknowledge that adequate knowledge regarding the operation of the Franchised Business is essential to the growth of your franchise and to the promotion of the System. Notwithstanding the foregoing, Franchisor has the right to require Franchisee and/or its manager(s) to attend additional training and pay the Additional Training Fee (as defined below), as provided for in this *Section 4.1* and *Section 5.10*, in the event Franchisee is not operating the Franchised Business pursuant to Franchisor's Systems Standards.

4.2 Employee Training.

You acknowledge that the employees of your *Cold Stone Creamery* Franchised Business are an integral and important part of the Franchised Business, as they will have substantial contact with customers. You alone are responsible, and acknowledge that we have no direct or indirect control and no right or authority, for the hiring, firing, training, supervising, setting the terms and conditions of employment (including employee tasks and work schedules), compensation of your employees, or maintaining employment records, for the safety of your employees and for your employees' compliance with the System Standards. The System Standards are in place to protect our interests in the System and not for exercising any control over you, your employees or your Franchised Business. You must ensure that your employees who have direct interaction with the public are able to speak and read English and any other

language that may be required to adequately meet the public needs in your Franchised Business.

4.3 Additional Programs; Continuing Assistance.

We will provide one (1) of our representatives to come to your restaurant during opening week for up to five (5) days, at our expense, to work with you or your manager on your grand opening, and on operating and marketing your restaurant. We may, in the future, request that Trainees participate in refresher or additional training programs. We may also hold an annual conference to introduce new products, discuss sales and marketing techniques, personnel training, advertising programs, merchandising procedures and other subjects. You may be charged a nominal registration fee for these programs and you will be solely responsible for the cost of transportation, food, lodging and other expenses incurred by Trainees at any such program. Attendance at these additional training programs and conferences is mandatory. They will be held in the metropolitan Phoenix, Arizona area, or at other locations in the United States chosen by us, at our sole discretion.

In addition to the initial training available under *Section 4.1*, we shall provide such periodic evaluations or inspections as we deem appropriate, utilizing our field representatives who may visit the Franchised Business from time to time. The frequency and duration of such visits to a Franchised Business by our representatives shall be in our sole discretion. Any such evaluation or inspection is not intended to exercise any control over your employees or the daily operation of your Franchised Business. In addition, we will be available on an ongoing basis at our offices for consultation and guidance with respect to the operation and management of the Franchised Business. In addition to the Confidential Manual, we may, but are not required to, from time to time provide you with additional materials relating to the Franchised Business.

4.4 Area Representatives.

We may retain the services of an independent third-party area representative ("Area Representative") to represent us in the area in which the restaurant is located and perform some or all of the services we provide under this Agreement. The services the Area Representative may perform could include: (i) assistance in location selection and evaluating and confirming that the Location meets our minimum site requirements; (ii) advice and guidance regarding lease negotiations; (iii) assistance in opening new *Cold Stone Creamery* locations; (iv) assistance with training on the approved POS System (as defined in *Section 4.6a.*); (v) assistance with marketing advice; (vi) periodic Quality Service Cleanliness and Experience ("QSCE") evaluations; (vii) assistance with collection of the various sums due to us from *Cold Stone Creamery* franchisees; and (viii) coordination with other *Cold Stone Creamery* franchisees in your area and general supervision and monitoring of your Franchised Business on our behalf. You agree in advance to our delegation to an Area Representative of some or all of our obligations, and assignment to an Area Representative of some or all of our rights under this Agreement. You agree that we may require you to submit to an Area Representative any reports you are required to submit to us. Upon our request, you will provide the Area Representative with access, inspection and audit rights to the same extent we have those rights under this Agreement. You are not a third-party beneficiary of any agreement between us and any Area Representative. If we have designated an Area Representative for your restaurant as of the Effective Date, the name and contact information of the Area Representative is shown in *Section 17.3h*. We reserve the right in our sole discretion to remove any Area Representative in your area at any time and to appoint any other Area Representative for your area. We have no

obligation to appoint an Area Representative in the area in which your restaurant is located, and we have no obligation to appoint a new Area Representative after we have removed an Area Representative.

You acknowledge that Area Representatives and their owners and employees may not contractually bind us without our express written authorization. You further acknowledge no Area Representative has the authority to: (i) enter into agreements or execute any agreements on our behalf; or (ii) bind us in any way without our prior written consent. Unless expressly authorized and agreed to by us in writing, we disavow any agreements, whether verbal or written, entered into by an Area Representative that in any way attempts to bind us. In any litigation or arbitration proceeding, you agree to waive any claim or defense that an Area Representative is our express or implied agent and such an assertion by you constitutes a material default under this Agreement.

4.5 Confidential Manual.

To protect the reputation and goodwill of the System and to maintain the uniform standards of operation under the Proprietary Marks, you must conduct your business in accordance with our Confidential Manual. The Confidential Manual is confidential and remains our property.

The Operations Manual is available to Franchisee via the Franchisee portal at: <https://portal.kahalamgmt.com>. In the event Franchisee desires to receive a hard copy of the Operations Manual, then Franchisee shall submit such request in writing to training@kahalamgmt.com. Upon such request, a hard copy of the Operations Manual will be mailed to Franchisee via regular mail within approximately forty-five (45) days thereafter.

So that you may benefit from new knowledge gained by us as to improved techniques in the operation of the Franchised Business, we may from time to time revise, amend, restate or supplement the content of the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You will at all times ensure that your copy of the Confidential Manual is kept current and up to date. In the event of a dispute regarding any of the content of the Confidential Manual, the master copies maintained by us at our corporate office will control.

4.6 Computer Systems; Debit and Credit Card Processing.

a. Prior to the opening of your restaurant, you will be required to acquire, to maintain, and to exclusively use an approved cash register/computer system ("POS System") during the operation of the Franchised Business. You and your employees must complete training for the POS System as we require, and you will be required to use the POS System to produce sales reports, keep inventory control and post sales tax, refunds, credits and allowances and submit that information to us immediately upon our request. You are required to obtain high-speed/always-on internet connection service for your POS System. If high-speed/always-on internet is not available in your area, dial-up Internet access may be used until high-speed/always-on service becomes available in your area. The POS System must be configured so that we will have remote access to the information and data stored in the POS System, which may include inventory information. This access will allow us to exchange/collect data and other information on such bases as we will communicate to you from time to time. You will be required to maintain the POS System in good working order at all times, and to upgrade

or update the POS System during the Term as we may require from time to time. It will be your responsibility to enter into contracts for the maintenance, upgrades and updates to the POS System with an approved supplier of such services identified by us on the list of approved vendors and distributors or other notification to you from us advising of suppliers for your market area. You shall also be required to own a personal computer or similar device with access to the Internet that allows you to report your Gross Sales (as defined in *Section 5.2*) online, send and receive e-mails with us, and receive online orders. All *Cold Stone Creamery* franchisees are required to participate in online ordering and delivery programs, which includes entering into one or more participation agreement(s) with one of our affiliates and/or other approved vendor(s) for remote/online order processing services and delivery services under the terms, conditions, and fees established by such vendor for the purpose of developing, implementing, using, maintaining, supporting, updating and/or upgrading technologies in connection with the franchise system, including web-based and/or mobile applications and websites. We may charge, collect for a third-party or require you to remit to a third-party, amounts used to develop and use technologies within the franchise system. This may include amounts paid to third-party delivery service platforms and aggregators. To provide for the inevitable but unpredictable nature to changes to technological needs and opportunities, you agree and acknowledge that we shall have the right to establish, in writing, new standards and fees for developing, implementing, using, maintaining, supporting, updating and/or upgrading technologies in connection with the franchised system. There is no contractual limitation on the frequency and cost of this obligation. We may require you to upgrade the hardware and software including, but not limited to, your operating system, as reasonably necessary to provide reports and information required by us.

b. You are required to accept debit and credit cards and Gift/Loyalty Cards from consumers at the Franchised Business. Prior to the opening of your restaurant, you will be required to acquire and maintain an approved debit, credit and Gift/Loyalty Card processing system to use during the operation of the Franchised Business. Additionally, you must utilize our approved third-party Gift/Loyalty payment card processor for processing all such Gift/Loyalty Card transactions, including entering into a Gift Card Participation Agreement with one of our affiliates, or its successors or assigns, or other approved vendor for the Gift/Loyalty Card processing services. The Payment Card Industry (“PCI”) requires all companies that process, store, or transmit credit card information to protect the cardholders’ information by complying with the PCI Data Security Standard (“PCI DSS”). Therefore, as a franchisee who accepts credit cards, you are required to be PCI compliant by following and adhering to PCI DSS, which includes ensuring that your POS System, back office computer (if supplied), and any other device that is plugged into the network is only used for business purposes. You are also required to complete an annual questionnaire and quarterly network PCI scans and install a network firewall appliance for logging, tracking, reporting, and security assessment. You are also required to validate with Franchisor that your store is PCI compliant, and Franchisor may in its sole discretion require you to install a particular type of firewall (hardware and/or software). To show such validation you must send us your Passing Certificate showing your store is PCI compliant. You are also required to verify that you have a PCI compliant firewall appliance installed at your location if you process credit cards via high speed internet connectivity. We require your Franchised Business’ POS System, including terminals, computers, and software to be in compliance with the PCI DSS at all times. The PCI DSS is often updated, and you are required to obtain and comply with all updated standards. You must also be PCI compliant in order to obtain cyber liability/data breach insurance coverage.

ARTICLE 5. FEES AND DEPOSITS

You agree to pay each of the following amounts to us via a lump sum, with each and every amount being non-refundable because of our investment in time and money, in addition to any other benefits conferred upon you, including processing your application, reviewing your documents, and providing you with relevant information, unless otherwise expressly specified below, in accordance with the provisions set forth in this *Article 5*. Notwithstanding your designation to the contrary, we have the sole discretion to apply any of your payments, in part or in whole, to any of your indebtedness to us.

5.1 Initial Franchise Fee.

The initial franchise fee is Twenty Seven Thousand Dollars (\$27,000) ("Initial Franchise Fee"). The Initial Franchise Fee will be due and payable by you to us by cashier's check, wire transfer or other form of immediately available funds acceptable to us, upon your execution of this Agreement. You and we agree that our grant of the franchise and your payment of the Initial Franchise Fee provided for in this *Section 5.1* does not give you any rights with respect to other franchises, if any, as we in our sole discretion may elect to make available in the future.

5.2 Royalty Fee and Surcharge.

For the period of time commencing on the later of the Effective Date or the date the Franchised Business opens to the public, and for the duration of the Term, you must pay to us a weekly royalty fee equal to six percent (6%) of total Gross Sales (as defined below) ("Royalty Fee"). If we or the landlord of the Location require you to remodel your Franchised Business in such a way that your Franchised Business (including catering) stops offering items to the public, or if there is a disaster at your Franchised Business, such as a fire, flood or damage caused by an act of God, that requires you to temporarily close your Franchised Business, you are not required to pay the Royalty Fee during the period of time of such temporary closure; provided you provide us or our authorized representative with notice of such temporary closure as soon as reasonably possible, but in no event more than twenty-four (24) hours after such closure begins. Notwithstanding the above, all amounts owed to us under this Agreement prior to the temporary closure shall still be fully due and payable. The temporary closure of your Franchised Business shall not exceed ninety (90) days, but may be extended on a case-by-case basis at our sole discretion and with our prior written approval.

In our sole discretion, we may charge, in addition to the Royalty Fee, a surcharge of up to Ten Dollars (\$10) per week if your Franchised Business is located in a state that imposes additional reporting requirements on a franchisor ("Surcharge"). The Royalty Fee and applicable Surcharge shall be due and payable no later than Monday of each week, which day may be modified by us without prior notice to or approval from you, for the week ending on the preceding Tuesday in which applicable Gross Sales (as defined below) were earned from the Franchised Business. The weekly Royalty Fee and applicable Surcharge shall be paid by electronic funds transfer, as detailed below.

For the period of time commencing on the later of the Effective Date or the date the Franchised Business opens to the public, and for the duration of the Term, you are required to report Gross Sales to our designated accounting office, which as of the Effective Date, is via the Internet at <http://franchisee.kahalamgmt.com>, as set forth in *Section 5.6*. Nothing herein shall prevent Franchisor from electronically polling Franchisee's POS system, restaurant

management software, and financial records (or similar tools thereto) daily, or more frequently, by electronic or other remote means and Franchisee hereby grants Franchisor authority to do so. You shall be required to establish a Depository Account (as defined in *Section 5.6*) at the time you execute this Agreement as set forth in *Section 5.6*. Payment of the Royalty Fee, Advertising Fee (as defined in *Section 5.3*), and all other fees due under this Agreement to us shall be made via electronic transfer of funds from the Depository Account. To accomplish this electronic transfer of funds from the Depository Account, you must complete, sign and deliver to us, and maintain for the duration of the Term, a current Electronic Funds Transfer Authorization in a form that we provide.

As used in this Agreement, "Gross Sales" means all sales, money or things of value, received or receivable, directly or indirectly, by Franchisee on account of the Franchised Business, less applicable sales taxes and any properly documented refunds, credits and allowances given by you to customers in accordance with the System Standards, but without deducting any of your income taxes, costs and other expenses. All sales made from catering services must be included in the Gross Sales.

5.3 Advertising Fee.

a. You must pay to us, or directly into a national advertising fund or also any regional advertising funds, as designated by us at our sole discretion, (individually and collectively, "Advertising Fund") a weekly advertising fee of three percent (3%) of the Gross Sales for the preceding week ("Advertising Fee"). Upon thirty (30) days' notice by us to you, we may unilaterally increase the Advertising Fee from its current level not to exceed four percent (4%) of your weekly Gross Sales. The Advertising Fee shall be due and payable with the Royalty Fee under *Section 5.2*. The Advertising Fee is our property and may be deposited by us into our general operating account.

b. The Advertising Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* name, System, products and services. We are entitled to deduct, free of charge the following from the Advertising Fund: (i) reimbursement of expenses, overhead, and employee salaries for services provided; and (ii) rent for office space provided to the Advertising Fund. We have no fiduciary obligation to you in connection with the operation of any Advertising Fund. No interest on an unexpended Advertising Fee shall be imputed or otherwise charged for the benefit of, or payable to, you. You understand and agree that the only obligations we have regarding the collection and spending of the Advertising Fee or the administration of the Advertising Fund are the express contractual obligations in this *Section 5.3*. We are not acting as a trustee, fiduciary, agent or in any other special capacity. We do not give any representation or warranty regarding the quality or effectiveness of the advertising and marketing activities funded by the Advertising Fee or of the Advertising Fund, and we will have no liability to you with respect to how these funds are spent.

c. Two percent (2%) of your Gross Sales is deposited into the national Advertising Fund; and, if a cooperative exists where your Franchised Business is located, the remaining one percent (1%) of your Gross Sales is deposited into the regional Advertising Fund for your cooperative, if no cooperative exists where your Franchised Business is located, your Franchised Business will be considered a "single store" cooperative and you must contribute the remaining one percent (1%) of your Gross Sales to the regional Advertising Fund for your store. Your own local marketing and advertising should be developed to maximize your particular customer base.

5.4 Cooperative Advertising.

a. We encourage the formation and operation of franchisee cooperative advertising associations (each an “Association”). Each Association will help coordinate advertising, marketing efforts and programs, and attempt to maximize the efficient use of local advertising media. If an Association is formed for your region, you must contribute financially to the Association as required by us. Failure to do so will be deemed a breach of this Agreement and you may also, in Franchisor’s sole discretion, lose your right to vote as to decisions regarding advertising and marketing efforts and programs.

b. Upon our request, you will assist in establishing an Association or in deciding how to allocate all or part of any Fund contribution we elect to distribute to the Association. We will decide in our sole discretion whether to make contributions from the Fund to an Association and how much to contribute. We reserve the right to establish general standards concerning the operation of an Association, advertising agencies retained by an Association, and advertising programs conducted by an Association. Notwithstanding anything to the contrary, no Association decision will be made or advertising collections spent without our prior written approval.

5.5 Not Applicable.

5.6 Depository Account; Payment Procedures.

You are required to establish, at the time you execute this Agreement, and maintain for the duration of the Term a depository account (“Depository Account”) at a bank or other federally insured financial institution (“Depository”). You will initially deposit no less than Three Thousand Dollars (\$3,000) into the Depository Account and are required to maintain a balance of at least Three Thousand Dollars (\$3,000) in the Depository Account at all times during the Term by replenishing the Depository Account to at minimum Three Thousand Dollars (\$3,000) after any withdrawals. We shall not be responsible for any bank service charges incurred by you which result from the withdrawal of funds from your Depository Account.

On Wednesday of each week, you must submit a report to us regarding the weekly period which ended on the preceding Tuesday, including details on Gross Sales and other statistical data as provided in this Agreement, Confidential Manual, or as otherwise specified from time to time by us. We will withdraw funds electronically on Monday of each week from the Depository Account. The withdrawals are based upon the figures you report and constitute the Royalty Fee and Advertising Fee as described in *Sections 5.2 and 5.3*. If you do not submit a report on any Wednesday, we may estimate the Royalty Fee and Advertising Fee based upon prior reports and withdraw the estimated amounts up to the entire Three Thousand Dollars (\$3,000). We will return or credit back to you, in our sole discretion, any overage within thirty (30) days after our receipt of your report(s). We shall not be responsible to you for any interest charges for any overage collected due to your failure to timely report your sales. You shall instruct the Depository to disburse each week to our designated bank, via electronic funds transfer by the close of business on Monday (or preceding banking business day, if Monday is a bank holiday), the weekly Royalty Fee and Advertising Fee and other fees due for that week, which week shall end on the preceding Sunday. The days of the week specified above may be modified by us without prior notice to or approval from you.

We will also withdraw the monthly POS Help Desk Phone Support Maintenance Fee (as defined in *Section 5.20*) from the Depository Account on the last Thursday of each month. Under no circumstances shall such access to the Depository Account be deemed control or joint control of the Depository Account by us.

Subject to reasonable advance notice for non-recurring payment amounts, we have the right to debit your Depository Account, or any other depository account you have with us, according to the terms of your Electronic Funds Transfer Authorization for any of the payments described in this Agreement. If you do not pay all amounts due by the due date, we may suspend our and our affiliates' services and support until your payment default is cured. Repeated failure to pay all amounts when due, whether or not the defaults are subsequently cured, may be cause for termination under *Article 14*.

You shall pay us Fifty Dollars (\$50) for each electronic funds transfer attempted from your Depository Account pursuant to this *Section 5.6* that is returned for non-sufficient funds. You shall also reimburse us for all other costs and expenses incurred by us in collecting or attempting to collect funds due to us from the Depository Account (for example, without limitation, charges for non-sufficient funds, uncollected funds or other discrepancies in deposits or maintenance of the Depository Account balance in accordance with the terms hereof). The Depository Account shall be established and maintained solely for the purposes set forth in this *Section 5.6* and any other fees authorized under this Agreement and any other agreements between you and us or any of our affiliates.

5.7 Lease Review Fee.

If you request us or one of our designated affiliates to complete a Lease Review, you are required to pay us or our designated affiliate a lease review fee in the amount of Two Thousand Five Hundred Dollars (\$2,500) ("Lease Review Fee") for reviewing and providing comments to your proposed lease.

5.8 Lease Guarantee Fee.

If, in order to obtain the lease agreement for the Location of your Franchised Business, the landlord requires you to obtain a lease guarantee, and we or one of our affiliates agree to serve as such guarantor, you will pay us or our affiliate a fee in the amount of ten percent (10%) of the total amount of the rental obligations being guaranteed under the lease during its term up to a maximum fee of Ten Thousand Dollars (\$10,000) ("Lease Guarantee Fee"). The Lease Guarantee Fee will be due and payable upon our or our affiliate's execution of the applicable lease guarantee agreement with the landlord. Neither we nor any of our affiliates are required to serve as a guarantor of your lease for the Location of your Franchised Business; rather, the decision of whether to serve as a guarantor shall be made in our sole discretion. In the event that you request us or our affiliate to either agree to be the tenant under the lease or execute a separate guarantee to the lease, and you pay the required Lease Guarantee Fee, you agree and acknowledge that payment of the Lease Guarantee Fee shall not, in any manner, be deemed as an insurance policy which limits your liability in connection with the Franchised Business, including any and all financial liability under the sublease or lease related to the Location. You further agree and acknowledge that our or our affiliate's agreement to act as tenant or guarantor under the lease, and your payment of the Lease Guarantee Fee to us or our affiliate, does not result in the assumption or transfer of your liability, in connection with the Franchised Business, by or to us or our affiliate.

5.9 Additional Persons Training Fee.

The training of two (2) individuals is included in the Initial Franchise Fee. If you desire to have more than two (2) people attend the Training Program, you must pay an additional training fee of One Thousand Dollars (\$1,000) for each such person to attend the In-Store Training and an additional Seven Hundred Fifty Dollars (\$750) for each such person to attend the New Owner Training (individually and collectively, "Additional Persons Training Fee") (see *Section 4.1*).

5.10 Additional Training Fee.

If, after attending the Training Program, you desire to receive additional training, we will provide additional training time to you for a fee of Three Hundred Dollars (\$300) per person per day. Such additional training will be at a time reasonably agreed to by you and us, and will be conducted at Franchisor's headquarters, online, or such other location as we may designate in our sole discretion. You will be solely responsible for all transportation costs and expenses, food, lodging and other personal costs and expenses incurred by you and your employees in connection with this additional training.

5.11 Document Administration Fee.

A document administration fee of Five Hundred Dollars (\$500) ("Document Administration Fee") is payable to us when we must prepare an amendment to your franchise documents (see *Section 12.3g*).

5.12 Renewal Franchise Fee.

A renewal franchise fee of fifty percent (50%) of the then-current initial franchise fee not including any discounts or reductions ("Renewal Franchise Fee") is payable to us when you renew this Agreement (see *Section 13.i*).

5.13 Transfer Franchise Fee.

a. Not applicable.

b. A Potential Transferee (as defined in *Section 12.1c*.) receiving this Agreement, as may be amended, in connection with a Full Transfer (as defined in *Section 12.1a.1*.), must pay to us a transfer franchise fee of Seventeen Thousand Five Hundred Dollars (\$17,500) ("Transfer Franchise Fee").

5.14 Relocation Fee.

A relocation fee of Five Hundred Dollars (\$500) ("Relocation Fee") is payable to us when you sign the amendment to your Franchise Agreement for your relocation (see *Section 2.5*).

5.15 Not Applicable.

5.16 Annual Meeting Registration Fee.

If we hold an annual meeting ("Meeting"), the Meeting may be held at various locations throughout the United States and/or online as we may designate in our sole discretion. Because

the planning and funding of the Meeting must be done well in advance and requires a substantial financial commitment, we have the right to debit your Depository Account for up to One Thousand Dollars (\$1,000) for the Meeting registration fee at any time sixty (60) to ninety (90) days prior to the first day of the Meeting. This fee may be debited from your account (even if you do not attend the Meeting). You will also be solely responsible for all costs incidental to attending the Meeting. If you do not attend the Meeting, we will make available to you one (1) full set of the substantive materials that were presented at the Meeting.

5.17 Late Report; Interest; Late Charge; Non-Sufficient Funds Fee; Breaching Royalties; Draft Draw Charge.

If you fail to submit to us any financial statements, forms, reports or records required to be provided under this Agreement by its due date, including your weekly Gross Sales report for calculating your Royalty Fee and Advertising Fee, you must pay to us a late report charge of One Hundred Dollars (\$100) per week or part thereof.

If any fees or assessments due under this Agreement, including the Royalty Fee and Advertising Fee, are not paid when due, interest shall accrue on the late payment (from the date payment is due until the date payment is made) at the Default Rate, which amount, plus a late charge of five percent (5%) of the unpaid amount, or One Hundred Dollars (\$100), whichever is greater, shall be added to each late payment. For any payments made by you to us under this Agreement which are returned for non-sufficient funds of a processed check, you shall be charged a non-sufficient funds fee of Twenty-Five Dollars (\$25) per occurrence. Pursuant to *Section 5.6*, for each electronic funds transfer that is attempted from the Depository Account but returned for non-sufficient funds, you shall be charged a Fifty Dollars (\$50) non-sufficient funds fee per occurrence.

Franchisor has the absolute right to charge Franchisee the greater of: three (3) times the fixed Royalty Fee; or, if on a percentage Royalty Fee, the Royalty Fee will be increased up to eighteen percent (18%) of Gross Sales, with respect to any period during which Franchisee is in breach or default of its/his/her obligations under this Agreement. The Royalty Fees paid or owing to Franchisor with respect to the period during which Franchisee is in breach or default are referred to as "Breaching Royalties." Breaching Royalties will be charged for a minimum fourteen (14) day period, regardless of the length of the actual breach or default.

If you fail to provide us any necessary information or documentation with respect to our practice of drawing drafts against your bank accounts, you must pay us a draft draw charge in the amount of One Hundred Dollars (\$100) per day that that failure continues.

If, as a result of your failure to remit payments required under any provision of this Agreement, we retain an attorney or a collection agency to collect such payments, you must pay all collection costs and expenses, including reasonable attorneys' fees and expenses, whether or not legal proceedings are initiated. Our rights under this *Section 5.17* are in addition to any other rights or remedies that we may have as a result of your default under this Agreement.

5.18 Audit Fees.

For the purpose of this *Section 5.18*, we have the right, at any time during business hours, and with or without prior notice to you, to inspect and audit, or cause to be inspected and audited, the business records, cash control devices, bookkeeping and accounting records, sales

and income tax records and returns and other records of the Franchised Business and your entity's books and records.

You hereby grant us access to any computers utilized by you for such purposes and we will have the ability, at all times, via modem, to obtain daily and weekly sales reports and other financial records that the POS System provides. You will fully cooperate with our representatives, the Area Representative, if applicable, and independent accountants hired by us to conduct any such inspection or audit. In addition, in the event such inspection or audit is made necessary by your failure to furnish reports, supporting records or other information, as required herein, or to furnish such reports, records or information on a timely basis, or if an understatement of Gross Sales, resulting in an underpayment of the Royalty Fee or Advertising Fee for the period of any audit (which shall not be for less than one (1) month) is determined by any such audit or inspection to be five percent (5%) or greater, you will pay to us, immediately after receipt of the inspection or audit report, any additional Royalty Fee and Advertising Fee and other amounts due as a result of any such understatement, plus interest at the Default Rate from the date originally due until the date of payment and you must reimburse us for such audit or inspection, including the charges of any independent accountants, and the travel expenses, room, board and compensation of such accountants and our employees.

The remedies in this *Section 5.18* will be in addition to all other remedies and rights available to us under this Agreement or otherwise available.

5.19 Data Fee.

We may require you to pay us or a third-party we designate a data fee of up to Seventy-Five Dollars (\$75) per month for polling or collecting data from your POS System.

5.20 POS Help Desk Phone Support Maintenance Service Fee.

You must purchase from us a help desk phone support maintenance service that covers phone support for both the software and hardware of your POS System that is supported by the help desk, the cost of which is currently Sixty Dollars (\$60) monthly, and subject to increase upon thirty (30) days' notice ("POS Help Desk Phone Support Maintenance Service Fee"). The POS Help Desk Phone Support Maintenance Service Fee shall be paid by electronic funds transfer, as detailed in *Section 5.6*, and debited from your account on the last Thursday of each month.

5.21 New Supplier Approval Fee.

All requests for approving new or alternative suppliers must be submitted in writing by you or the supplier to our Purchasing Department. Each request will be reviewed in accordance with our then-current procedures and the supplier must meet our then-current requirements, which may include that our representatives be allowed to inspect the facilities of the proposed supplier, and that samples from the proposed supplier be delivered, at no charge, either to us or to our designee for testing. A charge not to exceed the amounts incurred in connection with the inspection and the test, with such cumulative amount not to exceed Five Thousand Dollars (\$5,000), must be paid by the supplier. If approved, in our sole discretion, we will notify you or the supplier in writing within sixty (60) days after our receipt of an approval request. You must not offer or sell in any manner any of the proposed alternative supplier's products until you receive our written approval of the proposed alternative supplier.

5.22 Reserved.

5.23 Non-participation Fee.

You must offer and sell at the Location of the Franchised Business all products designated by us, consistent with our System Standards. In addition, you must immediately incorporate into the Franchised Business all new products and services designated by us and must fully participate in all local, regional, seasonal, promotional and other programs, initiatives and campaigns adopted by us in which we require you to participate. If you fail or refuse to fully participate in any such program, initiative or campaign, you may, in our sole discretion, be required to pay a non-participation fee of One Hundred Dollars (\$100) per day that you are not in compliance ("Non-participation Fee").

5.24 Grand Opening Marketing.

Ten Thousand Dollars (\$10,000) ("Grand Opening Marketing") is payable to us on the earlier of: (i) prior to you executing a lease for the premises where the Franchised Business will be located; or (ii) prior to construction commencing at the premises where the Franchised Business will be located. We or our designated affiliate will create a marketing plan for (i) a grand opening event at your Franchised Business, and (ii) the initial advertising of your Franchised Business, and will work with you to obtain your input on the marketing plan. We or our designated affiliate will use the Grand Opening Marketing to pay for the grand opening and initial advertising, but may, in our sole discretion, reimburse you for some local store marketing expenses that you pay if you received our prior approval. The Grand Opening Marketing should be used within six (6) months of the opening of your Franchised Business to the public. However, if a portion of the Grand Opening Marketing is not used within those six (6) months, we may, in our discretion, spend the remaining portion of the Grand Opening Marketing after six (6) months from the opening of your Franchised Business to the public.

5.25 through 5.35 Not Applicable.

ARTICLE 6. PROPRIETARY MARKS

6.1 Ownership and Right to Use.

We warrant to you that:

- a. We are the owner of all right, title and interest in and to the Proprietary Marks;
- b. We have granted to you the personal, non-exclusive, limited, revocable right and license to use the Proprietary Marks in connection with the operation of your Franchised Business;
- c. We have taken and will take all steps reasonably necessary to preserve and protect our rights in the Proprietary Marks; and
- d. We will only permit you to use the Proprietary Marks in accordance with the System Standards.

6.2 Covenants of Franchise Owners.

a. You acknowledge our ownership of the Proprietary Marks, and you agree that during the Term and after its expiration or termination, you will not directly or indirectly contest, or aid in contesting, the validity of the Proprietary Marks or our ownership of the Proprietary Marks, nor will you take any action which might impair or prejudice our ownership of the Proprietary Marks. You shall not, directly or indirectly, apply to register, register or otherwise seek to own or control any of the Proprietary Marks, or any confusingly similar mark thereto, whether in whole or in part, in any place or jurisdiction either within or outside of the United States; nor will you assist any others to do so.

b. You agree that the license granted pursuant to this Agreement authorizes you to use the Proprietary Marks solely in connection with the Franchised Business only at the Location, and for no other purpose. You have no right to license or sublicense any aspect of the System Standards or any of the Proprietary Marks.

c. You agree to use the Proprietary Marks only in the manner and to the extent specifically licensed by this Agreement. You further agree that any unauthorized use or continued use of the Proprietary Marks after the termination or expiration of this Agreement will constitute irreparable harm and is subject to injunctive relief.

d. The license granted by this Agreement includes only the Proprietary Marks, now existing or which may exist in the future. This license does not include the right to use any other trademarks, service marks, trade name or trade dress owned by us or our licensor anywhere in the world. You agree that any and all goodwill associated with and identified by your use of the Proprietary Marks will inure directly and exclusively to our benefit, and that, on the expiration or termination of this Agreement, no monetary amount will be due or payable to you as a result of any goodwill associated with your ownership or operation of the Franchised Business.

6.3 Limitations on Franchisee's Use of Proprietary Marks.

To develop and maintain high and uniform standards of quality and service and thereby protect our reputation and goodwill and that of the System, you agree:

a. To operate and advertise the Franchised Business only under the Proprietary Marks authorized by us;

b. To adopt and use the Proprietary Marks licensed by this Agreement solely in the manner prescribed by us;

c. That your corporate, partnership or other entity name including trade name, will not include any of the Proprietary Marks, in whole or in part, or any terms confusingly similar thereto, unless first authorized by us in writing;

d. To submit all advertising, promotional materials and all printed matter, including stationery, business cards, and any materials to be used on the Internet to us for our written approval before you use any of these items; and

e. That we may from time to time change or modify the System Standards, including modifying existing Proprietary Marks or adopting new marks. You agree, at your own

expense, to adopt, use and display any such new or modified Proprietary Marks within ninety (90) days after notification from us. However, if we require you to modify or discontinue use of our proprietary information or use other information or rights in its place at any time other than upon renewal of this Agreement, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the proprietary information infringed upon a third-party's rights, we or our affiliate will bear the actual, direct, and reasonable costs of those modifications or discontinuances. The rights granted to Franchisee under this Section shall be Franchisee's sole and exclusive remedy for any infringement by any part of the System.

Upon your abandonment of the Franchised Business (whether voluntary or involuntary), termination or expiration of this Agreement, you must immediately cease to use, in any manner whatsoever, any of the Proprietary Marks or any other marks which, in whole or in part, may be confusingly similar to any of the Proprietary Marks.

6.4 Non-Exclusive License of Proprietary Marks.

You understand and agree that your license to use the Proprietary Marks is non-exclusive; that we, in our sole discretion, can grant to other franchisees the right to use the Proprietary Marks and obtain the benefits of the System Standards, in addition to the licenses and rights granted to you under this Agreement; and that we or our affiliates may develop and license other proprietary marks in conjunction with concepts other than the *Cold Stone Creamery* concept, on any terms and conditions we deem advisable. You will have no right or interest in any such other licenses, proprietary marks or systems.

6.5 Notification of Infringement and Claims.

You agree that you will notify us immediately of any apparent infringement of, or challenge to your use of any of the Proprietary Marks, or any claim by any person of any rights in any of the Proprietary Marks. You agree that you will not communicate with any person, other than us and our legal counsel, in connection with any such infringement, challenge or claim. We will have the sole discretion to take such action as we may deem appropriate to protect the Proprietary Marks and the exclusive right to control any litigation, United States Patent and Trademark Office proceeding, or other proceeding arising out of any such infringement, challenge, claim or otherwise relating to any Proprietary Marks. You agree to execute any and all instruments and documents, render such assistance, and do such acts and things as may, in the opinion of our counsel, be necessary or advisable to protect and maintain our interests in connection with any such litigation or proceeding, or to otherwise protect and maintain our interests in the Proprietary Marks.

ARTICLE 7. TRADE SECRETS AND PROPRIETARY INFORMATION

7.1 Innovations.

During the Term, you and your principals, officers, managers and employees may conceive, invent, create, design or develop various ideas, techniques, methods, processes and procedures, recipes, formulae, products, packaging or other concepts and features relating to restaurant operations, business practices or the manufacturing, production, marketing and sale of super-premium ice cream, cakes, pies, smoothies, shakes, specialty beverages, other dessert with frozen confections, and other food and beverage items, and related goods now in existence or later developed, adopted, or improved in connection with the Franchised Business

(individually and collectively, "Innovations"). You, without further consideration, hereby assign any and all of your rights, title and interest in the Innovations, including any intellectual property rights, to us, and also agree to cooperate with us and our counsel in the protection of the Innovations, including the perfecting of title thereto in us. In addition, you will require all of your principals, officers, managers and employees to sign an agreement in the form set forth in our System Standards and incorporated herein by reference ("Confidentiality Agreement"), and shall be liable to us for obligating your principals, officers, managers and employees to assign all of their rights, title and interest to the Innovations to us and requiring your principals, officers, managers and employees to cooperate in obtaining, protecting, maintaining and enforcing our right, title and interest in the Innovations.

7.2 Confidentiality Agreement.

a. In connection with the operation of the Franchised Business, you will from time to time receive, have access to, or learn certain information and materials that are proprietary to us or our affiliate. You and any person signing this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*" agree that you will keep confidential, and will not use for your own purposes, nor supply or divulge to any other person, any of our Trade Secrets, including our methods of operation, processes, techniques, formulae and procedures, information a reasonable person would believe to be confidential and any other proprietary information regardless of whether such is expressly marked as confidential ("Confidential Information"). You acknowledge that much of the information imparted to you by us is confidential, constitutes Trade Secrets, are unique to us, and remains our sole exclusive property. Our Confidential Information includes the following:

1. The Confidential Manual and any amendments thereto;
2. Ingredients, recipes, and methods of preparation of food products;
3. Methods of operation of *Cold Stone Creamery* restaurants;
4. Information about products, services, or procedures before they become public knowledge;
5. Information which relates in any manner to our business or the System Standards, whether oral or reduced to writing, and which is not generally known to, or readily ascertainable by, other persons who might derive economic benefit from its disclosure or use; and
6. Any other information which may be imparted to you from time to time and designated by us as confidential.

b. You and any person signing this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*" acknowledge and agree that the Confidential Information and any business goodwill of the Franchised Business is our sole and exclusive property, and that you will preserve the confidentiality thereof. Upon termination or expiration of this Agreement, all items, records or documentation recording or incorporating any Confidential Information, including any copies thereof, will be immediately turned over by you to us or our authorized representative.

c. You agree to take all steps necessary, at your own expense, to protect the Confidential Information, including our Trade Secrets, and to adopt and implement all reasonable procedures prescribed by us from time to time to prevent the unauthorized use or disclosure of any of the Confidential Information. We require that all of your executive officers, agents, directors, shareholders, trustees, beneficiaries, partners and managers who may or are likely to obtain knowledge concerning the Proprietary Information (and who do not sign this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*") sign the Confidentiality Agreement binding such person to preserve the confidentiality of the Confidential Information as part of the terms and conditions of such person's employment or association with you. You must obtain a Confidentiality Agreement signed by any such person prior to or at the same time that you begin employment of, or association with, that person. This will be a continuing obligation on your part throughout the Term. You must keep each original signed Confidentiality Agreement and provide us with a copy of each Confidentiality Agreement when requested by us or our authorized representative.

d. Notwithstanding the above, Confidential Information shall not include information which you can reasonably prove: (i) entered the public domain through no breach by you or your affiliate of any duty of confidentiality, or (ii) you received our prior express written consent to disclose in the manner in which you disclosed it.

e. If anyone under a Confidentiality Agreement is legally compelled or required by a regulatory body to disclose any Confidential Information, he/she/it will notify us as soon as possible and will use his/her/its best efforts to obtain, and give us an opportunity to obtain, appropriate assurances of confidential treatment.

f. The requirements under this *Section 7.2* will remain in full force and effect during the Term and after termination or expiration of this Agreement.

ARTICLE 8. RELATIONSHIP OF THE PARTIES AND INDEMNIFICATION

8.1 Relationship of the Parties.

You and we agree that this Agreement does not create any fiduciary or employment relationship between you, or any of your employees, and us, that you are an independent contractor, and that nothing in this Agreement is intended to make either you or us a general or special agent, legal representative, subsidiary, joint venture, partner, employee or servant of the other for any purpose. You shall not enter into any agreement on behalf of or otherwise bind us for any purpose.

Should it ever be asserted that Franchisor is the employer, joint employer or co-employer of any of your or your affiliate's employees in any private or government investigation, action, proceeding, arbitration, or other setting, you irrevocably agree to assist Franchisor in defending said allegation, including (if necessary) appearing at any venue requested by Franchisor to testify on our behalf (and, as may be necessary, submitting itself to depositions, other appearances and/or preparing affidavits dismissive of any allegation that Franchisor is the employer, joint employer or co-employer of any of your employees).

8.2 Indemnification of Franchisor.

You agree to indemnify, defend and hold us and our affiliates (including our parent and subsidiary companies, current, past and future predecessors, successors and assigns), and each of our shareholders, owners, directors, officers, members, managers, partners, joint venturers, attorneys, employees, contractors, agents, representatives, guarantors, insurers, spouses, heirs, executors, trustees and estates (collectively with us, "Indemnified Parties") harmless for, from and against any and all claims, liabilities, causes of action, suits, debts, duties, accounts, covenants, contracts, agreements, promises, taxes, demands, obligations, costs and expenses, including reasonable attorneys' fees, damages, judgments, and proceedings, of every kind and nature whatsoever, whether actual or threatened, in law or equity, or otherwise, under local, state or federal law including, without limitation the Americans with Disabilities Act ("ADA"), or the law of any other applicable jurisdiction (individually and collectively, "Claims") suffered or incurred by any of the Indemnified Parties arising out of or relating to your construction, ownership, marketing, Promotions (as defined in *Article 10*), operation, including your failure to comply with PCI DSS or any law, statute, regulation, order, rule, or ordinance, or management of the Franchised Business, except for Claims held to have resulted solely from our gross negligence or willful misconduct. Notwithstanding the foregoing, we will have the right, at our option, to defend any Claim, but you must reimburse us upon demand for the costs and expenses of such defense. You shall immediately give us notice of any demand, investigation, written inquiry, action, suit, proceeding, or claim in any way related to us or the *Cold Stone Creamery* brand.

8.3 Indemnification of Franchisee.

We agree to indemnify, defend and hold you and your affiliates, and their shareholders, directors, officers, members, managers, partners, employees, agents, successors and assignees harmless for, from and against any and all Claims, arising out of any Claim of infringement or unfair competition in connection with your authorized use of the Proprietary Marks or Confidential Information, provided that such use is in accordance with the provisions of this Agreement. However, if we require you to modify or discontinue use of our Proprietary Marks or Confidential Information or use other information or rights in its place at any time other than upon renewal of this Agreement, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the Proprietary Marks or Confidential Information infringed upon a third-party's rights, we will bear the cost of those modifications or discontinuances as set forth in this Agreement.

8.4 Special Power of Attorney.

You agree to cooperate with and assist us as we may request from time to time to obtain, protect, maintain or enforce our intellectual property and Proprietary Marks, including executing documents and appearing as a witness. You hereby appoint us as your attorney-of-fact and hereby grant us an irrevocable Special Power of Attorney, coupled with an interest, with full power and authority for the purpose of executing documents or taking such action as necessary or appropriate as you might or could do if personally present, hereby ratifying all that we, as your attorney-in-fact, shall lawfully do or cause to be done by virtue of this Special Power of Attorney to obtain, protect, maintain or enforce our intellectual property and Proprietary Marks if we are, for any reason, unable to obtain your cooperation or assistance. The Special Power of Attorney granted by this *Section 8.4*, shall survive your dissolution, death, incompetence or disability and the termination or expiration of this Agreement.

ARTICLE 9. OPERATING STANDARDS AND DUTIES OF FRANCHISE OWNER

9.1 Compliance with System Standards and Confidential Manual.

You understand and acknowledge that every detail of the operation of the Franchised Business is important in order to develop and maintain high and uniform standards of quality, cleanliness, appearance, service, facilities and techniques; to increase the demand for the System; and to protect our reputation and goodwill and that of other *Cold Stone Creamery* franchisees. You also acknowledge that the operation of the Franchised Business is your sole responsibility, and that neither we nor our affiliates have any responsibility to obtain customers for you. The System Standards will constitute provisions of this Agreement as if fully set forth herein.

9.2 Authorized Products and Services.

a. You agree that you will not, without our prior written approval, offer at the Location any menu items, beverages, products or services that are not authorized by us for the Franchised Business, as set forth in the System Standards.

b. You have complete discretion in establishing the minimum price you charge for your products. Although we may suggest pricing strategy, you will have the final pricing decision.

c. Notwithstanding the terms of *Section 9.2b.*, we may conduct periodic promotional campaigns during which a specified product or products are promoted at a specified price. During the promotional period, you may not charge your customers more than the specified promotional price, although you may charge less than the promotional price.

d. We may conduct new marketing, research and development, branding and operational program tests, which will generally be conducted with experienced, existing franchisees and may include incentives and other rights that are not available to all franchisees.

e. You hereby consent to third-party vendors, suppliers and distributors sharing with us any and all information, reports, invoices and related documentation covering and otherwise detailing your purchases for the Franchised Business, and to us sharing your contact information with them when we reasonably believe they may offer you a desired benefit.

f. You are required to accept debit and credit cards (including Visa[®], MASTERCARD[®] and AMERICAN EXPRESS[®]) and Gift/Loyalty Cards from consumers at the Franchised Business. Prior to the opening of your Franchised Business, you are required to acquire, and maintain during the Term, an approved debit, credit and Gift/Loyalty Card processing system ("Card Processing System") to use during the operation of the Franchised Business. Additionally, you must utilize our approved third-party payment card processor, as identified in the System Standards, for processing all Card Processing System transactions.

9.3 Specifications and Standards for Supplies; Approved Suppliers; Rollouts.

a. You must purchase or otherwise acquire certain proprietary or required equipment and supplies utilized in the Franchised Business only from our designated approved distributors or suppliers. If, during the Term, we change designated approved distributors or

suppliers for any of the proprietary or required equipment and supplies utilized in the Franchised Business, you shall change to the new designated approved distributor or supplier within sixty (60) days after written notification of such change from us.

You acknowledge Franchisor and/or its affiliates has the right to receive commissions, volume discounts, purchase discounts, performance payments, bonuses, rebates, marketing and advertising allowances, co-op advertising, administrative fees, enhancements, price discounts, economic benefits and/or other payments ("Payments") based upon the actual purchases of the foods, beverages, and other products by Franchisor, its affiliates, area developers and franchisees from suppliers. Any such Payments made to Franchisor may be retained by Franchisor or distributed to franchisees in such amounts and using such allocation methods as Franchisor deems appropriate, in its sole discretion. All Payments received from a supplier for a designated purpose (such as participation at an annual convention, etc.) will be spent in accordance with the supplier's designated purpose.

b. If you desire to purchase or otherwise acquire any equipment, supplies or inventory items required by the System Standards but not previously approved by us, or from sources not previously approved by us, you must submit to us sufficient specifications, photographs, drawings and other information sufficient to allow us to determine whether such equipment, supplies or inventory items meet our System Standards. We may require that our representatives be allowed to inspect the facilities of the proposed supplier and revoke its approval upon the supplier's failure to meet any of our then-current minimum System Standards. We may also require that samples from the proposed supplier be delivered, at no charge to us, either to us or to our designee for testing. A charge not to exceed the reasonable cost and expense of the inspection and the actual cost and expense of the test must be paid to us either by you or by the proposed supplier. We will notify you within sixty (60) days after your request of our approval or disapproval of the proposed product or supplier, with such determination to be made at our sole discretion. You acknowledge and agree that our approval of any item or supplier of equipment, supplies or inventory not previously approved by us will not, in and of itself, make the supplier of that item an approved supplier for other *Cold Stone Creamery* franchise owners in the System. We may, in our sole discretion, at any time and from time to time, re-inspect the facilities and products of any approved supplier and revoke its approval upon the supplier's failure to meet any of our then-current System Standards. If you receive a notice of revocation from us, you must immediately stop selling disapproved products and purchasing from the disapproved supplier.

c. We will provide to you a list of all recommended and required items of equipment, fixtures, supplies, smallwares and interior decor. This list will be included in the System Standards.

d. At any time and from time to time, we may in our sole option engage in new product rollouts to add to or change the menu items offered for sale in the Franchised Business and the ingredients or supplier of ingredients utilized in the preparation of the menu items sold in the Franchised Business ("Rollout"). If we engage in a Rollout, you shall participate in the changes that are the subject of such Rollout, including offering the new menu items, changing the menu items, changing to the new supplier of the ingredients utilized in the preparation of the menu items, and changing to the new ingredients utilized in the preparation of the menu items. If we engage in a Rollout, we will notify you of the details of the Rollout and provide you sixty (60) days from said notification to take the applicable actions required by the Rollout.

9.4 Compliance with Legal Requirements and Good Business Practices.

You must, at your sole expense, operate the Franchised Business in full compliance with all applicable Federal, state and local statutes, laws, ordinances and regulations, including health and safety regulations, food and drug laws, disability laws, labor and employment laws and data privacy laws, as may be amended, supplemented or enacted from time to time. You must pay all costs and expenses incurred by, and in the conduct of, the Franchised Business, including all rent, salaries, taxes (excluding our income taxes), disbursements, license or permit fees, insurance premiums, traveling expenses and any other business expenses. If you receive any demand, action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality relating to your Franchised Business, you must immediately notify us, and in no event, later than three (3) days after your receipt. Any such notice must be accompanied by a copy of the demand, complaint, order, writ, injunction, award, decree or other similar document. You must, in all dealings with your employees, customers, suppliers, the public and us adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business practice that may be injurious to the System or the goodwill associated with the Proprietary Marks.

9.5 Maintenance of Insurance.

At all times during the Term, you must maintain in full force and effect at least the minimum types and amounts of insurance coverage that we require, .

under one (1) or more policies of insurance (each of which shall be primary coverage and shall not be contributory or secondary to any other coverage maintained by us), insured under the particular name of the Franchisee and for the particular address of the Franchised Business. .

Such insurance policies must be issued by insurers acceptable to us having an A.M. Best's financial strength rating of at minimum "A-VIII," and grant us authority to obtain copies of your certificate of insurance directly from the carrier or your agent/broker. The particular requirements of our minimum insurance coverage will be made available to you throughout your term. Currently, the general liability insurance required by this Agreement must: (i) name Kahala Franchising, L.L.C. as the certificate holder; (ii) name Kahala Franchising, L.L.C. and MTY Franchising USA, Inc. and their parents, subsidiaries, affiliates, officers, directors, and employees as additional insureds; (iii) contain a waiver by the insurance carrier of all subrogation rights against us and our affiliates and our affiliates' respective officers, directors and employees for casualty losses; (iv) indicate the address of the Franchised Business being insured; and (v) provide that we will receive a copy, via an endorsement, thirty (30) days' prior notice of cancellation of any such policy. Additional minimum insurance coverage requirements (subject to increase or otherwise change in our sole discretion) are as follows:

| TYPE OF COVERAGE | LIMITS/SPECIFICATIONS |
|---------------------------------------|--|
| General Liability | \$1,000,000 Bodily Injury/Property Damage Per Occurrence / \$2,000,000 Aggregate |
| Building Improvements and Betterments | 100% of Full Replacement Cost – No Coinsurance (minimum of \$100,000) |
| Business Personal Property | 100% of Full Replacement Cost – No Coinsurance – Special Form or equivalent |

[store #]
[doc #]

| TYPE OF COVERAGE | LIMITS/SPECIFICATIONS |
|---|---|
| | (minimum of \$100,000) |
| Spoilage | \$5,000 |
| Flood, Earthquake and Volcanic Eruption | Subject to Territory Limitations – required if in a designated Flood Zone |
| Workers' Compensation and Employer's Liability Insurance | As required by law |
| Employment Practices Liability Insurance with Franchisor Defense coverage | \$1,000,000 |
| Hired and Non-Owned Automobile Liability | \$1,000,000 Combined Single Limit per accident |

You need to evaluate if your particular business will require greater coverage or other types of insurance. For example, we strongly recommend that you consult with an insurance broker to discuss whether your particular lease/situation requires and/or should obtain additional common types of insurance (including without limitation, umbrella insurance, and cyber liability/data breach insurance coverage). Such insurance may significantly increase your premiums, but may also save you money in the long run.

You are responsible for maintaining insurance coverage and limits as required by us, at minimum, pursuant to this *Section 9.5*, provided, if your landlord requires additional coverage, higher limits, or any other requirements not required by us, then you are responsible for maintaining such additional items as well. You must always keep the required insurance coverage in force at all times during the operation of the Franchised Business, and you must comply with any changes we make periodically to our insurance requirements. Upon 30 days' notice to you, we may require you to increase and/or otherwise change the minimum coverage of the insurance referred to above, including to reflect identification of special risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances.

Subject to *Section 3.1*, before you may open your restaurant, annually thereafter at least ten (10) days prior to renewal of your insurance coverage, and at any other time on our request, you must provide us with certificates of insurance or copies of insurance policies showing that you are in compliance with our insurance requirements, as well as proof that you have paid the premiums you owe for the insurance we require. You will pay your insurance premiums to your insurance broker or to the insurance company issuing the policy. We or our affiliate may, at our option and in addition to our other rights and remedies under this Agreement, obtain such insurance coverage on your behalf, and you must promptly execute any applications or other forms or instruments required to obtain any such insurance and pay to us, on demand, any costs, expenses and premiums (in whole or part) incurred by us. Your obligation to obtain and maintain the insurance described above will not be limited in any way by reason of any insurance maintained by us, nor will your performance of such obligations relieve you of any obligations under *Section 8.2*.

9.6 Management of the Franchised Business.

You are directly responsible for all aspects of operating the Franchised Business, and you agree that you will, at all times, operate the Franchised Business and use your best efforts to enhance your Franchised Business and the System. The Franchised Business must be

personally managed and directly operated by either you or another partner, shareholder or member of your business organization, or a manager.

9.7 Inspections by Franchisor.

For the purpose of this *Section 9.7*, you must make available to us or our authorized representatives such financial and other information concerning the Franchised Business, and you must permit us or our authorized representatives to have full and free access to such information at your Franchised Business Location during regular business hours without prior notice. We and our authorized representatives will have the right to communicate freely with your employees, and make extracts from, and copies of, all such information. Our authorized representative may make announced or unannounced inspections of your Franchised Business to ensure compliance with all of the requirements of this Agreement.

9.8 Personal Guaranty; Non-Disclosure and Non-Competition Agreement.

If you are an individual and married, your spouse must execute and deliver to us a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement at the same time that you sign the Agreement unless your spouse is also signing the Agreement as an individual.

If you are a corporation, limited liability company, or other business entity, each of your shareholders, members, or other owners, whether direct or indirect (and their respective spouses, if married) must execute and deliver to us a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement at the same time that you sign this Agreement.

In the event any person who has not previously signed a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement becomes your spouse or shareholder, member, or other owner, direct or indirect or a spouse of such shareholders, members, or other owner, at any time after the execution of this Agreement, you must cause such person(s) to immediately execute and deliver a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement to us.

Failure to provide a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement to us may, in our sole discretion, be grounds for termination of this Agreement as set forth in *Section 14.2a*.

9.9 Not Applicable.

ARTICLE 10. ADVERTISING AND PROMOTION

10.1 Advertising by Franchisor.

We (or at our election a third-party which may be an affiliate of ours) will administer the Advertising Fund that will include your Advertising Fee and those of other franchise owners in the System. If an affiliate of ours administers the Advertising Fund or places advertising in connection with the System, such affiliate may be paid a fee that will not exceed the fee that would be payable to unrelated third-parties for comparable services. Unless required by applicable law, we will have no obligation to create a trust account, escrow account or other

special account for the Advertising Fund, and the monies comprising the Advertising Fund may be placed in our general account. We may also reserve the Advertising Fee for use in a subsequent year.

We will direct all advertising and promotional programs. We will have sole discretion over all creative concepts, materials and media used in such programs and the placement and allocation of such programs. The Advertising Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* trade name, System, products and services. We are entitled to deduct, free of charge, the following from the Advertising Fund: reimbursement of expenses, overhead, and employee salaries for services provided; and rent for office space provided to the Advertising Fund. We are not required to use any specific amounts from the Advertising Fund in your market. However, we in our sole discretion, may use some amounts contributed by you to any Advertising Fund, if any (see *Section 5.3*), in the same geographic area in which your Franchised Business is located.

10.2 Advertising by Franchisee.

In addition to your Advertising Fee, if applicable, and your grand opening promotional advertising program required under *Section 5.24*, and unless your Franchised Business is located in an enclosed shopping mall or other enclosed structure identified in *Section 1.1*, you agree to pay for a regular (white pages) and classified (yellow pages) telephone directory advertisement in the main directory distributed in the area where your Franchised Business is located, in such directory categories as we specify, utilizing forms of listing and classified directory advertisements approved by us. We also recommend that, in addition to your Advertising Fee, you spend at least two percent (2%) of your monthly Gross Sales on local advertising.

Your own local marketing and advertising plan should be developed to maximize your particular customer base. You should not rely upon a marketing program or plan by us as the sole means of obtaining customers. All marketing and advertising materials must be reviewed by the marketing department for look and feel. The marketing department's review is not for determining compliance with federal, state and local laws.

All advertising by you in any medium must be conducted in a professional manner and must conform to the System Standards. We may make available to you, from time to time, advertising, promotional plans and materials for purchase.

Under no circumstances may you use, without limitation, the name, image, or voice of a celebrity, public figure, character or other person in connection with the Proprietary Marks or the Franchised Business without our prior written consent. We retain the sole and exclusive right to use, without limitation, the name, services or image of any celebrity, public figure, character or other person in advertising, endorsing or recommending the System.

ARTICLE 11. ACCOUNTING PROCEDURES AND REPORTS

11.1 Maintenance of Records.

You shall keep full, complete, and accurate books and accounts in accordance with generally accepted accounting principles, and in the form and manner indicated below or as

from time to time further required by us. You agree to submit reports and data to us electronically if we advise you to do so. You agree:

- a. to submit to us electronically the weekly Gross Sales as set forth in *Section 5.6*;
- b. to submit to us, on or before the thirtieth (30th) day of each month, commencing with the opening of the Franchised Business, in a format and method approved by us (including through a third-party vendor that franchisee may be required to pay for), a profit and loss statement of the Franchised Business for the preceding calendar month prepared in accordance with generally accepted accounting principles;
- c. to submit to us, within ninety (90) days after the end of each calendar year, commencing with the opening of the Franchised Business, in a format approved by us, a profit and loss statement and balance sheet (including a statement of retained earnings or partnership account) for the preceding calendar year;
- d. to submit to us, at the times required, such other periodic forms, reports and information as may from time to time be required by us;
- e. to preserve, in the English language and for the time periods set forth below, all accounting records and supporting documents related to the Franchised Business (individually and collectively, "Records"), including:
 1. daily cash reports;
 2. cash receipts journal and general ledger;
 3. cash disbursements journal and weekly payroll register;
 4. monthly bank statements, daily deposit slips and canceled checks;
 5. all tax returns, including your personal returns and those of your officers, shareholders, partners and members;
 6. suppliers invoices (paid and unpaid);
 7. dated cash register tapes (detailed and summary);
 8. semi-annual balance sheets and monthly profit and loss statements;
 9. daily production, throwaway and finishing records and weekly inventories;
 10. records of promotion and coupon redemptions;
 11. records of all outside sales; and
 12. such other records as we may from time to time request.
- f. to record all sales on cash registers approved by us, as specified in the Confidential Manual;

g. to file all of your federal and state tax returns on a timely basis and to provide copies of them to us. We may, where applicable, require that tax returns from all of your shareholders, members or partners be provided to us, if you are other than an individual;

h. During the Term, you shall preserve the Records for at least the current fiscal year and for the three (3) immediately preceding fiscal years. For three (3) years after the date of any transfer of an interest in this Agreement, the transferor of such interest will preserve the Records for its last three (3) fiscal years of operation under this Agreement. For three (3) years after the expiration of the Term (or after any earlier termination), you shall preserve the Records for the last three (3) fiscal years of operation of the Franchised Business; and

i. In connection with our efforts to attract additional franchise owners to the System, we will have the right to use (without identifying you, except as required or allowed by law) any financial statements, sales reports, profit and loss statements or balance sheets provided by you and, in connection therewith, you authorize us to disclose any information contained on such financial reports as may be required by any federal or state registration or disclosure law.

11.2 Audit by Franchisor.

We will have the right, at any time during business hours, and with or without prior notice to you, to inspect and audit, or cause to be inspected and audited, the Records and cash control devices of the Franchised Business, and your corporate, partnership or limited liability company books and records (if you are a corporation, partnership, limited liability company, or other entity). You agree that we may access any computers utilized by you for such purposes.

You will fully cooperate with our authorized representatives and independent accountants hired by us to conduct any such inspection or audit. In the event any such inspection or audit discloses an understatement of your Gross Sales for any period in question, you will pay to us, immediately after receipt of the inspection or audit report, any additional Royalty Fee or Advertising Fee due as a result of any such understatement, plus interest at the Default Rate from the date originally due until the date such understatement is paid in full.

In addition, in the event such inspection or audit is made necessary by your failure to timely furnish Records, or if an understatement of the Royalty Fee or Advertising Fee for the period of any audit (which period shall not be for less than one (1) month) is determined by any such audit or inspection to be five percent (5%) or greater, you must reimburse us all amounts incurred in connection with such audit or inspection including our employee costs and expenses, any independent accountants' and attorneys' fees, transportation, room, and meal expenses.

The remedies in this *Section 11.2* will be in addition to all our other remedies and rights under this Agreement or under applicable law.

ARTICLE 12. TRANSFER

Sections 12.1 through 12.4 apply to all transfers, except transfers by us, which are described in *Section 12.5*.

12.1 Prior Consent of Franchisor.

a. As used in this Agreement, “Transfer” means any voluntary, involuntary (including by operation of law), direct or indirect assignment, sale, gift or other transfer by you, including:

1. “Full Transfer,” which is any act or circumstance, except those set forth in *Section 12.1.a.2.*, by which fifty percent (50%) or more of the ownership or control is shifted from any individual or corporation, partnership or other business entity (individually and collectively, “Entity”) to another, including:

(i) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement;

(ii) Transfer of an interest in you, if you are an Entity;

(iii) Merger, consolidation or issuance of additional ownership interests or redemption of ownership interests in you, if you are an Entity; or

(iv) Transfer of an interest in any other Entity holding an interest in this Agreement or you, if you are an Entity.

2. “Affiliate Transfer,” which includes:

(i) Transfer in a separation or divorce, regardless of how much of the ownership or control is shifted from any individual or Entity to another;

(ii) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement from your name as an individual(s) to your Entity name in which you are the sole owner(s) of the Entity;

(iii) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement, from your Entity name in which you are the sole owner(s) to your name as an individual(s);

(iv) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement from one Entity name to another Entity name in which the owners of the entities are the same;

(v) Removing an owner from the Franchisee (unless the person has a fifty percent (50%) or more ownership interest);

(vi) Adding an owner to the Franchisee (unless the person has a fifty percent (50%) or more ownership interest); or

(vii) Transfer by which less than fifty percent (50%) of the ownership or control is shifted from any individual or entity to another for any act or circumstance listed in *Section 12.1.a.1.*

b. We are entering into this Agreement based upon our knowledge of and faith in your ability. Therefore, the Franchised Business and all the rights granted by this Agreement are personal to you and you may not Transfer without our prior written consent. Any attempted

Transfer without our prior written consent will be null and void, and will give us the right to terminate this Agreement and your rights under it, in addition to any remedies which we may have for the breach of this covenant by reason of an attempted Transfer.

c. We shall not unreasonably withhold or delay our consent to a Transfer, so long as it is shown to our satisfaction that the potential transferee ("Potential Transferee") can perform a franchisee's obligations under the then-current form of franchise agreement and all other agreements, legal instruments and documents required of new franchisees.

12.2 Advance Notice of Proposed Terms and Right of First Refusal.

a. If you, or any of your shareholders, members or partners, have received and desire to accept a signed bona fide written offer from a third-party to Transfer, you shall notify us and provide us with a complete copy of the offer (letter of intent) which must include the name, address and telephone number for every Potential Transferee. You must also include information as to the identity of all who will own an interest in this Agreement or in the Franchised Business after the completion of the Transfer, their respective interests, and the proposed terms and conditions of sale and payment.

b. We shall have the right and option, exercisable within thirty (30) days after the date we receive a copy of the offer, to purchase the interest proposed to be transferred, at the price and upon the same terms and conditions specified in the notice.

c. If we do not exercise our option, and the terms of the unaccepted offer are altered, you must, in each such instance, notify us of the changed offer; and we will again have thirty (30) days to exercise our right to purchase on the altered terms. If we do not exercise our option, then the Transfer may take place on the terms and price set forth in the notice; provided: (i) we give our written consent; (ii) the Transfer takes place no later than six (6) months from receipt of our written refusal to exercise our option to purchase; and (iii) all the conditions set forth in *Section 12.3* are satisfied.

12.3 Requirement for Consent to Transfer.

If a Transfer is proposed and we do not exercise our right of first refusal pursuant to *Section 12.2*, then we will consent to the Transfer, provided that:

a. All your obligations under this Agreement are fully paid and satisfied, including the Royalty Fee and Advertising Fee; you are not in default under any provisions of this Agreement or any other agreement, legal instrument or document with us or any of our affiliates; and you enter into written agreements with us, including (except where prohibited by law) a general release by you of all claims against us;

b. Potential Transferee provides to us a completed application and financial documents, is financially acceptable, is not associated with any of our competitors, is of good moral character and reputation, and meets our criteria, which includes: work experience and aptitude; ability to devote time and best efforts to the Franchised Business; equity interest in the Franchised Business; ability to speak and read English sufficient in our opinion to communicate with employees, customers and suppliers and to satisfactorily complete our training; no conflicting interests; and other criteria and conditions that we apply to new franchisees;

c. Potential Transferee provides us with copies of all governing documents of Potential Transferee (e.g., certificate of incorporation or organization, by-laws, stock certificates, operating agreement, membership certificates (if any)) which must be reasonably satisfactory to us in our sole discretion;

d. You provide to us a copy of the purchase and sale agreement, if a Full Transfer, or other documentation evidencing the Transfer, if an Affiliate Transfer, and following our analysis of the terms and conditions of the proposed Transfer, we, in our sole discretion, conclude that such terms and conditions will not interfere with the financial feasibility of the future operation of the Franchised Business;

e. Potential Transferee enters into all agreements, legal instruments and other documents, whether our then-current agreements, legal instruments and documents or a transfer of this Agreement and related legal instruments and documents, as determined by us (individually and collectively, "Transfer Documents"). The terms of the Transfer Documents may vary materially from the current agreements used by us, including the payment of a higher Royalty Fee and Advertising Fee;

f. Not applicable;

g. Potential Transferee pays to us the transfer franchise fee set forth in the Transfer Documents, if a Full Transfer; or Potential Transferee pays us the Document Administration Fee, if an Affiliate Transfer; Franchisee shall be liable to the Franchisor for the transfer franchise fee or Document Administration Fee in the event the Potential Transferee fails to pay such fee that is owing in full;

h. Not applicable;

i. Potential Transferee successfully completes the training program required by the Transfer Documents, if a Full Transfer;

j. Potential Transferee agrees to complete all remodeling and improvements as required by us, and must upgrade the POS System to the then-current required POS System, within the time period specified by us, if a Full Transfer;

k. You and Potential Transferee agree not to assert any security interest, lien, right or claim now or in the future, in the Franchised Business. Any security interest, lien, claim or right asserted with respect to any personal property at the Location must not include any after-acquired property and must be subject, junior and subordinate to any security interest, lien, right or claim now or in the future, asserted by us, our successors or assigns; and

l. You agree to complete and sign a letter of agency, letter of authorization, or equivalent and provide it to Potential Transferee so that Potential Transferee may keep the existing telephone number when the store is transferred to Potential Transferee.

12.4 Death or Incapacity of Individual Franchisee; Change in Entity.

a. Death or incapacity of Franchisee when Franchisee is an individual:

(i) In the event of your death or incapacity, your legal representative may, for a period of ninety (90) days from the date of death or incapacitation, continue to operate the Franchised Business, provided that the operation is conducted in accordance with this Agreement and any other agreements with us.

(ii) If your representative desires to continue the operation of the Franchised Business beyond the ninety (90) day period, then, prior to the expiration of this period, your legal representative must apply in writing for the right to transfer the Franchised Business to the person or persons (whether spouse, heir, devisee, purchaser, or any other person), as the legal representative may specify. The application for transfer will be treated in the same manner as any other proposed Transfer under this Agreement.

(iii) If your legal representative does not comply with the provisions of the preceding paragraph, or does not propose a Potential Transferee acceptable to us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

b. Death or incapacity of any shareholder, partner, or member in Franchisee when Franchisee is a business entity:

(i) In the event of the death or incapacity of any of your shareholders, partners, or members, the surviving shareholders, partners, or members may, for a period of ninety (90) days from the date of death or incapacitation, continue to operate the Franchised Business, provided that the operation is conducted in accordance with this Agreement and any other agreements with us.

(ii) If your shareholders, partners or members desire to continue the operation of the Franchised Business beyond the ninety (90) day period, then, prior to the expiration of this period, your shareholders, partners, or members must apply jointly with all surviving shareholders, partners or members in writing, for the right to transfer the Franchised Business (or the interest of the deceased or incapacitated shareholder, partner, or member in the Franchised Business), to the person or business entity as the surviving shareholders, partners, or members may specify. The application for transfer will be treated in the same manner as any other proposed Transfer under this Agreement.

(iii) If all surviving shareholders, partners or members do not comply with the provisions of the preceding paragraph, or do not propose a Potential Transferee acceptable to us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable

furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

12.5 Assignment by Franchisor.

You agree and affirm that we may, without your prior consent, sell our business, our assets, or our System, in whole or in part, to a third-party; may issue a public offering of our securities; may engage in private placement of some or all of our securities; may merge with or acquire other corporations, or be acquired by another corporation; and may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. You further agree and affirm that we have the right, now and in the future, without your prior consent, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of such franchise network, chain or business, which you acknowledge may be proximate to your Franchised Business, and to operate, franchise or license such franchise networks, chains or businesses operating under the Proprietary Marks or any other marks following our purchase, merger, acquisition or affiliation. With regard to any of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages against us arising from or related to the loss of your rights to use the System as authorized under this Agreement.

This Agreement will inure to the benefit of our successors and assigns. In conjunction with one (1) or more of the transactions contemplated above, or as otherwise determined by us, we have the right to assign our rights and obligations under this Agreement to any person or entity, without your prior consent. Upon such assignment, we will be relieved of all obligations or liabilities then existing or thereafter able to be asserted under this Agreement.

12.6 Restrictions on Security Interests and Subfranchising.

Except as otherwise set forth in this *Section 12.6*, you shall not have any rights to pledge, encumber, hypothecate or otherwise give any third-party a security interest in this Agreement in any manner whatsoever, nor subfranchise or otherwise transfer, or attempt to subfranchise or transfer the Franchised Business, in whole or in part, so long as it is operated as the Franchised Business, without our express prior written permission, which permission may be withheld for any reason whatsoever in our sole discretion. Notwithstanding anything contained herein to the contrary, you shall have the right to pledge your accounts receivable, net of royalties and rent, without our prior written consent for the sole purpose of obtaining financing for the operation of the Franchised Business, provided you are in full compliance with this Agreement and any other agreement, arrangement or understanding with us.

ARTICLE 13. RENEWAL

Subject to the terms and conditions described below, you will have the right to renew your license to operate the Franchised Business for an additional term of five (5) years. In the event you desire to renew your license, you must give us notice to that effect at least one hundred twenty (120) days prior to the expiration date of the Term. In addition to giving the notice of renewal referred to above in a timely manner, in order to have the right to renew the

license to operate the Franchised Business for an additional term, you must also meet each of the following requirements:

a. You must not then be in default under this Agreement or any other agreement, legal instrument or document with us or any of our affiliates, and no event shall have occurred that, with the giving of notice, the passage of time, or both, would constitute a default under this Agreement, including all financial obligations to us;

b. You must be in complete compliance with the terms of this Agreement, including all financial obligations to us, and the then-current Confidential Manual;

c. You must not have received more than three (3) notices of default or breach of this Agreement during its term, nor more than two (2) notices of default or breach during the five (5) years immediately preceding the effective date of the proposed renewal;

d. You must have the existing right to maintain possession of the Location or you must have secured and developed a suitable substitute location that meets our then-current minimum site requirements (such confirmation will be provided to you by us in writing);

e. You must sign a general release provided by us;

f. You and we must execute all agreements, legal instruments and other documents (individually and collectively, "Renewal Documents") then used by us in the renewal of franchises and then being required of new franchise owners in connection with the System. The Renewal Documents will supersede this Agreement, but will not terminate your liability to perform any obligations which you have not yet performed under this Agreement, or which survive the termination of this Agreement; nor will the Renewal Documents terminate or supersede any Guaranty of Franchise Agreement, Confidentiality Agreement, or Non-Disclosure and Non-Competition Agreement executed pursuant to this Agreement. The terms of the Renewal Documents may vary materially from the current agreements used by us, including the payment of a higher Royalty Fee and Advertising Fee;

g. The equipment, fixtures and signage used in connection with the operation of the Franchised Business must either meet our then-existing System specifications and standards, or you must agree, within a timeframe required by us, to replace or refurbish such items, and otherwise modify the methods of operation of the Franchised Business at your cost and expense, in order to comply with our System specifications and standards then applicable to new franchise owners;

h. You agree to complete all remodeling and improvements as required by us, and must upgrade the POS System to the then-current required POS System, within the time period specified by us; and

i. You shall have paid to us the Renewal Franchise Fee as required under *Section 5.12*.

If you do not meet any of the requirements for renewal, we will give you a notice to that effect which will specify the requirements not met. The notice will be given to you within sixty (60) days after you deliver to us your notice of intent to renew.

ARTICLE 14.

DEFAULT AND TERMINATION

14.1 Default; Termination.

a. You will be in default under this Agreement:

(i) If: (a) you become insolvent or make an assignment for the benefit of creditors; (b) you file a petition in bankruptcy, or if such a petition is filed against and consented to by you, and such petition is not dismissed within thirty (30) days from the filing date of such petition; (c) you are adjudicated bankrupt; (d) a bill in equity or other proceeding for the appointment of your receiver or other custodian for your business or assets is filed and is consented to by you or is not dismissed within thirty (30) days from the filing date of such bill or other proceeding; (e) a receiver or other custodian is appointed; (f) proceedings for composition with creditors under any state or federal law is instituted by or against you; (g) the real or personal property of the Franchised Business is sold at levy thereupon by any sheriff, marshal or constable, or sold by a secured party under any state's Commercial Code;

(ii) If you fail to pay, perform, observe or comply with any of your duties and obligations under this Agreement or the Confidential Manual, including failure to provide a fully-executed copy of the lease to us when due and failure to pay when due, any sum due to us under this Agreement (including the Royalty Fee and Advertising Fee) or to any Advertising Fund (inclusive of any Association); or if you breach any of your obligations under any lease, sublease, mortgage, equipment agreement, promissory note, vendor account, conditional sales contract or other contract arising from, or in connection with, the Franchised Business, to which you are a party or by which you are bound, whether or not we are a party thereto;

(iii) If your lease or sublease for the Location of the Franchised Business is either: (a) in default and you fail to cure such default as provided in the lease or sublease; (b) is terminated for reason of default by you; or (c) the Location is lost as a result of your failure to comply with the lease or sublease;

(iv) If you fail, within thirty (30) days of the entry of a final judgment against you in an amount exceeding Two Thousand Dollars (\$2,000), to discharge, vacate or reverse the judgment or to stay its execution pending appeal, or to discharge any judgment which is not vacated or reversed within thirty (30) days after expiration of the stay of execution;

(v) If we determine that a serious health or safety problem exists at the Franchised Business, in which case, we may require you to immediately correct the problem or cease operating until the problem is corrected;

(vi) If you, or any owner, co-owner or principal of the Franchised Business, is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that is reasonably likely to adversely affect the System, the goodwill associated therewith, or our interest therein;

(vii) Except for any reason provided in *Section 5.2*, if you abandon the Franchised Business, which abandonment shall conclusively be deemed established if the Franchised Business is closed for more than three (3) consecutive days;

(viii) Except for any reason provided in *Section 5.2*, if you close or relocate the Franchised Business, without our express advance written consent;

(ix) If you fail to maintain an independent contractor relationship with us;

(x) If you either negligently or knowingly inaccurately report, or fail to report, any information in your franchise application;

(xi) If you or any owner, co-owner or principal of the Franchised Business commits an act, or permits an act to be committed, that violates any federal, state or local law that adversely impacts the Franchised Business;

(xii) If you fail to participate in any Rollout detailed in *Section 9.3*;

(xiii) If you violate any of the provisions of *Sections 2.3, 3.2, 9.2, 9.3 or 9.4* including the requirement that you: (a) sell or offer for sale only those products and services authorized by us; (b) purchase such authorized products and services only from suppliers or service providers who are approved in writing by us; and (c) utilize or switch to any of our designated approved suppliers, including a supplier who has entered into a national or regional master supplier agreement with us;

(xiv) If you transfer or attempt to transfer any rights or obligations under this Agreement or any other property or assets to any third-party in violation of the provisions of *Article 12*;

(xv) If you or any of your owners, officers, directors, managers, members, or partners (as applicable): (a) become subject to U.S. Executive Order 13224 or are involved in any activity that violates the U.S. Foreign Corrupt Practices Act or any other anti-corruption, bribery or any other laws, orders or governmental notices affecting your ability to conduct business in or with the United States, as may be amended and whether in effect as of the Effective Date or at any time during the Term, (b) are identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specialty Designated National and Blocked Persons list, or (c) receive any funding from any country that is subject to an embargo by the United States, any foreign government or government official, political party; or

(xvi) If you intentionally made any false representations and warranties under *Section 17.1*.

b. Cross-default: A default by you under this Agreement will be deemed a default of all agreements between: (i) you and your principals in his or her individual capacity or any other entity in which your principals are owners, members, managers, shareholders or partners (individually and collectively, "Franchisee Entity"); and (ii) us or any of our affiliates or predecessors (individually and collectively, "Franchisor Entity"). A Franchisee Entity's default of any other agreement, legal instrument or other document between the Franchisee Entity and a Franchisor Entity will be deemed a default under this Agreement. A default by any guarantor of your obligations under this Agreement or any agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity will be deemed a default of this Agreement.

c. Termination: If you fail to cure any default to our satisfaction, within the applicable period following notice from us, if applicable, or otherwise breach this Agreement, we

may, in addition to all other remedies at law or in equity or as otherwise set forth in this Agreement, immediately terminate this Agreement. This termination will be effective immediately upon the giving of notice pursuant to *Article 15*.

d. Cross-termination: If this Agreement is terminated as a result of your default of this Agreement or any other agreement related to the Franchised Business, we may, at our option, elect to terminate any or all other agreements, legal instruments or documents between a Franchisee Entity and a Franchisor Entity. If any agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity is terminated as a result of a default by the Franchisee Entity, we may, at our sole discretion, elect to terminate this Agreement. It is agreed that an incurable or uncured default under this Agreement or any other agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity will be grounds for termination of this Agreement or any other agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity, without additional notice or opportunity to cure.

14.2 Opportunity to Cure.

a. Fourteen-Day Cure Period - Except as otherwise provided in this *Section 14.2*, you will have the right to cure your default under this Agreement within fourteen (14) days after notice of default is given by us pursuant to *Article 15*. Notwithstanding the foregoing, the following lesser periods will apply under the circumstances described:

b. Seven-Day Cure Period - A seven (7) day cure period will apply if you fail, refuse, or neglect to pay when due, any monies owing to us (including the Royalty Fee and Advertising Fee), or otherwise to any Advertising Fund (inclusive of any Association), or if you fail to maintain the insurance coverage set forth in this Agreement;

c. 48-Hour Cure Period – A forty-eight (48) hour cure period will apply (1) if you are in default of *Section 3.4* or (2) if you fail to participate in any limited time product offering, value offering, contest, promotion or charity event. You must initiate your participation in such offering, contest, promotion or event within forty-eight (48) hours and fully participate in such offering, contest, promotion or event as soon as reasonably possible, in our sole discretion, thereafter;

d. 24-Hour Cure Period - A twenty-four (24) hour cure period will apply to your violation of any law, regulation, order or our standards relating to health, sanitation or safety; or, except as provided in *Section 5.2*, if you cease to operate the Franchised Business for a period of forty-eight (48) hours without our prior written consent. In addition, a twenty-four (24) hour cure period will apply if you post on any Site or direct others to any site or page, post, blog or other social media site where there are posted any defamatory or offensive comments about: other franchisees; the *Cold Stone Creamery* brand; other brands franchised by us or one of our affiliates; your or other franchisees' customers; any of our, your or franchisees' vendors; us or any of our affiliates; or any of our, your or franchisees' competitors;

e. Immediate Cure Period (less than 24 hours) – An immediate cure period (less than twenty-four (24) hours) will apply if you post any content to a Site in which the content includes any inappropriate public displays of affection, our or others' confidential information or materials, violations of health or safety standards, foul or obscene language, or any images of or information about any persons from whom you did not obtain prior written consent;

f. No Cure Period - No cure period will be available: (1) if you are in default of *Sections 3.1, 7.2, 9.4, 14.1a.(i), 14.1a.(iii), 14.1a.(vi), 14.1a.(vii), 14.1a.(viii), 14.1a.(xiv), 14.1a.(xv),* or *14.6*; (2) if you intentionally underreport weekly Gross Sales, falsify financial data, fail to promptly provide upon our request financial data and records specified in this Agreement, or otherwise commit an act of fraud with respect to your rights or obligations under this Agreement; (3) if you repeatedly fail to comply with the provisions of this Agreement, whether or not subsequently cured; (4) if you, having twice previously cured a default of this Agreement, commit the default again; (5) if you made any false representations and warranties under *Sections 17.1f., 17.1g., 17.1m. or 17.1n.*; or (6) if you engage in trademark misuse or otherwise materially misuse or make an unauthorized use of any of the components of the System or commit any other act which does, or can reasonably be expected to, materially impair the goodwill or reputation associated with any aspect of the System;

g. Statutory Cure Period - If a statute in the state or municipality in which the Franchised Business is located requires application of that state or municipal law, and that statute requires a cure period for the applicable default which is longer than any cure period specified in this *Article 14*, the statutory cure period will apply.

14.3 Our Right to Take Over Management.

We have the right (but not the obligation), under the circumstances described below, to enter the Franchised Business and assume the Franchised Business' management for any period of time we feel is appropriate. If we assume the Franchised Business' management, you must pay us, in addition to the Royalty Fee and Advertising Fee, six percent (6%) of the Gross Sales, plus our direct out-of-pocket cost and expenses, for the period of time we assume the Franchised Business' management. If we assume the Franchised Business' management, you acknowledge that our duty is limited to using our reasonable efforts, and we will not be liable to you or your owners for any debts, losses or obligations the Franchised Business incurs, or to any of your creditors for any supplies or services the Franchised Business purchases. We may assume the Franchised Business' management if you abandon the Franchised Business or if you fail to comply with any provision of this Agreement and did not cure the failure within the time period we specify in our notice to you. You agree to complete and sign a letter of agency, letter of authorization, or equivalent and provide it to us upon our request if we assume the Franchised Business' management so that we may keep the existing telephone, facsimile, alarm, and credit card machine numbers (as applicable) in operation under our phone service provider. You also agree to keep the phone, water, gas, electric service (as applicable) turned on and active for one (1) week after we assume the Franchised Business's management to allow us to switch the services over to us or our affiliate. Our exercise of our management rights under this *Section 14.3* will not affect our right to terminate this Agreement.

14.4 Remedies.

a. Interest, Costs and Damages - If you fail to remit when due any payments required under this Agreement, you agree to pay, in addition to the unpaid amounts, all of our collection costs and expenses, expert fees, reasonable attorneys' fees, and costs and expenses, including all fees, costs and expenses of court, including all appeals, with interest on the unpaid amounts at the Default Rate or the highest permissible rate. If you fail to cure a default, following notice, within the applicable time period set forth in *Section 14.2*, or if this Agreement is terminated as a result of your default, you shall pay to us all damages of any kind and nature whatsoever and all collection costs and expenses, expert fees, reasonable

attorneys' fees, and costs and expenses, including all fees, costs and expenses of court, including all appeals, together with interest at the Default Rate or the highest permissible rate. If you fail to report Gross Sales in accordance with *Sections 5.2 and 5.6*, we may estimate your Royalty Fee and Advertising Fee based on prior reports, and may sue for and obtain judgment for such estimates unless you prove, prior to the entry of any default order or judgment, that your Royalty Fee and Advertising Fee are different than the estimates.

b. Waiver of Punitive Damages - Both we and you waive, to the full extent permitted by law, any right they otherwise may have had to claim, pursue, demand or receive any exemplary or punitive damages arising out of or related in any way to this Agreement and its addenda, amendments, appendices, exhibits and attachments.

c. If you breach any of the terms of this Agreement, including if you are in default of this Agreement, we may enforce our rights by injunction, specific performance, or any other remedy available under this Agreement, at law or in equity, including termination. These remedies are cumulative and not exclusive and we may use all remedies available. In addition, we may elect to terminate this Agreement and all your rights under it as set forth in *Section 14.5*.

d. If you breach any of the terms of this Agreement, including if you are in default of this Agreement, we have the right to have a receiver appointed to take possession, manage and control the assets of the Franchised Business, collect the profits, and pay the net income for the operation of the Franchised Business as ordered by a court of competent jurisdiction. The right to appoint a receiver will be available regardless of whether waste or danger of loss or destruction of the assets exists.

14.5 Effect of Termination or Expiration.

Upon termination or expiration of this Agreement, we can advise all suppliers of *Cold Stone Creamery* proprietary food items and other supplies bearing any of the Proprietary Marks or service marks to cease delivering the items and products to you.

Upon your abandonment of the Franchised Business (whether voluntary or involuntary), any termination of this Agreement (whether pursuant to *Sections 14.1, 14.2, 14.4*, or otherwise), or upon expiration of the Term, you must immediately cease to hold yourself out to the public as a franchise owner of the System, and you must comply with the following:

a. Immediately pay to us or any affiliate of ours all sums owing from you to us or such affiliate, including the Royalty Fee and Advertising Fee, for any period prior to the date of termination, the applicable Early Termination Damages (as defined in *Section 14.9* below), and all amounts owed for services, supplies or other items purchased by you from us or any affiliate of ours, or that were financed by us or any affiliate of ours, or which we or any affiliate of ours loaned to you, together with any interest or late fees accrued thereon, together with all other sums due us under this Agreement, and all damages of any kind or nature whatsoever that may be allowed by law;

b. Immediately cease to use, in any manner whatsoever, including in all advertising, the Proprietary Marks, any Trade Secrets, any Confidential Information, any benefits of the System or any part thereof, any methods associated with the System, any forms, recipes, Confidential Manual, slogans, signs, sign posts, marks, symbols, or devices used in connection

with the operation of the Franchised Business; and you must deliver or destroy all of the above-mentioned materials, including any materials containing or referencing any of the foregoing, to us as directed by us. If we do not recover any such items, such items shall be valued at their then-current replacement cost, for purposes of determining the damages owing by you to us for failure to return such items, if we pursue a damage claim as a result thereof;

c. Immediately discontinue all advertising as a franchisee of the System, and thereafter refrain from any advertising that would indicate that you are or ever were a franchisee or licensee of ours, or otherwise were affiliated with us or the System;

d. Immediately take such steps as may be necessary or appropriate to:

(i) delete your listing in all telephone directories, if applicable, and terminate any other listings that indicate that you are or were a franchisee or licensee of ours, or otherwise were affiliated with us or the System; and

(ii) transfer to our designee or us all telephone numbers used by you in connection with the Franchised Business. You acknowledge that between you and us, we have the sole right and interest in all telephone numbers and directory listings associated with any Proprietary Marks, and you authorize us and appoint us and any officer or agent of ours, as your attorney-in-fact, to direct the telephone company and all listings agencies to accept such direction, or this Agreement, as conclusive evidence of our exclusive rights in such telephone numbers and directory listings and our authority to direct their transfer;

e. Immediately take such action as may be required to cancel all fictitious or assumed names, amend any entity name, or dissolve any entity that contains any Proprietary Mark, in whole or in part, regardless of whether the entity name was authorized by us, and amend or cancel any and all equivalent registrations relating to your use of any Proprietary Mark. You acknowledge that between you and us, we have the sole right and interest in all such fictitious or assumed names, entity name, and equivalent registrations, and you authorize us and appoint us and any officer or agent of ours as your attorney-in-fact, to effect the termination or cancellation of such fictitious or assumed names or equivalent registrations should you fail or refuse to do so, and the appropriate federal, state, and local agencies may accept your direction or this Agreement as conclusive evidence of our exclusive rights in such fictitious or assumed names or equivalent registrations, and our authority to direct their termination or cancellation;

f. Comply with the confidentiality requirements and the covenant against competition in this Agreement for the specified period. You acknowledge that you, or (if an entity) your authorized representative, has carefully reviewed the confidentiality requirements and the covenant against competition in this Agreement; and that you have agreed to be bound by all the requirements and covenants; and

g. Maintain at a place made known to us all books, records and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, to allow us to make a final inspection of your books and records for the purpose of verifying that all amounts owing have been paid.

If you fail to do any of the foregoing, we may pursue any remedy available at law or in equity against: (i) you; (ii) any or all guarantors of your obligations under this Agreement; and (iii) you and any or all guarantors of your obligations under this Agreement.

We have the right, but not the obligation, to purchase from you any assets or property (but not leasehold improvements) used in the operation of the Franchised Business for an amount equal to the Value (as defined below), as of the termination date. If we are required, by law, regulation or court order, to purchase the equipment and other tangible assets used in connection with the Franchised Business, the purchase price will be equal to the Value. For purposes of this Agreement, the term "Value" means, subject to applicable law, an amount equal to your cost for such assets, less depreciation and amortization using a two hundred percent (200%) declining balance method over a five (5) year period. If all, or any portion of, your assets that are being purchased by us or our authorized representative are subject to lien(s), we or our authorized representative may pay, on your behalf, the lienholder(s) that portion of the purchase price for your assets (which may be the entire purchase price) that is necessary to obtain the release of those assets from the lien(s), in lieu of paying you those funds. Further, we may offset any amounts payable to you pursuant to this *Section 14.5*, or otherwise pursuant to this Agreement, against any unpaid amounts payable to us or our affiliates pursuant to this Agreement or any agreement executed in connection with this Agreement.

14.6 Covenant Not to Compete; Conflicting Interests.

a. During the Term and for a period of two (2) years after your abandonment of the Franchised Business, expiration of this Agreement, or termination of this Agreement (whether voluntary or involuntary), you shall not engage in any Competing Business (as defined in *Section 14.6c.*) with any *Cold Stone Creamery* restaurant, nor shall you have any Conflicting Interest (as defined in *Section 14.6d.*) in a Competing Business. The provisions of this Agreement bind you in any capacity, including as a franchisee, sole proprietor, partner, limited partner, member, employer, franchisor, shareholder, officer, director or employee.

b. During the Term, and for a period of two (2) years after your abandonment of the Franchised Business, expiration of this Agreement, or termination of this Agreement (whether voluntary or involuntary), you shall not divert or attempt to divert any business, customers, or potential customers of the *Cold Stone Creamery* System to any Competing Business, by direct or indirect inducement or otherwise. In addition, you shall not at any time do or perform any act, directly or indirectly, which harms the goodwill or reputation of us or the System.

c. For purposes of this *Section 14.6*, "Competing Business" means a business which is primarily engaged in the sale of ice cream, along with cakes, cupcakes, pies, smoothies and other dessert products prepared or served with ice cream or as an ingredient, and all variations thereof, within a geographical area consisting of: (1) during the Term, anywhere else; and (2) after abandonment, expiration or termination of this Agreement, within a ten (10) mile radius from the Location or location of any *Cold Stone Creamery* restaurant of ours, our third-party licensees or our third-party franchisees. The term "*Cold Stone Creamery* restaurant" includes not only the restaurants now in existence, but also those established at a later date. The term of this covenant will be extended by any time consumed in litigation to enforce it in both trial and appellate courts. If a court of competent jurisdiction determines that the restrictions in this paragraph are excessive in time, geographic scope, or otherwise, the

court may reduce the restriction to the level that provides the maximum restriction allowed by law.

d. For purposes of this *Section 14.6*, "Conflicting Interest" means an interest by which you, or your executive officers, directors and shareholders (if you are a corporation), or your partners (if you are a partnership), or your members (if you are a limited liability company), or your designated manager, directly or indirectly, have a controlling interest in, lend money to, consult with or otherwise assist any Competing Business. If any of the persons named above do not sign this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*," then you agree to obtain the execution by such person of a written agreement setting forth the foregoing in a form acceptable to us.

14.7 Continuing Obligations.

All your obligations that expressly survive the expiration or termination of this Agreement, including *Sections 14.5 and 14.6*, or by the implicit nature thereof require performance after the expiration or termination of this Agreement, will continue in full force and effect (subsequent to, and notwithstanding, your abandonment of the Franchised Business (whether voluntary or involuntary) the expiration of the Term, or termination of this Agreement), until they are satisfied in full or by their nature expire. The indemnities and obligations set forth in *Article 8* will continue in full force and effect subsequent to, and notwithstanding, the expiration or termination of this Agreement.

14.8 Remedies.

You acknowledge and agree that the restrictions contained in this Agreement, including in this *Article 14*, are fair and reasonable and necessary for the protection of our legitimate business interests and you intend and agree that such restrictions be enforceable and enforced to their fullest extent. You further understand and agree that, notwithstanding any other provision of this Agreement, your breach of your obligations under this *Article 14*, will cause us irreparable harm for which recovery of monetary damages alone would not be an adequate remedy. Both parties shall be entitled to obtain timely injunctive relief, including a temporary restraining order, preliminary and permanent injunctions, to protect their rights under this Agreement, in addition to and not exclusive of any and all other remedies available to each party.

14.9 Early Termination Damages.

If you discontinue operating your Franchised Business before this Agreement expires, with or without obtaining our prior written consent, or in the event of a termination of this Agreement arising from or related to your default and breach of its provisions, you will become obligated to pay Franchisor early termination damages ("Early Termination Damages"). The Early Termination Damages shall be considered damages and not a penalty, are not in lieu of other damages, and your payment of these damages shall not constitute a release of any other obligation owed to us. Franchisor, Franchisee, each individual signing on behalf of Franchisee, and each guarantor guaranteeing Franchisee's obligations hereunder, hereby acknowledge and agree that Franchisor's losses due to Franchisee's unilateral closure of the Franchised Business or termination of this Agreement would be highly difficult or impossible to calculate with reasonable certainty and, therefore, have agreed at the outset of this Agreement that the Early Termination Damages, and the formula for calculating these damages, constitutes a

reasonable, good faith forecast of Franchisor's estimated losses and damages due to the premature closure of the Franchised Business or termination of this Agreement.

The amount of the Early Termination Damages is calculated as follows:

- a. Compute the average monthly Royalty Fee and Advertising Fee due for any consecutive twelve (12) month period within the forty-eight (48) months immediately preceding the date we receive notification of the closure, or if you failed to timely notify us of the closure then the date the Franchise Business closed, or, if the Franchised Business has been open for less than twelve (12) months, the average monthly Royalty Fee and Advertising Fee due since the opening of the Franchised Business ("Monthly Average");
- b. Multiply the Monthly Average by the number of months remaining in the Term;
and
- c. Divide the resulting total computed in b. above by two (2).

For example purposes only: If the average monthly Royalty Fee and Advertising Fee were collectively \$1,000 and there were five years (60 months) remaining in the Term, the Early Termination Damages would be \$30,000, calculated as follows: $\$1,000 \times 60 \text{ months} = \$60,000 \div 2 = \$30,000$.

If you unilaterally terminate this Agreement prior to the end of the Term, you must give us ninety (90) days prior notice of the early termination ("Early Termination Notice"). Within ten (10) days after our receipt of your Early Termination Notice, we will calculate the Early Termination Damages, which will be due and payable thirty (30) days prior to the closure of your Franchised Business. In the event of a termination arising from or related to your default under this Agreement, or that you do not: (i) provide us with the Early Termination Notice at least ninety (90) days prior to the early termination of your Franchised Business and this Agreement; (ii) remain open for at least ninety (90) days after providing us with the Early Termination Notice; and (iii) pay the Early Termination Damages in full at least thirty (30) days prior to closing of the Franchised Business, the Early Termination Damages due may, in our sole discretion, be increased as follows: it will be calculated by multiplying the Monthly Average by the number of months remaining in the Term, and will not be divided by two (2).

If you have not paid your Royalty Fee and Advertising Fee for any period(s) within the forty-eight (48) months prior to notifying us of your early termination, or if you have not reported your Gross Sales for any period(s) within the forty-eight (48) months prior to notifying us of your intended early termination, we will estimate the Royalty Fee and Advertising Fee based upon prior reports to calculate the Monthly Average.

ARTICLE 15. NOTICES

Unless otherwise provided in this *Article 15*, all notices specified by this Agreement or required by law must be in writing and given by personal delivery, sent by carrier (i.e., FedEx®, UPS®, etc.), U.S. certified mail, return receipt requested. All notices to us must be given at the address set forth on page 1 of this Agreement or to such other address as we may designate in writing from time to time in accordance with this *Article 15*. All notices to you may be given at the address set forth on page 1 of this Agreement, at the address of the Franchised Business, at any of your franchised restaurants, at your residence (if an individual), or at the residence of your

principal shareholder(s), partner(s), or member(s) (if a business entity). Notices will be conclusively deemed to be given, delivered, and effective when sent pre-paid and actually left in the custody of an adult agent, employee or resident at a place of business or residence if given by personal delivery; or if given by carrier, twenty-four (24) hours after deposited with carrier, or if by U.S. certified mail, three (3) days after deposited with the U.S. Postal Service. You have an obligation to promptly notify us pursuant to this *Article 15* whenever your mailing address, phone number or email address change. Notwithstanding the foregoing, we may give you written notice via email to an email address you provide us regarding all notices specified by this Agreement or required by law, with such email notification to be deemed received by you twenty-four (24) hours after we send it, unless you otherwise earlier acknowledge receipt.

ARTICLE 16. CONSTRUCTION AND ENFORCEMENT; MISCELLANEOUS

16.1 Independent Contractors.

The relationship between you and us is that of independent contractors. You are in no way to be deemed our partner, joint venturer, agent, employee, or servant. You have no authority to bind us to any contractual obligation or incur any liability for or on our behalf. You shall identify yourself as an independent owner of the Franchised Business in all dealings with customers, lessors, contractors, suppliers, public officials, employees, and others.

16.2 Severability and Substitution of Provisions.

Except as provided to the contrary in this Agreement, each article, section, term and provision of this Agreement, and any portion thereof, will be considered severable, and if, for any reason, any such portion of this Agreement is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation, or as a result of a final, non-appealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which we are a party, that regulation or ruling will not impair the operation of, or have any other effect upon, such other portions of this Agreement as may otherwise remain valid, and such other portions will continue to be given full force and effect and bind the parties to this Agreement. If the severed provision is material to this Agreement, we shall promptly provide a substitute provision to replace the invalid severed provision consistent with then-current law and the original intent of the parties.

If any applicable and binding law or rule of any jurisdiction requires a greater prior notice of the termination of, or refusal to renew, this Agreement than is required under this Agreement, or the taking of some other action not required under this Agreement, or if under any applicable law, regulation, or court ruling of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by us is invalid or unenforceable, the prior notice or other action required by such law, regulation, or court ruling will be substituted for the comparable provisions of this Agreement, and we will have the right, in our sole discretion, to modify such invalid or unenforceable provision, specification, standard or operating procedure to the extent required to be valid and enforceable. Such modifications to this Agreement shall be effective only in such jurisdiction, unless we elect to give them greater applicability, and otherwise shall be enforced as originally made and entered into in all other jurisdictions.

16.3 Dispute Resolution.

a. Except as otherwise provided herein, any dispute, claim or controversy arising out of or relating to this Agreement, the breach hereof, the rights and obligations of the parties hereto or the relationship between the parties, or the entry, making, interpretation, or performance of either party under this Agreement (“Dispute”), which cannot be resolved by mediation under *Section 16.3d*. or is not subject to mediation under the terms of this Agreement, shall be settled by arbitration administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules as modified below.

b. Any arbitration shall take place before a sole arbitrator in Maricopa County, Arizona or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration shall take place in the county in which our headquarters are located at the time the arbitration is commenced. You agree that conducting the arbitration where we are located is appropriate due to the multiple locations throughout the United States where our franchisees are located. The parties agree that the arbitrator shall be an attorney licensed to practice law in the United States and must have a minimum of five (5) years of experience in franchise law. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator shall, in the award, allocate all of the costs and expenses of the arbitration, including the fees of the arbitrator and the reasonable attorneys’ fees of the prevailing party, against the party who did not prevail. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any other dispute, arbitration proceeding or litigation, except to the extent such issue may have been specifically determined in another proceeding between the parties. This agreement to arbitrate shall survive any termination or expiration of this Agreement, however effected. The parties agree that any arbitration shall be solely between them (including any affiliates) and shall not include as a party, by consolidation, joinder, or in any other manner, any other person or entity, unless both parties consent in writing. Both parties shall have the absolute right to refuse such consent. Further, the parties expressly waive any right to bring or participate in any class or other consolidated, joined or multi-party arbitration claim or proceeding, whether or not permissible under the AAA Commercial Arbitration Rules, including any claim brought on their behalf by an association of which it, he or she is a member. At the request of any party, the arbitration shall be conducted in a manner that maintains the confidentiality of the proceedings.

c. The arbitrator will issue a reasoned award, with findings of fact and conclusions of law. Actions to enforce an express obligation to pay monies may be brought under the Expedited Procedures of the AAA’s Commercial Arbitration Rules. The Federal Arbitration Act shall govern, excluding all state arbitration laws. Arizona law will govern all other issues. With respect to discovery, the arbitrator shall require each party to make a good cause showing before any discovery exceeding that specifically authorized by the AAA Commercial Arbitration Rules will be granted.

d. Prior to the commencement of an arbitration proceeding, the parties must first submit any Dispute to non-binding mediation. At the request of any party, the mediation will be confidential. The mediation shall be conducted in Maricopa County, Arizona or in the county in which our headquarters are located at the time of mediation, unless the parties shall mutually agree to a different location. The parties to the mediation will share equally in its costs and expenses, except those costs and expenses incurred separately by each party, including counsel fees and expenses. The mediation process will be deemed “Completed” when the parties agree that it has been completed, the mediator declares that any impasse exists, or sixty

(60) days have elapsed since the date of the initiating party's notice to the other party that it is initiating the mediation process, whichever occurs first.

e. Notwithstanding anything contained in this Agreement to the contrary, the provisions of Sections 16.3a., 16.3b., 16.3c. and 16.3d. do not apply to a Dispute where: (i) we bring an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action at law for damage to our goodwill, the Confidential Information, the Proprietary Marks or for fraudulent conduct by you; or (ii) the delay resulting from the mediation process may endanger or adversely affect the public (for example, unhealthy, unsafe or unsanitary conditions would continue to exist). For such disputes, we may bring an action in any federal or state court having jurisdiction, whether for monetary damages, temporary preliminary and permanent injunctive relief or specific performance in addition to, and not exclusive of, any other remedies available to us. You hereby consent to and waive any objection or defense and agree not to contest venue, forum non conveniens or jurisdiction of such court or arbitration.

f. Disputes concerning the validity or scope of arbitration, including whether the Dispute is subject to arbitration, are beyond the authority of the arbitrator and will be determined by a court of competent jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. §1 et seq., as amended from time to time.

g. Either party may appeal the final award of the arbitrator, if it is over One Hundred Thousand Dollars (\$100,000), to the appropriate U.S. District Court. The Court's review of the arbitrator's findings of fact will be under the clearly erroneous standard, and the Court's review of all legal rulings will be *de novo*. If it should be determined that this provision for federal court review is not enforceable, then either party may appeal the arbitrator's final award, if it is over One Hundred Thousand Dollars (\$100,000), to a panel of three (3) arbitrators chosen under AAA Optional Appellate Arbitration Rules , which will employ the same standards of review stated immediately above.

16.4 Applicable Law and Forum; Waiver of Jury; Statute of Limitations.

a. Except to the extent that the United States Trademark Act of 1946, as amended (15 U.S.C., § 1051 et seq.) or the franchising laws of any state that may be applicable, the laws of the State of Arizona govern all rights and obligations of the parties under this Agreement without regard to conflict of law. The parties agree, subject to the mandatory mediation and arbitration provisions of *Section 16.3*, that any appropriate state or federal court located in Maricopa County, Arizona has exclusive jurisdiction over any Dispute arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy. Notwithstanding the foregoing any action initiated by us may, at our election, be brought in any jurisdiction where you are domiciled or that has jurisdiction over you. The parties hereto irrevocably submit to the jurisdiction of, and venue in, any such court, and hereby waive any objection or defense thereto. THE PARTIES AGREE THAT ALL DISPUTES SUBMITTED TO THE COURT PURSUANT TO THIS SECTION SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

b. Notwithstanding anything contained in this Agreement to the contrary, the parties agree that any claims under, arising out of, or related to, this Agreement must be brought within two (2) years of the date on which the underlying cause of action accrued, and the parties

hereby waive any right to bring any such action after such two (2)-year period, except for the collection of any unpaid Royalty Fee, Advertising Fee, and any other amount due to us or our affiliate.

c. **YOU HEREBY WAIVE THE RIGHT TO SEEK OR COLLECT PUNITIVE, MULTIPLE, CONSEQUENTIAL AND SPECIAL DAMAGES IN ANY FORUM, INCLUDING ARBITRATION. YOU HEREBY FURTHER WAIVE THE RIGHT, IF ANY, OF ANY ASSOCIATION OR MEMBERSHIP GROUP TO ASSERT CLAIMS ON YOUR BEHALF IN ANY ACTION.**

d. **YOU HEREBY WAIVE THE RIGHT TO ANY DAMAGES IN CONNECTION WITH OR RESULTING FROM THE WRONGFUL ISSUANCE OF AN INJUNCTION.**

e. The parties agree that the maximum damages that you may recover in connection with a wrongful termination of your franchise and this Agreement will be an amount equal to the product of:

(i) the annual net profit (as defined below) multiplied by

(ii) the lesser of:

(a) The number of full years existing between the date on which the franchise and this agreement were wrongfully terminated and the date on which the Term would have otherwise expired; or

(b) Three.

For purposes of this Agreement, the term "net profit" means an amount equal to the net profits of your Franchised Business, as reflected on your tax return filed with the Internal Revenue Service prior to such termination; provided, however, that if such tax return reflects the operations of your Franchised Business for a period less than one (1) year, such net profits will be annualized based upon the net profits reflected in such tax return.

16.5 No Guarantee of Franchisee's Success.

You have been informed of and acknowledge the highly competitive nature of the business involved, and agree that the successful operation of your Franchised Business will depend in part, upon your best efforts, capabilities, management, and efficient operation; as well as the general economic trend and other market conditions.

16.6 Existence of Various Forms of Franchise Agreements.

You acknowledge that our present and future franchisees operate under a number of forms of franchise agreements and consequently, our obligations and rights with respect to our various franchisees may differ materially in certain instances. The existence of different forms or versions of the franchise agreement does not entitle you to benefit from any such difference; nor does it operate to alter or amend the agreement of the parties set forth in this Agreement.

16.7 Franchise Owner May Not Withhold Payments.

You agree that you will not, on grounds of alleged or actual nonperformance or breach by us of any of our obligations under this Agreement, withhold payment of any Royalty Fee, Advertising Fee, amounts due to us or any of our affiliates for goods or services purchased by you, or any other amounts due to us or any of our affiliates.

16.8 Remedies Are Cumulative.

The rights and remedies of the parties to this Agreement are cumulative and not exclusive, and no exercise or enforcement by either party of any right or remedy under this Agreement shall preclude the exercise or enforcement by such party of any other right or remedy under this Agreement or otherwise available at law or in equity to such party.

16.9 Interpretation.

All the terms and provisions of this Agreement will be binding upon and inure to the benefit of the successors and assigns of the parties. However, nothing in this *Section 16.9* may be construed as our consent to the Transfer of this Agreement or any rights by you.

16.10 Waiver.

Our failure to insist upon the strict performance of any term, covenant or condition contained in this Agreement will not constitute or be construed as a waiver or relinquishment of our right to enforce thereafter any such term, covenant or condition and such term, covenant or condition will continue in full force and effect. For example, Franchisor's acceptance of any payments made by Franchisee after a breach of this Agreement shall not be, nor be construed as, a waiver by Franchisor of any breach by Franchisee of any term, covenant or condition of this Agreement.

16.11 Litigation Expense.

If an action at law or suit in equity is brought to establish, obtain or enforce any right by either of the parties to this Agreement, the prevailing party in the suit or action, in the trial and appellate courts, will be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs and expenses and disbursements incurred in such suit or action.

16.12 No Third-Party Beneficiaries.

This Agreement is not intended to benefit any other person or entity except the named parties hereto and no other person or entity shall be entitled to any rights hereunder by virtue of so-called "third-party beneficiary rights" or otherwise.

16.13 Binding Effect; Modification.

This Agreement is binding upon the parties to this Agreement and their respective executors, administrators, personal representatives, heirs, permitted assigns and successors in interest. No amendment, change, or modification of this Agreement shall be binding on any party unless executed in writing by you and us.

16.14 Entire Agreement; Nature and Scope; Construction.

This Agreement, all exhibits, attachments, addendums, and amendments, constitute the entire understanding and agreement between the parties, and there are no other oral or written understandings or agreements between us and you relating to the subject matter of this Agreement. If required to be signed, any state specific addendums are incorporated herein by reference. Any representation not specifically contained in this Agreement made prior to entering into this Agreement does not survive subsequent to the execution of this Agreement. We and you have entered into this Agreement for the sole purpose of authorizing you to use the System licensed by this Agreement in the operation of the Franchised Business during the Term in which those specific items designated by us for sale and use in such locations are offered for sale and use in individual, face-to-face transactions with patrons visiting the Franchised Business (and equivalent telephone or mail transactions accepted as a convenience to that customer group). All consideration being furnished by us to you during the course of performance of this Agreement has been determined based on the limited rights and other limitations expressed herein. No other rights have been bargained for or paid for. This provision is intended to define the nature and extent of the parties' mutual contractual intent, there being no mutual intent to enter into contract relations, whether by agreement or by implication, other than as set forth in this Agreement. The parties further acknowledge that these limitations are intended to achieve the highest possible degree of certainty in the definition of the contract being formed, in recognition of the fact that uncertainty creates economic risks for both parties which, if not addressed as provided in this Agreement, would affect the economic terms of this bargain.

Nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the Disclosure Document. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

16.15 Terminology.

In addition to the terms defined elsewhere in this Agreement, the following terms defined below are incorporated in this Agreement by reference and shall be deemed to include all persons who succeed to the interest of the original, where applicable:

The term "affiliate" means any person who, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with any person;

The term "Dollars" means United States Dollars and all amounts due under this Agreement shall be paid in United States currency;

The use of the terms "includes" and "including" in any provision of this Agreement followed by specific examples used shall not be construed to limit application of the provision to only the specific examples used;

The term "person" means any natural person, corporation, partnership, trust, other entity, association or form of organization;

The term "will" and "shall" shall be synonymous, and shall be mandatory and not discretionary, unless otherwise specifically provided herein; and

Any references to articles or sections refer to articles and sections in this Agreement unless specified otherwise.

16.16 Counterparts.

This Agreement may be executed in one (1) or more original counterparts, and all of which, when taken together, shall be deemed to be one (1) original Agreement. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature. A fully-executed copy of this Agreement shall be of the same force and effect as the original.

16.17 Offerings.

If you are a corporation, partnership or other entity, and if you intend to offer securities, partnership interests or other ownership interests in you through any public or private offering, you shall not use any Proprietary Marks in such public or private offering, except to reflect your franchise relationship with us; nor shall you misrepresent your relationship with us by any statement or omission of an essential statement. You shall indemnify and hold us harmless from any liability in connection with such offering. Nothing in the foregoing shall modify the provisions of *Article 12*, and no such offering shall be made without first complying with any applicable provisions of *Article 12*.

16.18 Time.

Time is of the essence of each and every provision of this Agreement.

16.19 Force Majeure.

Neither of the parties will be liable for loss or damage or be deemed to be in breach of this Agreement if the failure to perform the party's obligations results from: (a) transportation shortages, inadequate supply of equipment, merchandise, supplies, labor, material or energy, or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any government or any department or agency thereof, or (b) acts of God, and in each case being unforeseeable forces which Franchisee could not by the exercise of due diligence have avoided; provided however that Franchisee must: (i) immediately upon the start of the above-mentioned act, provide written notice to Franchisor that it expressly enacts its rights granted under this Section, and (ii) use all commercially reasonable efforts to mitigate the effect of the event of Force Majeure upon its performance and to fulfill its obligations under this Agreement. Any delay resulting from any of these causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that no such cause will excuse payments of amounts owed at the time of such occurrence or payment of the Royalty Fee and all other amounts due to us and our affiliates thereafter, or permit Franchisee to permanently close the Franchised Business.

16.20 Plurals and Captions.

Words in the singular number include the plural when the context requires (and vice-versa). The table of contents and the captions are inserted only for convenience and are not a part of this Agreement or a limitation of the scope of the particular article or section to which each refers.

16.21 Joint and Several Liability.

If you consist of two (2) or more individuals, whether in the form of separate individuals or a business entity controlled by the individuals, then each individual will be jointly and severally liable under the provisions of this Agreement.

16.22 Trademark Notice.

All trademarks referenced in this Agreement are those of their respective owners.

16.23 No Accord or Satisfaction.

If you pay, or we otherwise receive, a lesser amount than the full amount provided for under this Agreement for any payment due hereunder, such payment or receipt may, in our sole discretion, be applied against the earliest amount due us. In addition, if interest or late fees are owed, we may, in our sole discretion, apply any amounts paid to the late fees and interest before such amounts are applied to the principal amount owed. We may accept any check or other payment in any amount without prejudice to our right to recover the entire balance of the amount due or to pursue any other right or remedy. No endorsement or statement by you on any check or payment or in any letter accompanying any check or payment or elsewhere shall constitute or be construed as an accord or satisfaction.

ARTICLE 17. ACKNOWLEDGMENTS AND REPRESENTATIONS OF FRANCHISEE

17.1 Certain Representations and Warranties of Franchisee.

You represent and warrant that the following statements are true and complete as of the Effective Date:

a. You do not seek to obtain the Franchised Business for speculative or investment purposes and have no present intention to sell or transfer or attempt to sell or transfer the Franchised Business except as previously approved by Franchisor and subject and conditioned to Article 12 of this Agreement.

b. You understand and acknowledge the value to the System of uniform and ethical standards of quality, appearance and service described in and required by the Confidential Manual and the necessity of operating the Franchised Business under the System Standards. You represent that you have the capabilities, professionally, financially and otherwise, to comply with our System Standards.

c. If you are a corporation, limited liability company, partnership, or other form of entity, you are duly incorporated, organized, or formed and are qualified to do business in the state and any other applicable jurisdiction within which the Franchised Business is located, and you are and shall remain duly organized and in good standing during the Term.

d. You represent and warrant that: (i) if you are an individual, you are; or (ii) if you are an entity, that each of your owners, shareholders, partners, and members are, a United States citizen or a lawful resident alien of the United States.

e. All financial and other information that you have provided to us or otherwise made available to us in connection with your application for this franchise is true, complete, accurate, and not intentionally misleading.

f. The execution of this Agreement by you will not constitute or violate any other agreement or commitment to which you are a party.

g. Any individual executing this Agreement on your behalf is duly authorized to do so and the Agreement shall constitute your valid and binding obligation and, if applicable, all of your partners, members, or shareholders, if you are a partnership, limited liability company, or corporation.

h. You have, or if you are a partnership, corporation or other entity, your partners or principals have, carefully read this Agreement and all other related documents to be executed by you concurrently or in conjunction with the execution hereof; that you have obtained, or had the opportunity to obtain, the advice of counsel in connection with the execution and delivery of this Agreement; that you understand the nature of this Agreement and that you intend to comply with and be bound by this Agreement.

i. You have read and understand the information and disclosures made in the Disclosure Document provided to you as acknowledged in *Section 17.3e*. You understand and acknowledge that: (i) estimates for initial start-up expenses are estimates only and there can be additional start-up expenses; and (ii) your sales may differ substantially from any sales provided in Item 19 of the Disclosure Document, and there is no assurance that your sales will meet or exceed any sales listed in Item 19 of the Disclosure Document. You have had the opportunity to and have consulted or elected not to consult with your attorney, accountant and business advisors before entering into this Agreement.

j. You understand and agree that, while not applicable in every case, our past experience indicates that owner-operated restaurants generally perform better than absentee owners with hired managers. The food business is a personal business and is dependent upon your business skill and judgment. This includes your choice of employees. Your skill in hiring the right people to work in your Franchised Business is very important in determining whether people decide to purchase menu items from your Franchised Business or from another restaurant in the same vicinity.

k. You understand and agree that ownership of a franchise and the Franchised Business carries certain risks. These risks include the loss of your initial investment, other continued financial losses such as rent payments due under lease obligations and other contractual obligations, the loss of your time and energy in starting up and running your Franchised Business, and loss of earnings and investment income from your investment in the Franchised Business. You understand and agree that the Franchised Business may make money and may lose money and are entering this business venture with this express understanding. You are not relying upon anything which is not contained within this Agreement or the Disclosure Document in determining and deciding to become a franchisee.

l. Notwithstanding the foregoing, you understand and agree that the System must not remain static if it is to meet (without limitation) presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, social trends and other market place variables, and if it is to best serve the interests of us, you and all other franchisees. Accordingly, you expressly understand and agree that we may from time to time change the components of the System, including altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition or other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which your Franchised Business is authorized and required to offer, modifying or substituting entirely the equipment, signage, trade dress, décor, color schemes and uniform System Standards and specifications and all other unit constructions, design, appearance and operation attributes which you are required to observe under this Agreement; and, abandoning, changing, improving, modifying or substituting the Proprietary Marks. You expressly agree to comply with any such modifications, changes, additions, deletions, substitutions and alterations. You shall accept, use and effectuate any such changes or modifications to, or substitution of, the System as if they were part of the System at the time that this Agreement was executed. Except as provided herein, we shall not be liable to you for any expenses, losses or damages sustained by you as a result of any of the modifications contemplated hereby.

m. You represent that neither you nor any of your affiliates, officers, directors, managers, members, or partners (as applicable) or funding sources are subject to U.S. Executive Order 13224, identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specially Designated National and Blocked Persons list, or any terrorist list or other blocked persons list. In addition, you represent that you have not received funding from, nor are you owned, controlled, or acting on behalf of the government of any country that is subject to an embargo by the United States, any foreign government official, political party or international organization, and that no foreign government or government official, political party or international organization has any financial interest in the Franchised Business or any monies earned by the Franchised Business.

n. You represent, warrant and agree that you, your officers, directors, managers, members, or partners (as applicable) will each at all times conduct themselves in an ethical manner and avoid any activity that might result in a violation of the U.S. Foreign Corrupt Practices Act, Anti-Terrorism Laws, or any other applicable anti-corruption or bribery laws.

17.2 Additional Information Respecting Franchisee.

a. You have delivered to us or will deliver concurrent herewith, complete and accurate copies of all of your organizational documents, including all partnership agreements, certificates of partnership, articles of organization, operating agreements, articles or certificates of incorporation, by-laws and shareholder agreements, including all amendments, side letters and other items modifying such documents.

b. Reserved.

17.3 Acknowledgements of Franchisee.

a. You acknowledge that you have conducted an independent investigation of the business venture contemplated by this Agreement and recognize that this business venture involves substantial business risks and will largely depend upon your ability. Other than the financial performance representation contained in Item 19 of the Disclosure Document, if any, we expressly disclaim making, and you acknowledge that you have not received or relied on, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the Franchised Business contemplated by this Agreement.

Franchisee Initials _____/_____

b. You hereby certify that none of our employees, no other person speaking on our behalf, and no Area Representative, if applicable, have: (i) made any oral, written, visual, or other representation, agreement, commitment, claim, or statement that stated or suggested any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise other than any financial performance representation contained in Item 19 of the Disclosure Document; or (ii) made any oral, written, visual, or other representation, agreement, commitment, claim, or statement from which any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise might be ascertained, related to a *Cold Stone Creamery* franchise, that is different from, contrary to, or not contained in the *Cold Stone Creamery* Disclosure Document; or (iii) made any representation, agreement, commitment, claim or statement to you that is different from, contrary to, or not contained in, the *Cold Stone Creamery* Disclosure Document. You acknowledge and agree that we do not make or endorse, nor do we allow any of our employees or other persons speaking on our behalf to make or endorse, any additional oral, written, visual, or other representation, agreement, commitment, claim, or statement that states or suggests any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise with respect to a *Cold Stone Creamery* franchise other than any financial performance representation contained in Item 19 of the Disclosure Document.

Franchisee Initials _____/_____

c. You acknowledge that you have received, read and understand this Agreement and the related exhibits, attachments and agreements and that we have afforded you sufficient time and opportunity to consult with advisors selected by you about the potential benefits and risks of entering into this Agreement.

Franchisee Initials _____/_____

d. You understand that this Agreement, including any amendments and exhibits, contains the entire agreement between the parties concerning the Franchised Business, and that any prior oral or written statements that are not set out in this Agreement, including any amendments, exhibits and attachments will not be binding. You acknowledge and agree that we do not permit any representations, agreements, commitments, claims, or statements or approve any changes in this Agreement or any of the amendments, exhibits and attachments to this Agreement, except by means of a written amendment or addendum signed by all parties to this Agreement. You acknowledge that nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the Disclosure Document.

Franchisee Initials ____/____

e. You acknowledge receipt of our Disclosure Document fourteen (14) days prior to the execution of this Agreement or your payment of any monies to us or our agent (or sooner if required by applicable state law).

Franchisee Initials ____/____

f. You acknowledge that, other than what was previously disclosed to you in our Disclosure Document to which you acknowledge receipt thereof, you have not: (1) received any financial statements for us or any of our parent or affiliated companies; or (2) relied on the financial condition of us or of any of our parent or affiliated companies when making the decision to purchase the Franchised Business.

Franchisee Initials ____/____

g. You acknowledge, as detailed in *Section 2.3*, that you must, at your own cost and expense, use only our designated and approved Design Architect for the design of your Franchised Business.

Franchisee Initials ____/____

h. You acknowledge that the following is your Area Representative (if applicable):

Franchisee Initials ____/____

i. If an Area Representative is identified in *Section 17.3h.*, you make the following representations with respect to the Area Representative:

(i) You have met or spoken to only _____, the Area Representative;

(ii) Other than any financial performance representation contained in Item 19 of the Disclosure Document, at no time did the Area Representative make any promises or statements, or projections or forecasts, or estimates or warranties or representations or other statement or agreement concerning profits or expenses or costs or actual or projected sales of any kind directly or by implication about *Cold Stone Creamery* restaurants or about the Franchised Business that we desire to develop under this Agreement or about obtaining the confirmed Location or about any other matter other than what is contained in the *Cold Stone Creamery* Disclosure Document or *Cold Stone Creamery* restaurant brochure.

(iii) You acknowledge that you have not received any written materials from us or the Area Representative except for the *Cold Stone Creamery* brochure and Disclosure Document; and

If there are any exceptions to Sections 17.3i.(i) – (iii), identify the item number and list the exception here:

Franchisee Initials ____/____

j. You acknowledge there have been no other inducements made with any person or entity, including the Identified Area Representative, encouraging you to purchase the Franchised Business, such as a “side deal” or other promise or agreement not included in the Agreement.

Franchisee Initials ____/____

k. You acknowledge and understand that Article 6 covers the use of the *Cold Stone Creamery* trademark and prohibition on registration of our Proprietary Marks. You acknowledge the ownership of the Proprietary Marks by us, and you agree that during the Term and after its expiration or termination, you will not, directly or indirectly, apply to register, register or otherwise seek to use or control or in any way use “*Cold Stone Creamery*”, or any other of our proprietary marks, or any confusingly similar form or variation, in any place or jurisdiction either within or outside the United States; nor will you assist any others to do so. You further agree that your corporate, partnership or other entity name will not include any of the Proprietary Marks or phrases similar thereto as a part thereof. Furthermore, you acknowledge and understand that you are prohibited from filing applications for the registration of our trade names used in connection with your Franchised Business.

Franchisee Initials ____/____

l. You acknowledge and understand that in the event you have registered a trade name or entity name containing our trademarks, you will be required to immediately discontinue all further use of the trademark, all Proprietary Marks and any other marks or names confusingly similar thereto in your entity name. Furthermore, you will take such action as may be required to amend your entity name and affirmatively cancel or terminate and dissolve all fictitious or assumed names or other registrations that contain our Proprietary Marks. In the event you do not comply and execute any and all instruments and documents necessary to protect and maintain our interests in the Proprietary Marks, we will then have power of attorney to execute any documents necessary to protect and maintain our interests in the Proprietary Marks.

Franchisee Initials ____/____

ARTICLE 18. SUBMISSION OF AGREEMENT

The submission of this Agreement to you does not constitute an offer and this Agreement shall become effective only upon the execution thereof by the parties. THIS AGREEMENT SHALL NOT BE BINDING ON US UNLESS AND UNTIL IT SHALL HAVE BEEN ACCEPTED AND SIGNED BY FRANCHISOR.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this Agreement as of the Effective Date.

FRANCHISEE: _____, a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

FRANCHISOR: KAHALA FRANCHISING, L.L.C., an
Arizona limited liability company

By: _____
[Name, Title]

PERSONAL ACCEPTANCE OF SECTIONS 7.1, 7.2, 14.6, AND 14.8

Each of the undersigned individually and personally accepts and agrees to be bound by the provisions of Sections 7.1, 7.2, 14.6, and 14.8 of the foregoing Franchise Agreement.

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
(signature) individual
Date: _____

EXHIBIT E-2

TO THE FRANCHISE DISCLOSURE DOCUMENT

Franchise Agreement (Renewal)

COLD STONE CREAMERY

**FRANCHISE AGREEMENT
(Renewal)**

between

KAHALA FRANCHISING, L.L.C.

and

_____, a(n) _____

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**COLD STONE CREAMERY
FRANCHISE AGREEMENT**
(“Agreement”)

PARTIES:

KAHALA FRANCHISING, L.L.C.,
an Arizona limited liability company
Attn: Legal Department
9311 E. Via De Ventura
Scottsdale, Arizona 85258

(“Franchisor”)

a(n) _____

Telephone No.: _____

([individually and collectively,] “Franchisee”)

RESTAURANT NO.: _____

EFFECTIVE DATE: _____

(“Effective Date”)

TRADITIONAL RESTAURANT (YES or NO): _____

RESTAURANT DESCRIPTION IF NON-TRADITIONAL: _____

A “traditional” restaurant is a restaurant that is easily accessible by the general public, such as a free-standing building, inline retail shop, shopping mall and street front location. A traditional *Cold Stone Creamery* restaurant normally offers a full menu. A “non-traditional” restaurant is a *Cold Stone Creamery* restaurant that is located in a non-traditional marketplace, as determined by us (in our sole discretion), such as an airport, amusement park, sports or entertainment venue, train station, travel plaza, toll roads, cafeteria, retail store, convenience store, military base, hospital, office building, movie theater, hotel, casino, kiosk, cart, or high school or college campus. A non-traditional restaurant may also be a *Cold Stone Creamery* restaurant that is co-branded into another brand restaurant, at Franchisor’s sole discretion. A non-traditional *Cold Stone Creamery* restaurant normally offers a limited version of the full *Cold Stone Creamery* menu.

To simplify the language in this Agreement, the terms “we,” “us,” “our” and the like may be used to refer to the Franchisor, and the terms “you,” “your” and the like may be used to refer to the Franchisee. The term “you” as used herein is applicable to one (1) or more persons, a corporation, partnership, trust, other entity, association or form of organization as the case may be, and the singular usage includes the plural, masculine, neuter, feminine, and possessive usages. Franchisor and Franchisee may individually be referred to as a “party” and collectively referred to as the “parties.”

RECITALS:

This Agreement is entered into with reference to the following facts and circumstances:

A. We have, over a period of time and at considerable expense, developed and established a uniform and unique method of operation, customer service, advertising, publicity, processes, recipes, techniques and technical knowledge in connection with the restaurant business, specializing in super-premium ice cream, cakes, pies, smoothies, shakes, specialty beverages, other dessert with frozen confections, and other related beverage and food items. These restaurants do business under the trade name "*Cold Stone Creamery*[®]". These Cold Stone Creamery recipes, techniques, processes and methods constitute our "Trade Secrets." All of our knowledge, experience, Trade Secrets, processes, methods, specifications, techniques, Proprietary Marks (as defined in Recital B.), System Standards (as defined in *Section 1.4*) and information are referred to in this Agreement as the "System." The System may be changed, supplemented, improved and further developed by us from time to time.

B. We have owned and issued franchises to others for the operation of franchised restaurants in the United States and in other countries. We have registered and applied for proprietary marks with the United States Patent and Trademark Office and with offices in other countries serving similar functions. These proprietary interests, trademarks, service marks, logos, insignias, trade names and trade dress are referred to in this Agreement as the "Proprietary Marks."

C. We are engaged in the business of licensing the right to use the Proprietary Marks in connection with the operation and promotion of the System.

D. You understand and recognize that: (1) our Trade Secrets, Proprietary Marks, developments and other properties as recited above are of considerable value; and (2) it is of importance to us and all of our franchisees to maintain the development of the System in a uniform and distinctive manner, allowing you and our other franchisees to enjoy a public image and reputation greater than most single franchisees could establish.

E. You desire to make use of the "*Cold Stone Creamery*[®]" trademark and to enjoy the benefits of that mark, the other Proprietary Marks, and the System; and to establish a "*Cold Stone Creamery*" franchise to be operated in accordance with System Standards set forth from time to time by us. System Standards are set forth in, without limitation, the confidential "ops package," which consists of the "operations manual" ("Operations Manual"), "ops toolkit" and related printed and electronic documents, both now existing and hereinafter developed (individually and collectively, "Confidential Manual"). We are willing to grant you the right to do so under the terms, conditions and provisions set forth in this Agreement, which includes any and all appendices, addenda, amendments, attachments and exhibits.

F. You recognize the necessity and desirability of protecting our reputation, goodwill, Trade Secrets, and other confidential business information; and that disclosure of Trade Secrets and confidential business information, including specifics of the System to any third-party, will cause irreparable damage and harm to us.

AGREEMENT:

The parties agree as follows:

ARTICLE 1. GRANT OF FRANCHISE; TERM; SYSTEM STANDARDS

1.1 Franchise Grant.

We hereby grant to you a *Cold Stone Creamery* franchise that includes the right to use the System ("Franchised Business") as provided in this Agreement, at the following location:

Arena, Mall, Facility, or Center Name: _____
(if applicable)

Street Address: _____

City/State/Zip Code: _____ ("Location")

1.2 Location of the Franchised Business; No Exclusive Territory or Other Rights.

You must operate the Franchised Business only from the Location, including any catering services of *Cold Stone Creamery* menu items you provide. You acknowledge that the *Cold Stone Creamery* franchise granted under this Agreement is non-exclusive, that we are not granting you any territorial protection or any other exclusive rights, and that we, directly or through one (1) or more affiliates, reserve the right in our sole discretion, and without compensating you or seeking your prior approval: (i) to establish, and grant to other franchisees or licensees the right to establish, a *Cold Stone Creamery* restaurant or any other business using the Proprietary Marks, the *Cold Stone Creamery* System or any variation thereof, in any location other than the approved Location (including locations in the immediate vicinity of your Location), on any terms and conditions that we deem appropriate; (ii) to establish, and grant to other franchisees or licensees the right to establish, any restaurant concept other than *Cold Stone Creamery* in any location on any terms and conditions that we deem appropriate (including locations in the immediate vicinity of the Location); (iii) to sell products identified by the Proprietary Marks or other trademarks, service marks or commercial symbols in any location through any distribution channels, including grocery stores, convenience stores, supermarkets, club stores, vending machines, delivery services and restaurants other than *Cold Stone Creamery* restaurants; and (iv) to take any other action that we are not expressly prohibited from taking under this Agreement.

We hereby grant to you during the term of this Agreement, a non-exclusive right and license to operate a single restaurant at the Location only, according to the System Standards and subject to the terms, conditions and restrictions contained in this Agreement. This Agreement is limited to the operation of one traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.

Except as expressly limited in this Agreement, we (for ourselves and our affiliates and designees) retain all rights with respect to all Proprietary Marks and the sale of *Cold Stone Creamery* products anywhere in the world with no compensation or liability to you, including the right to:

- a. Establish and operate (or license to any other person or entity the right to establish and operate) *Cold Stone Creamery* restaurants owned or licensed by us at any location;

b. Develop, market, own, operate and participate in any other business under the Proprietary Marks or any other trademarks (including trademarks identified in the Franchise Disclosure Document ("Disclosure Document") and other trademarks we or our affiliates own or have the right to license);

c. Develop, lease and license the use of, at any location, trademarks other than the Proprietary Marks, in connection with the operation of a system that offers products or services that are the same as, or similar to, those offered by us under this Agreement on any terms or conditions that we deem advisable, in our sole discretion;

d. Merge with, acquire or be acquired by any other business, including a business that competes with your Franchised Business, or acquire and convert any retail stores, including retail stores operated by competitors, or otherwise operated independently or as part of, or in association with, any other system or chain, whether franchised or corporate-owned;

e. Distribute, sell and license other persons or entities to distribute and sell products through all other channels of distribution, including catalog sales, telemarketing, grocery stores, warehouses, big box shops, specialty shops, limited access highway food facilities, vending machines and similar automated dispensing systems, mobile units, off-site sales accounts, electronic mail, Internet sales, and movie theaters (individually and collectively, "Other Channels"); and

f. Implement multi-area marketing programs that may allow us or others to solicit or sell to customers anywhere. We also reserve the right to issue mandatory policies to coordinate such multi-area marketing programs.

1.3 Term of Agreement.

a. The term for this Agreement is for a single renewal term that will commence on the Effective Date and will expire on the five (5) year anniversary of the Effective Date, unless terminated earlier in accordance with *Article 14* or any other provisions of this Agreement, or transferred in accordance with *Article 12* ("Term").

1.4 System Standards.

You shall operate the restaurant in accordance with our standards, including the following:

- a. restaurant design, maintenance, health and safety and remodeling;
- b. types, models, brands and suppliers of required fixtures, furnishings, equipment, signs, materials and supplies;
- c. recipes and ingredients, menu items and menu design;
- d. cooperation with and participation in sales, marketing, advertising and promotional programs (including discount coupons, discount gift cards, special menu promotions, and entering into product and service agreements directly with third-party vendors and service providers as required by us) and materials and media used in those programs, including discontinued use and removal of promotional materials as directed by us;

- e. use and display of the Proprietary Marks;
- f. restaurant operations, including matters related to the management of the restaurant; training of your employees consistent with the System Standards; and commercial impression of the Franchised Business to the public;
- g. cooperation with and participation consistent with our responses and resolutions in response to customer feedback;
- h. cooperation with and participation in: (i) market research and testing; and (ii) product and service development programs;
- i. acceptance of our stored value gift cards, including gift cards sold at a discount, loyalty cards, frequency cards, gift certificates, vouchers, and any other similar electronic card and payment programs (individually and collectively, "Gift/Loyalty Card"), credit and debit cards, other payment systems, check verification services and use of point of sale computer systems; You agree to enter into a separate participation agreement with the approved vendor for data processing services;
- j. bookkeeping, accounting, data processing and record keeping systems; computer hardware and software; connections to the Internet or to proprietary networks; forms, methods, formats, content and frequency of reports to us of Gross Sales (as defined in *Article 5*), financial performance and condition; and providing tax returns and other operating and financial information to us; and
- k. conduct and maintain the Franchised Business and Location so as not to distract from or interfere with the integrity of the System (individually and collectively, "System Standards"). We may, in whole or in part, change, improve, update and further develop the System Standards, from time to time during the term. You shall comply with the updated System Standards as directed by us.

The operation and maintenance of your restaurant according to the System Standards are essential to the well-being and vitality of the System and to preserve the goodwill of the Proprietary Marks for us and for all other franchisees operating under the System. It is critical to the *Cold Stone Creamery* System for all restaurants operating under the *Cold Stone Creamery* System to present a uniform and professional image to *Cold Stone Creamery* customers regardless of which location the customer visits. Any information regarding the operation of the restaurant will be considered a mandatory System Standard, unless it is clear from the express language of our communication that the information is merely optional or is intended by us as a suggestion, rather than a requirement.

You agree that System Standards constitute binding provisions of this Agreement as if they were an integral part of this Agreement.

ARTICLE 2. SELECTION OF LOCATION; CONSTRUCTION AND RELOCATION

2.1 Location Selection Procedures.

You are ultimately responsible for the selection of the Location. We will not have any liability to you with respect to your selection of the Location, any assistance we provide you in

making your selection, our recommendation of any location or a third party to assist you in selecting a location, or our allowing you to move forward on any location. You agree that your selection of the Location will be based on your own independent investigation of the suitability of the Location.

2.2 Lease and Purchase Approval.

If you intend to lease the Location for your Franchised Business, the lease will be subject to our prior limited review and acknowledgment so that we can confirm that certain lease terms are incorporated into the lease. You must provide us, at least thirty (30) days prior to executing the lease, a copy of the lease and details relating to square footage, rent per square foot, the term of the lease, and either confirmation that such other terms as we reasonably require are incorporated into the lease or that you and the landlord agree to incorporate the lease addendum to lease agreement as an exhibit to the lease. You or your attorney shall be responsible for negotiating the terms of the lease, which shall be subject to our final limited review and acknowledgment. If you do not submit all of the required documents to us, we will not allow you to move forward with your lease. We have no liability to you regarding the terms or negotiations of the lease.

If, prior to executing the lease, you or your attorney request a full review of your lease, including any and all exhibits attached thereto, and we or our designated affiliate review your entire lease and exhibits and provide to you or your attorney its review of the entire lease and suggested changes to the lease ("Lease Review"), you must pay a Lease Review Fee (as defined in *Section 5.7*) to compensate for time and effort in reviewing the lease. The Lease Review is optional and only completed by us or our designated affiliate at your or your attorney's request. The Lease Review Fee is due only in the event that you or your attorney request us or our affiliate to complete a Lease Review. Each lease must contain the required lease terms set forth in the Lease Addendum to Lease Agreement, and must specifically state that we are a third-party beneficiary of the lease. If we cure any default by you under the lease, any amounts that we pay to cure the default will be payable by you to us on demand, together with interest thereon, at the lesser rate of one and one-half percent (1½%) or the maximum rate that does not violate applicable state usury laws ("Default Rate") per month from the date we make such payment.

You acknowledge and agree that on the earlier of thirty (30) days after: (i) you receive a fully executed copy of your lease for the Location of your Franchised Business; or (ii) you open your Franchised Business to the public, you must provide a fully-executed copy of your lease for the Location to us. Failure to timely provide us with a fully-executed copy of the lease will result in a default under this Agreement.

If you intend to purchase the Location for your Franchised Business, the terms of such purchase shall be subject to our prior approval, and you must provide us, at least thirty (30) days prior to executing the purchase agreement, a copy of the purchase agreement and details relating to square footage, price per square foot and such other terms as we reasonably require.

You acknowledge and understand that our confirmation that you may move forward with any specific location, lease or purchase agreement does not in any way guarantee or ensure the success or profitability of the Franchised Business, or the conformity of the Location, lease or purchase agreement to applicable laws, and such confirmations are only for our own benefit.

2.3 Construction.

a. You must, at your sole cost and expense, construct, furnish, make improvements to and equip, if necessary, the Franchised Business at the Location selected by you and meeting our minimum site requirements, in accordance with plans and specifications approved by us or our third-party approved architect, if applicable. Our approval of plans is solely for complying with our System Standards and not for determining compliance with codes, ordinances and other legal requirements, including the Americans with Disabilities Act (“ADA”) or any requirements under the lease for your Location. You are solely responsible for ensuring that your Location conforms to all codes and ordinances, including the ADA, and all lease-specific requirements. You must, at your sole cost and expense, use our designated and approved third-party design architect (“Design Architect”) to prepare the initial design drawings for any construction, alterations or improvements, as applicable, for your Franchised Business. The Design Architect must provide us with one (1) set of the design drawings, including landscaping and parking spaces if applicable, which are the detailed plans and specifications (“Plans”) for your Franchised Business. We will provide you with a copy of the Plans upon our approval of the Plans. You must also, at your sole cost and expense, retain a licensed architect of record to prepare the permitted construction set of drawings for any construction, alterations or improvements. The permitted construction set of drawings must be submitted to us for our files prior to the start of construction, alterations or improvements. In addition, you must obtain the appropriate construction documents and all mechanical, plumbing, electrical and architectural plans must be sealed and stamped, as we may require, even if local laws in the jurisdiction where your restaurant is located do not require same.

b. Any material modifications to the approved Plans must be submitted to us for approval and you will not undertake any construction, alterations or improvements until such modifications have been approved by us. Approval of such modifications does not constitute any representation by us of compliance with applicable zoning laws, building codes or other laws.

c. You will be solely responsible for the cost and expense of obtaining all necessary governmental construction permits and licenses, and you must, at your sole cost and expense, comply with all laws, zoning ordinances, rules and regulations of any governmental agencies that may govern any construction, alterations or improvements of the Franchised Business in accordance with the approved Plans. We will have the right, but are not required, to meet with the Design Architect and to inspect any construction, alterations or improvements during its course to ensure that the provisions of this *Section 2.3* are being observed; and you agree to allow our authorized representatives, at any and all times while construction, alterations or improvements are in progress, to meet with the licensed architect and general contractor and enter onto the Location for this purpose. If we determine in good faith that the provisions of this *Section 2.3* are not being observed, you will, at your sole cost and expense, immediately take all necessary corrective action.

d. You must, at your sole cost and expense, use a general contractor that is licensed, and if applicable, registered in the state and local jurisdiction where your restaurant is located for any and all construction, alterations and improvements. The general contractor must have prior experience in the construction, alterations and improvement of quick-service restaurants.

e. You acknowledge that the design and appearance of the *Cold Stone Creamery* restaurant is part of the System, and that uniformity is essential to the System. Therefore, you agree that after the restaurant has been constructed, altered or improved, you will not make any material changes to the building plan or design or its appearance without our prior written consent, and you will, at your sole cost and expense, maintain the interior and exterior décor of the restaurant in a first class condition and in such manner as we may reasonably prescribe from time to time. In addition to any remodeling required by us upon the transfer of the Franchised Business and upon the granting of a successor term to operate the Franchised Business, as set forth in *Articles 12 and 13*, respectively, you will, upon thirty (30) days' prior notice from us, and at your sole cost and expense, remodel and make all alterations and improvements in and to your Franchised Business as reasonably determined by us to reflect the then-current *Cold Stone Creamery* System specifications, standards, format, image and appearance.

f. You must submit to us a certificate of occupancy for your Franchised Business at any time upon our request.

2.4 Signage.

You will acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, signs for advertising and identifying the Franchised Business as a *Cold Stone Creamery* restaurant. All signs must be in accordance with the System Standards, specifications and any local governing body (i.e., city or county governments), as well as any other applicable laws, including the Americans with Disabilities Act ("ADA"), and exterior signage must be the maximum size allowed by the landlord and local governing body. You acknowledge that quality control is essential to protect and promote our Proprietary Marks, standards, and uniform image, and you shall acquire all signs only from approved suppliers. In addition, you shall prominently display on all communications, forms, advertising, business stationery and business cards, and in a sign easily visible to consumers at the Franchised Business, the following words: "INDEPENDENTLY OWNED AND OPERATED."

2.5 Relocation.

a. If you desire to relocate the Franchised Business, you may request our consent upon the following conditions:

(i) Not less than sixty (60) days prior to the desired date of relocation (unless prior notice is impractical because of a required relocation, due to a third-party or our request, in which event notice shall be made as soon as possible), you must make a written request for consent to relocate, describing the reasons for the relocation and providing details respecting any proposed new location.

(ii) Within twenty-one (21) days after receiving your written request, we shall advise you in writing if the proposed new location meets our minimum real estate site requirements as provided in *Section 2.1* and if you have our authorization to proceed with the relocation. In the event of our denial to proceed with the relocation, you may request an alternative proposed new location pursuant to the provisions of this *Section 2.5*.

(iii) The Term will not be extended in connection with the requested relocation.

b. At the time you request to relocate the Franchised Business, you must also meet each of the following requirements:

(i) You must not be in default under this Agreement or any other agreement or note then in effect between us or you and any affiliate of ours, and no event shall have occurred that, with the giving of notice, the passage of time, or both, would constitute a default under this Agreement;

(ii) You must neither have received more than three (3) notices of default or breach during the Term; nor more than two (2) notices of default or breach during the five (5) years immediately preceding the effective date of the proposed relocation;

(iii) The equipment, fixtures and signage used in connection with the operation of the Franchised Business must either meet our then-existing System specifications and System Standards, or you must agree, within a timeframe required by us, to replace or refurbish such items, and otherwise modify the methods of operation of the Franchised Business at your cost and expense, in order to comply with our System specifications and System Standards then applicable to new franchise owners; and

(iv) You shall have paid to us a Relocation Fee (as defined in *Section 5.14*).

c. If we approve the relocation of your Franchised Business, (i) you and we must execute an amendment to this Agreement indicating the address for your relocated Franchised Business, and (ii) you must open your Franchised Business at the new location within thirty (30) days after you close your Franchised Business at the current Location. Provided that you comply with all of the terms and conditions set forth in this Agreement including this Section 2.5, during the period of time between the closure of your Franchised Business at the current Location, and the opening of the Franchised Business at the approved relocation address, you will not owe the Royalty Fee (as defined in *Section 5.2*).

2.6 Restricted Use of Restaurant Location.

You may not wholly or partially sublet the Location without our prior written consent. The Location may be used only for the operation of a *Cold Stone Creamery* restaurant in compliance with this Agreement and the System Standards. You shall not conduct other businesses or activities at the Location without our prior written consent.

2.7 Not Applicable.

ARTICLE 3. OPERATIONS

3.1 Not Applicable.

3.2 Supplies and Promotional Materials; Rollouts.

You agree to sell only those menu items, products and services authorized under the terms of this Agreement and as specified in the Confidential Manual, and you shall use only supplies and ingredients in making those menu items that are in compliance with the standards as set forth in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You shall purchase all such services, supplies and ingredients

only from approved vendors and utilize approved distributor(s) as specified in the documents provided by, or approved by, us as they presently exist or may exist in the future. You must purchase promotional materials containing the Proprietary Marks, including stationery, business cards, promotional and advertising materials and similar items, from suppliers approved by us, except that we must first approve all such promotional and advertising materials before you use them, and all such printed materials containing any of the Proprietary Marks shall be accompanied by the words "INDEPENDENTLY OWNED AND OPERATED." Additionally, during the Term, you agree to participate in any Rollout of new products and suppliers, as defined in *Section 9.3*.

3.3 Fixtures, Furnishings, and Equipment.

Unless otherwise approved by us in writing, you will: (1) acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, fixtures, furnishings, and equipment to be used in the operation of your Franchised Business that is in accordance with the System Standards, specifications set forth by us in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future, and with applicable laws including, without limitation, including the Americans with Disabilities Act ("ADA"); and (2) procure the fixtures, furnishings, and equipment from suppliers or vendors previously approved in writing by us.

3.4 Online Presence.

You may not maintain a website, software application, an App (application), social media account (including an account, group or page on Facebook®, Flickr®, Foursquare®, Google+®, Instagram®, LinkedIn®, Pinterest®, Snapchat®, Tumblr®, Twitter®, YouTube®, Vine®, VKontakte or Weibo®), or otherwise maintain a presence or advertise on the Internet or any other public computer network (individually and collectively, "Site") in connection with the Franchised Business without our prior written approval, which we may withhold in our sole discretion. If we grant you written approval, you agree to submit to us for approval before use, true and correct printouts, of all Site pages you propose to use in connection with the Franchised Business. You understand and agree that our right of approval of all such Site pages is necessitated by the fact that such Site pages will include and be inextricably linked with our Proprietary Marks. If we approve your use of a Site, you may only use Site pages that we have approved. Your Site must conform to all online presence requirements, policies and procedures per our System Standards. You agree to provide all information regarding your online presence that we require. If we grant approval for a Site, you may not use any of the Proprietary Marks on the Site except as we expressly permit. You may not post any of our proprietary, confidential or copyrighted material or information on the Site without our prior written permission. If you wish to modify your approved Site, all proposed modifications must also receive our prior written approval. You explicitly understand that you may not post on any Site (whether yours or someone else's) any material in which a third-party has any direct or indirect ownership interest (including video clips, photographs, sound bites, copyrighted text, trademarks or service marks, or any other text or image which any third-party may claim intellectual property or other rights in). If we grant approval, you agree to list on the Site any website and social media account maintained by us, and any other information we require in the manner we dictate. You agree to obtain our prior written approval for any Internet domain name, home page address and Uniform Resource Locator. The requirement for our prior approval set forth in this *Section 3.4* will apply to all activities on the Internet or other communications network to be conducted by you, except that you may maintain one (1) or more e-mail addresses and may conduct individual e-mail

communications without our prior written approval. You agree to obtain our prior approval as provided above if you propose to send advertising to multiple addressees via e-mail or text messages. You may not use a Site to represent that: (1) the Site is an official account, application, page or group of, or video produced by us; or (2) you are the owner of the *Cold Stone Creamery* brand. On any Site you use in connection with the Franchised Business, you must affirmatively state: (a) that you are a franchisee and the opinion and content being expressed are your own and not that of the *Cold Stone Creamery* brand; and (b) the Location of your Franchised Business.

3.5 Continuing Working Capital Requirement.

You must have Fifteen Thousand Dollars (\$15,000) in working capital at the time you open your Franchised Business.

ARTICLE 4. TRAINING, ASSISTANCE AND START-UP MATERIALS

4.1 Training Program.

The training program is made up of the "In-Store Training," which is approximately eighty (80) hours, and "New Owner Training," which is approximately forty (40) hours (collectively, "Training Program"). You will be solely responsible for all transportation costs, food, lodging and other personal expenses incurred by you and your employees in connection with the Training Program. The New Owner Training will be conducted either online or in person at our sole discretion. If the New Owner Training is conducted in person, it will be at the Franchisor training and education center in Scottsdale, Arizona or at such other location as we may designate at our sole discretion and the In-Store Training will be conducted at a training store in Arizona or such other location as we may designate at our sole discretion. You acknowledge that adequate knowledge regarding the operation of the Franchised Business is essential to the growth of your franchise and to the promotion of the System. Notwithstanding the foregoing, Franchisor has the right to require Franchisee and/or its manager(s) to attend additional In-Store Training (as defined below), as provided for in this *Section 4.1*, in the event Franchisee is not operating the Franchised Business pursuant to Franchisor's Systems Standards. Notwithstanding the foregoing, because Franchisee has prior experience in the food service industry, and in particular with the operation of a *Cold Stone Creamery* restaurant, Franchisor hereby waives the requirement for Franchisee to attend and successfully complete the Training Program at the time Franchisee executes this Agreement. Franchisor and Franchisee hereby agree that Franchisor has no obligation to provide the Training Program to Franchisee, or any persons who have an ownership interest in the Franchised Business, prior to, or in connection with Franchisee's continuing operations of the Franchised Business. Franchisee understands and agrees that the foregoing waiver is not a permanent waiver by Franchisor and Franchisor does not waive and hereby reserves the right to require Franchisee to later attend and successfully complete any training as may be prescribed by Franchisor at any time during the Term. Furthermore, Franchisor has the right to require Franchisee and/or its manager(s) to attend additional training and pay the Additional Training Fee (as defined below), as provided for in this *Section 4.1* and *Section 5.10*, in the event Franchisee is not operating the Franchised Business pursuant to Franchisor's Systems Standards.

4.2 Employee Training.

You acknowledge that the employees of your *Cold Stone Creamery* Franchised Business are an integral and important part of the Franchised Business, as they will have substantial contact with customers. You alone are responsible, and acknowledge that we have no direct or indirect control and no right or authority, for the hiring, firing, training, supervising, setting the terms and conditions of employment (including employee tasks and work schedules), compensation of your employees, or maintaining employment records, for the safety of your employees and for your employees' compliance with the System Standards. The System Standards are in place to protect our interests in the System and not for exercising any control over you, your employees or your Franchised Business. You must ensure that your employees who have direct interaction with the public are able to speak and read English and any other language that may be required to adequately meet the public needs in your Franchised Business.

4.3 Additional Programs; Continuing Assistance.

We may, in the future, request that you participate in refresher or additional training programs. We may also hold an annual conference to introduce new products, discuss sales and marketing techniques, personnel training, advertising programs, merchandising procedures and other subjects. You may be charged a nominal registration fee for these programs and you will be solely responsible for the cost of transportation, food, lodging and other expenses incurred by you at any such program. Attendance at these additional training programs and conferences is mandatory. They will be held in the metropolitan Phoenix, Arizona area, or at other locations in the United States chosen by us, at our sole discretion.

We shall provide such periodic evaluations or inspections as we deem appropriate, utilizing our field representatives who may visit the Franchised Business from time to time. The frequency and duration of such visits to a Franchised Business by our representatives shall be in our sole discretion. Any such evaluation or inspection is not intended to exercise any control over your employees or the daily operation of your Franchised Business. In addition, we will be available on an ongoing basis at our offices for consultation and guidance with respect to the operation and management of the Franchised Business. In addition to the Confidential Manual, we may, but are not required to, from time to time provide you with additional materials relating to the Franchised Business.

4.4 Area Representatives.

We may retain the services of an independent third-party area representative ("Area Representative") to represent us in the area in which the restaurant is located and perform some or all of the services we provide under this Agreement. The services the Area Representative may perform could include: (i) assistance in location selection and evaluating and confirming that the Location meets our minimum site requirements; (ii) advice and guidance regarding lease negotiations; (iii) assistance in opening new *Cold Stone Creamery* locations; (iv) assistance with training on the approved POS System (as defined in *Section 4.6a.*); (v) assistance with marketing advice; (vi) periodic Quality Service Cleanliness and Experience ("QSCE") evaluations; (vii) assistance with collection of the various sums due to us from *Cold Stone Creamery* franchisees; and (viii) coordination with other *Cold Stone Creamery* franchisees in your area and general supervision and monitoring of your Franchised Business on our behalf. You agree in advance to our delegation to an Area Representative of some or all

of our obligations, and assignment to an Area Representative of some or all of our rights under this Agreement. You agree that we may require you to submit to an Area Representative any reports you are required to submit to us. Upon our request, you will provide the Area Representative with access, inspection and audit rights to the same extent we have those rights under this Agreement. You are not a third-party beneficiary of any agreement between us and any Area Representative. If we have designated an Area Representative for your restaurant as of the Effective Date, the name and contact information of the Area Representative is shown in *Section 17.3h*. We reserve the right in our sole discretion to remove any Area Representative in your area at any time and to appoint any other Area Representative for your area. We have no obligation to appoint an Area Representative in the area in which your restaurant is located, and we have no obligation to appoint a new Area Representative after we have removed an Area Representative.

You acknowledge that Area Representatives and their owners and employees may not contractually bind us without our express written authorization. You further acknowledge no Area Representative has the authority to: (i) enter into agreements or execute any agreements on our behalf; or (ii) bind us in any way without our prior written consent. Unless expressly authorized and agreed to by us in writing, we disavow any agreements, whether verbal or written, entered into by an Area Representative that in any way attempts to bind us. In any litigation or arbitration proceeding, you agree to waive any claim or defense that an Area Representative is our express or implied agent and such an assertion by you constitutes a material default under this Agreement.

4.5 Confidential Manual.

To protect the reputation and goodwill of the System and to maintain the uniform standards of operation under the Proprietary Marks, you must conduct your business in accordance with our Confidential Manual. The Confidential Manual is confidential and remains our property.

The Operations Manual is available to Franchisee via the Franchisee portal at: <https://portal.kahalamgmt.com>. In the event Franchisee desires to receive a hard copy of the Operations Manual, then Franchisee shall submit such request in writing to training@kahalamgmt.com. Upon such request, a hard copy of the Operations Manual will be mailed to Franchisee via regular mail within approximately forty-five (45) days thereafter.

So that you may benefit from new knowledge gained by us as to improved techniques in the operation of the Franchised Business, we may from time to time revise, amend, restate or supplement the content of the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You will at all times ensure that your copy of the Confidential Manual is kept current and up to date. In the event of a dispute regarding any of the content of the Confidential Manual, the master copies maintained by us at our corporate office will control.

4.6 Computer Systems; Debit and Credit Card Processing.

a. Prior to the opening of your restaurant, you will be required to acquire, to maintain, and to exclusively use an approved cash register/computer system ("POS System") during the operation of the Franchised Business. You and your employees must complete training for the POS System as we require, and you will be required to use the POS System to

produce sales reports, keep inventory control and post sales tax, refunds, credits and allowances and submit that information to us immediately upon our request. You are required to obtain high-speed/always-on internet connection service for your POS System. If high-speed/always-on internet is not available in your area, dial-up Internet access may be used until high-speed/always-on service becomes available in your area. The POS System must be configured so that we will have remote access to the information and data stored in the POS System, which may include inventory information. This access will allow us to exchange/collect data and other information on such bases as we will communicate to you from time to time. You will be required to maintain the POS System in good working order at all times, and to upgrade or update the POS System during the Term as we may require from time to time. It will be your responsibility to enter into contracts for the maintenance, upgrades and updates to the POS System with an approved supplier of such services identified by us on the list of approved vendors and distributors or other notification to you from us advising of suppliers for your market area. You shall also be required to own a personal computer or similar device with access to the Internet that allows you to report your Gross Sales (as defined in *Section 5.2*) online, send and receive e-mails with us, and receive online orders. All *Cold Stone Creamery* franchisees are required to participate in online ordering and delivery programs, which includes entering into one or more participation agreement(s) with one of our affiliates and/or other approved vendor(s) for remote/online order processing services and delivery services under the terms, conditions, and fees established by such vendor for the purpose of developing, implementing, using, maintaining, supporting, updating and/or upgrading technologies in connection with the franchise system, including web-based and/or mobile applications and websites. We may charge, collect for a third-party or require you to remit to a third-party, amounts used to develop and use technologies within the franchise system. This may include amounts paid to third-party delivery service platforms and aggregators. To provide for the inevitable but unpredictable nature to changes to technological needs and opportunities, you agree and acknowledge that we shall have the right to establish, in writing, new standards and fees for developing, implementing, using, maintaining, supporting, updating and/or upgrading technologies in connection with the franchised system. There is no contractual limitation on the frequency and cost of this obligation. We may require you to upgrade the hardware and software including, but not limited to, your operating system, as reasonably necessary to provide reports and information required by us.

b. You are required to accept debit and credit cards and Gift/Loyalty Cards from consumers at the Franchised Business. You are required to acquire, as necessary, and to maintain an approved debit, credit and Gift/Loyalty Card processing system to use during the operation of the Franchised Business. Additionally, you must utilize our approved third-party Gift/Loyalty payment card processor for processing all such Gift/Loyalty Card transactions, including entering into a Gift Card Participation Agreement with one of our affiliates, or its successors or assigns, or other approved vendor for the Gift/Loyalty Card processing services. The Payment Card Industry (“PCI”) requires all companies that process, store, or transmit credit card information to protect the cardholders’ information by complying with the PCI Data Security Standard (“PCI DSS”). Therefore, as a franchisee who accepts credit cards, you are required to be PCI compliant by following and adhering to PCI DSS, which includes ensuring that your POS System, back office computer (if supplied), and any other device that is plugged into the network is **only** used for business purposes. You are also required to complete an annual questionnaire and quarterly network PCI scans and install a network firewall appliance for logging, tracking, reporting, and security assessment. You are also required to validate with Franchisor that your store is PCI compliant, and Franchisor may in its sole discretion require you to install a particular type of firewall (hardware and/or software). To show such validation you must send us your Passing Certificate showing your store is PCI compliant. You are also required to verify

that you have a PCI compliant firewall appliance installed at your location if you process credit cards via high speed internet connectivity. We require your Franchised Business' POS System, including terminals, computers, and software to be in compliance with the PCI DSS at all times. The PCI DSS is often updated, and you are required to obtain and comply with all updated standards. You must also be PCI compliant in order to obtain cyber liability/data breach insurance coverage.

ARTICLE 5. FEES AND DEPOSITS

You agree to pay each of the following amounts to us via a lump sum, with each and every amount being non-refundable because of our investment in time and money, in addition to any other benefits conferred upon you, including processing your application, reviewing your documents, and providing you with relevant information, unless otherwise expressly specified below, in accordance with the provisions set forth in this *Article 5*. Notwithstanding your designation to the contrary, we have the sole discretion to apply any of your payments, in part or in whole, to any of your indebtedness to us.

5.1 Not Applicable.

5.2 Royalty Fee and Surcharge.

For the period of time commencing on the later of the Effective Date or the date the Franchised Business opens to the public, and for the duration of the Term, you must pay to us a weekly royalty fee equal to six percent (6%) of total Gross Sales (as defined below) ("Royalty Fee"). If we or the landlord of the Location require you to remodel your Franchised Business in such a way that your Franchised Business (including catering) stops offering items to the public, or if there is a disaster at your Franchised Business, such as a fire, flood or damage caused by an act of God, that requires you to temporarily close your Franchised Business, you are not required to pay the Royalty Fee during the period of time of such temporary closure; provided you provide us or our authorized representative with notice of such temporary closure as soon as reasonably possible, but in no event more than twenty-four (24) hours after such closure begins. Notwithstanding the above, all amounts owed to us under this Agreement prior to the temporary closure shall still be fully due and payable. The temporary closure of your Franchised Business shall not exceed ninety (90) days, but may be extended on a case-by-case basis at our sole discretion and with our prior written approval.

In our sole discretion, we may charge, in addition to the Royalty Fee, a surcharge of up to Ten Dollars (\$10) per week if your Franchised Business is located in a state that imposes additional reporting requirements on a franchisor ("Surcharge"). The Royalty Fee and applicable Surcharge shall be due and payable no later than Monday of each week, which day may be modified by us without prior notice to or approval from you, for the week ending on the preceding Tuesday in which applicable Gross Sales (as defined below) were earned from the Franchised Business. The weekly Royalty Fee and applicable Surcharge shall be paid by electronic funds transfer, as detailed below.

For the period of time commencing on the later of the Effective Date or the date the Franchised Business opens to the public, and for the duration of the Term, you are required to report Gross Sales to our designated accounting office, which as of the Effective Date, is via the Internet at <http://franchisee.kahalamgmt.com>, as set forth in *Section 5.6*. Nothing herein shall prevent Franchisor from electronically polling Franchisee's POS system, restaurant

management software, and financial records (or similar tools thereto) daily, or more frequently, by electronic or other remote means and Franchisee hereby grants Franchisor authority to do so. You shall be required to establish a Depository Account (as defined in *Section 5.6*) at the time you execute this Agreement as set forth in *Section 5.6*. Payment of the Royalty Fee, Advertising Fee (as defined in *Section 5.3*), and all other fees due under this Agreement to us shall be made via electronic transfer of funds from the Depository Account. To accomplish this electronic transfer of funds from the Depository Account, you must complete, sign and deliver to us, and maintain for the duration of the Term, a current Electronic Funds Transfer Authorization in a form that we provide.

As used in this Agreement, "Gross Sales" means all sales, money or things of value, received or receivable, directly or indirectly, by Franchisee on account of the Franchised Business, less applicable sales taxes and any properly documented refunds, credits and allowances given by you to customers in accordance with the System Standards, but without deducting any of your income taxes, costs and other expenses. All sales made from catering services must be included in the Gross Sales.

5.3 Advertising Fee.

a. You must pay to us, or directly into a national advertising fund or also any regional advertising funds, as designated by us at our sole discretion, (individually and collectively, "Advertising Fund") a weekly advertising fee of three percent (3%) of the Gross Sales for the preceding week ("Advertising Fee"). Upon thirty (30) days' notice by us to you, we may unilaterally increase the Advertising Fee from its current level not to exceed four percent (4%) of your weekly Gross Sales. The Advertising Fee shall be due and payable with the Royalty Fee under *Section 5.2*. The Advertising Fee is our property and may be deposited by us into our general operating account.

b. The Advertising Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* name, System, products and services. We are entitled to deduct, free of charge the following from the Advertising Fund: (i) reimbursement of expenses, overhead, and employee salaries for services provided; and (ii) rent for office space provided to the Advertising Fund. We have no fiduciary obligation to you in connection with the operation of any Advertising Fund. No interest on an unexpended Advertising Fee shall be imputed or otherwise charged for the benefit of, or payable to, you. You understand and agree that the only obligations we have regarding the collection and spending of the Advertising Fee or the administration of the Advertising Fund are the express contractual obligations in this *Section 5.3*. We are not acting as a trustee, fiduciary, agent or in any other special capacity. We do not give any representation or warranty regarding the quality or effectiveness of the advertising and marketing activities funded by the Advertising Fee or of the Advertising Fund, and we will have no liability to you with respect to how these funds are spent.

c. Two percent (2%) of your Gross Sales is deposited into the national Advertising Fund; and, if a cooperative exists where your Franchised Business is located, the remaining one percent (1%) of your Gross Sales is deposited into the regional Advertising Fund for your cooperative, if no cooperative exists where your Franchised Business is located, your Franchised Business will be considered a "single store" cooperative and you must contribute the remaining one percent (1%) of your Gross Sales to the regional Advertising Fund for your store. Your own local marketing and advertising should be developed to maximize your particular customer base.

5.4 Cooperative Advertising.

a. We encourage the formation and operation of franchisee cooperative advertising associations (each an “Association”). Each Association will help coordinate advertising, marketing efforts and programs, and attempt to maximize the efficient use of local advertising media. If an Association is formed for your region, you must contribute financially to the Association as required by us. Failure to do so will be deemed a breach of this Agreement and you may also, in Franchisor’s sole discretion, lose your right to vote as to decisions regarding advertising and marketing efforts and programs.

b. Upon our request, you will assist in establishing an Association or in deciding how to allocate all or part of any Fund contribution we elect to distribute to the Association. We will decide in our sole discretion whether to make contributions from the Fund to an Association and how much to contribute. We reserve the right to establish general standards concerning the operation of an Association, advertising agencies retained by an Association, and advertising programs conducted by an Association. Notwithstanding anything to the contrary, no Association decision will be made or advertising collections spent without our prior written approval.

5.5 Not Applicable.

5.6 Depository Account; Payment Procedures.

As of the Effective Date, you are required to maintain for the duration of the Term a depository account (“Depository Account”) at a bank or other federally insured financial institution (“Depository”). You are required to maintain a balance of at least Three Thousand Dollars (\$3,000) in the Depository Account at all times during the Term by replenishing the Depository Account to at minimum Three Thousand Dollars (\$3,000) after any withdrawals. We shall not be responsible for any bank service charges incurred by you which result from the withdrawal of funds from your Depository Account.

On Wednesday of each week, you must submit a report to us regarding the weekly period which ended on the preceding Tuesday, including details on Gross Sales and other statistical data as provided in this Agreement, Confidential Manual, or as otherwise specified from time to time by us. We will withdraw funds electronically on Monday of each week from the Depository Account. The withdrawals are based upon the figures you report and constitute the Royalty Fee and Advertising Fee as described in *Sections 5.2 and 5.3*. If you do not submit a report on any Wednesday, we may estimate the Royalty Fee and Advertising Fee based upon prior reports and withdraw the estimated amounts up to the entire Three Thousand Dollars (\$3,000). We will return or credit back to you, in our sole discretion, any overage within thirty (30) days after our receipt of your report(s). We shall not be responsible to you for any interest charges for any overage collected due to your failure to timely report your sales. You shall instruct the Depository to disburse each week to our designated bank, via electronic funds transfer by the close of business on Monday (or preceding banking business day, if Monday is a bank holiday), the weekly Royalty Fee and Advertising Fee and other fees due for that week, which week shall end on the preceding Sunday. The days of the week specified above may be modified by us without prior notice to or approval from you.

We will also withdraw the monthly POS Help Desk Phone Support Maintenance Fee (as defined in *Section 5.20*) from the Depository Account on the last Thursday of each month.

Under no circumstances shall such access to the Depository Account be deemed control or joint control of the Depository Account by us.

Subject to reasonable advance notice for non-recurring payment amounts, we have the right to debit your Depository Account, or any other depository account you have with us, according to the terms of your Electronic Funds Transfer Authorization for any of the payments described in this Agreement. If you do not pay all amounts due by the due date, we may suspend our and our affiliates' services and support until your payment default is cured. Repeated failure to pay all amounts when due, whether or not the defaults are subsequently cured, may be cause for termination under *Article 14*.

You shall pay us Fifty Dollars (\$50) for each electronic funds transfer attempted from your Depository Account pursuant to this *Section 5.6* that is returned for non-sufficient funds. You shall also reimburse us for all other costs and expenses incurred by us in collecting or attempting to collect funds due to us from the Depository Account (for example, without limitation, charges for non-sufficient funds, uncollected funds or other discrepancies in deposits or maintenance of the Depository Account balance in accordance with the terms hereof). The Depository Account shall be established and maintained solely for the purposes set forth in this *Section 5.6* and any other fees authorized under this Agreement and any other agreements between you and us or any of our affiliates.

5.7 Lease Review Fee.

If you request us or one of our designated affiliates to complete a Lease Review, you are required to pay us or our designated affiliate a lease review fee in the amount of Two Thousand Five Hundred Dollars (\$2,500) ("Lease Review Fee") for reviewing and providing comments to your proposed lease.

5.8 Lease Guarantee Fee.

If, in order to obtain the lease agreement for the Location of your Franchised Business, the landlord requires you to obtain a lease guarantee, and we or one of our affiliates agree to serve as such guarantor, you will pay us or our affiliate a fee in the amount of ten percent (10%) of the total amount of the rental obligations being guaranteed under the lease during its term up to a maximum fee of Ten Thousand Dollars (\$10,000) ("Lease Guarantee Fee"). The Lease Guarantee Fee will be due and payable upon our or our affiliate's execution of the applicable lease guarantee agreement with the landlord. Neither we nor any of our affiliates are required to serve as a guarantor of your lease for the Location of your Franchised Business; rather, the decision of whether to serve as a guarantor shall be made in our sole discretion. In the event that you request us or our affiliate to either agree to be the tenant under the lease or execute a separate guarantee to the lease, and you pay the required Lease Guarantee Fee, you agree and acknowledge that payment of the Lease Guarantee Fee shall not, in any manner, be deemed as an insurance policy which limits your liability in connection with the Franchised Business, including any and all financial liability under the sublease or lease related to the Location. You further agree and acknowledge that our or our affiliate's agreement to act as tenant or guarantor under the lease, and your payment of the Lease Guarantee Fee to us or our affiliate, does not result in the assumption or transfer of your liability, in connection with the Franchised Business, by or to us or our affiliate.

5.9 Not Applicable.

5.10 Additional Training Fee.

If you desire to receive additional training, we will provide additional training time to you for a fee of Three Hundred Dollars (\$300) per person per day. Such additional training will be at a time reasonably agreed to by you and us, and will be conducted at Franchisor's headquarters, online, or such other location as we may designate in our sole discretion. You will be solely responsible for all transportation costs and expenses, food, lodging and other personal costs and expenses incurred by you and your employees in connection with this additional training.

5.11 Document Administration Fee.

A document administration fee of Five Hundred Dollars (\$500) ("Document Administration Fee") is payable to us when we must prepare an amendment to your franchise documents (see *Section 12.3g.*).

5.12 Not Applicable.

5.13 Transfer Franchise Fee.

a. Not applicable.

b. A Potential Transferee (as defined in *Section 12.1c.*) receiving this Agreement, as may be amended, in connection with a Full Transfer (as defined in *Section 12.1a.1.*), must pay to us a transfer franchise fee of Seventeen Thousand Five Hundred Dollars (\$17,500) ("Transfer Franchise Fee").

5.14 Relocation Fee.

A relocation fee of Five Hundred Dollars (\$500) ("Relocation Fee") is payable to us when you sign the amendment to your Franchise Agreement for your relocation (see *Section 2.5*).

5.15 Not Applicable.

5.16 Annual Meeting Registration Fee.

If we hold an annual meeting ("Meeting"), the Meeting may be held at various locations throughout the United States and/or online as we may designate in our sole discretion. Because the planning and funding of the Meeting must be done well in advance and requires a substantial financial commitment, we have the right to debit your Depository Account for up to One Thousand Dollars (\$1,000) for the Meeting registration fee at any time sixty (60) to ninety (90) days prior to the first day of the Meeting. This fee may be debited from your account (even if you do not attend the Meeting). You will also be solely responsible for all costs incidental to attending the Meeting. If you do not attend the Meeting, we will make available to you one (1) full set of the substantive materials that were presented at the Meeting.

5.17 Late Report; Interest; Late Charge; Non-Sufficient Funds Fee; Breaching Royalties; Draft Draw Charge.

If you fail to submit to us any financial statements, forms, reports or records required to be provided under this Agreement by its due date, including your weekly Gross Sales report for

calculating your Royalty Fee and Advertising Fee, you must pay to us a late report charge of One Hundred Dollars (\$100) per week or part thereof.

If any fees or assessments due under this Agreement, including the Royalty Fee and Advertising Fee, are not paid when due, interest shall accrue on the late payment (from the date payment is due until the date payment is made) at the Default Rate, which amount, plus a late charge of five percent (5%) of the unpaid amount, or One Hundred Dollars (\$100), whichever is greater, shall be added to each late payment. For any payments made by you to us under this Agreement which are returned for non-sufficient funds of a processed check, you shall be charged a non-sufficient funds fee of Twenty-Five Dollars (\$25) per occurrence. Pursuant to *Section 5.6*, for each electronic funds transfer that is attempted from the Depository Account but returned for non-sufficient funds, you shall be charged a Fifty Dollars (\$50) non-sufficient funds fee per occurrence.

Franchisor has the absolute right to charge Franchisee the greater of: three (3) times the fixed Royalty Fee; or, if on a percentage Royalty Fee, the Royalty Fee will be increased up to eighteen percent (18%) of Gross Sales, with respect to any period during which Franchisee is in breach or default of its/his/her obligations under this Agreement. The Royalty Fees paid or owing to Franchisor with respect to the period during which Franchisee is in breach or default are referred to as "Breaching Royalties." Breaching Royalties will be charged for a minimum fourteen (14) day period, regardless of the length of the actual breach or default.

If you fail to provide us any necessary information or documentation with respect to our practice of drawing drafts against your bank accounts, you must pay us a draft draw charge in the amount of One Hundred Dollars (\$100) per day that that failure continues.

If, as a result of your failure to remit payments required under any provision of this Agreement, we retain an attorney or a collection agency to collect such payments, you must pay all collection costs and expenses, including reasonable attorneys' fees and expenses, whether or not legal proceedings are initiated. Our rights under this *Section 5.17* are in addition to any other rights or remedies that we may have as a result of your default under this Agreement.

5.18 Audit Fees.

For the purpose of this *Section 5.18*, we have the right, at any time during business hours, and with or without prior notice to you, to inspect and audit, or cause to be inspected and audited, the business records, cash control devices, bookkeeping and accounting records, sales and income tax records and returns and other records of the Franchised Business and your entity's books and records.

You hereby grant us access to any computers utilized by you for such purposes and we will have the ability, at all times, via modem, to obtain daily and weekly sales reports and other financial records that the POS System provides. You will fully cooperate with our representatives, the Area Representative, if applicable, and independent accountants hired by us to conduct any such inspection or audit. In addition, in the event such inspection or audit is made necessary by your failure to furnish reports, supporting records or other information, as required herein, or to furnish such reports, records or information on a timely basis, or if an understatement of Gross Sales, resulting in an underpayment of the Royalty Fee or Advertising Fee for the period of any audit (which shall not be for less than one (1) month) is determined by any such audit or inspection to be five percent (5%) or greater, you will pay to us, immediately

after receipt of the inspection or audit report, any additional Royalty Fee and Advertising Fee and other amounts due as a result of any such understatement, plus interest at the Default Rate from the date originally due until the date of payment and you must reimburse us for such audit or inspection, including the charges of any independent accountants, and the travel expenses, room, board and compensation of such accountants and our employees.

The remedies in this *Section 5.18* will be in addition to all other remedies and rights available to us under this Agreement or otherwise available.

5.19 Data Fee.

We may require you to pay us or a third-party we designate a data fee of up to Seventy-Five Dollars (\$75) per month for polling or collecting data from your POS System.

5.20 POS Help Desk Phone Support Maintenance Service Fee.

You must purchase from us a help desk phone support maintenance service that covers phone support for both the software and hardware of your POS System that is supported by the help desk, the cost of which is currently Sixty Dollars (\$60) monthly, and subject to increase upon thirty (30) days' notice ("POS Help Desk Phone Support Maintenance Service Fee"). The POS Help Desk Phone Support Maintenance Service Fee shall be paid by electronic funds transfer, as detailed in *Section 5.6*, and debited from your account on the last Thursday of each month.

5.21 New Supplier Approval Fee.

All requests for approving new or alternative suppliers must be submitted in writing by you or the supplier to our Purchasing Department. Each request will be reviewed in accordance with our then-current procedures and the supplier must meet our then-current requirements, which may include that our representatives be allowed to inspect the facilities of the proposed supplier, and that samples from the proposed supplier be delivered, at no charge, either to us or to our designee for testing. A charge not to exceed the amounts incurred in connection with the inspection and the test, with such cumulative amount not to exceed Five Thousand Dollars (\$5,000), must be paid by the supplier. If approved, in our sole discretion, we will notify you or the supplier in writing within sixty (60) days after our receipt of an approval request. You must not offer or sell in any manner any of the proposed alternative supplier's products until you receive our written approval of the proposed alternative supplier.

5.22 Reserved.

5.23 Non-participation Fee.

You must offer and sell at the Location of the Franchised Business all products designated by us, consistent with our System Standards. In addition, you must immediately incorporate into the Franchised Business all new products and services designated by us and must fully participate in all local, regional, seasonal, promotional and other programs, initiatives and campaigns adopted by us in which we require you to participate. If you fail or refuse to fully participate in any such program, initiative or campaign, you may, in our sole discretion, be required to pay a non-participation fee of One Hundred Dollars (\$100) per day that you are not in compliance ("Non-participation Fee").

5.24 Not Applicable.

5.25 through 5.35 Not Applicable.

ARTICLE 6. PROPRIETARY MARKS

6.1 Ownership and Right to Use.

We warrant to you that:

- a. We are the owner of all right, title and interest in and to the Proprietary Marks;
- b. We have granted to you the personal, non-exclusive, limited, revocable right and license to use the Proprietary Marks in connection with the operation of your Franchised Business;
- c. We have taken and will take all steps reasonably necessary to preserve and protect our rights in the Proprietary Marks; and
- d. We will only permit you to use the Proprietary Marks in accordance with the System Standards.

6.2 Covenants of Franchise Owners.

- a. You acknowledge our ownership of the Proprietary Marks, and you agree that during the Term and after its expiration or termination, you will not directly or indirectly contest, or aid in contesting, the validity of the Proprietary Marks or our ownership of the Proprietary Marks, nor will you take any action which might impair or prejudice our ownership of the Proprietary Marks. You shall not, directly or indirectly, apply to register, register or otherwise seek to own or control any of the Proprietary Marks, or any confusingly similar mark thereto, whether in whole or in part, in any place or jurisdiction either within or outside of the United States; nor will you assist any others to do so.
- b. You agree that the license granted pursuant to this Agreement authorizes you to use the Proprietary Marks solely in connection with the Franchised Business only at the Location, and for no other purpose. You have no right to license or sublicense any aspect of the System Standards or any of the Proprietary Marks.
- c. You agree to use the Proprietary Marks only in the manner and to the extent specifically licensed by this Agreement. You further agree that any unauthorized use or continued use of the Proprietary Marks after the termination or expiration of this Agreement will constitute irreparable harm and is subject to injunctive relief.
- d. The license granted by this Agreement includes only the Proprietary Marks, now existing or which may exist in the future. This license does not include the right to use any other trademarks, service marks, trade name or trade dress owned by us or our licensor anywhere in the world. You agree that any and all goodwill associated with and identified by your use of the Proprietary Marks will inure directly and exclusively to our benefit, and that, on the expiration or termination of this Agreement, no monetary amount will be due or payable to you as a result of any goodwill associated with your ownership or operation of the Franchised Business.

6.3 Limitations on Franchisee's Use of Proprietary Marks.

To develop and maintain high and uniform standards of quality and service and thereby protect our reputation and goodwill and that of the System, you agree:

a. To operate and advertise the Franchised Business only under the Proprietary Marks authorized by us;

b. To adopt and use the Proprietary Marks licensed by this Agreement solely in the manner prescribed by us;

c. That your corporate, partnership or other entity name including trade name, will not include any of the Proprietary Marks, in whole or in part, or any terms confusingly similar thereto, unless first authorized by us in writing;

d. To submit all advertising, promotional materials and all printed matter, including stationery, business cards, and any materials to be used on the Internet to us for our written approval before you use any of these items; and

e. That we may from time to time change or modify the System Standards, including modifying existing Proprietary Marks or adopting new marks. You agree, at your own expense, to adopt, use and display any such new or modified Proprietary Marks within ninety (90) days after notification from us. However, if we require you to modify or discontinue use of our proprietary information or use other information or rights in its place at any time other than upon us granting you a successor term to operate the Franchised Business pursuant to *Article 13*, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the proprietary information infringed upon a third-party's rights, we or our affiliate will bear the actual, direct, and reasonable costs of those modifications or discontinuances. The rights granted to Franchisee under this Section shall be Franchisee's sole and exclusive remedy for any infringement by any part of the System.

Upon your abandonment of the Franchised Business (whether voluntary or involuntary), termination or expiration of this Agreement, you must immediately cease to use, in any manner whatsoever, any of the Proprietary Marks or any other marks which, in whole or in part, may be confusingly similar to any of the Proprietary Marks.

6.4 Non-Exclusive License of Proprietary Marks.

You understand and agree that your license to use the Proprietary Marks is non-exclusive; that we, in our sole discretion, can grant to other franchisees the right to use the Proprietary Marks and obtain the benefits of the System Standards, in addition to the licenses and rights granted to you under this Agreement; and that we or our affiliates may develop and license other proprietary marks in conjunction with concepts other than the *Cold Stone Creamery* concept, on any terms and conditions we deem advisable. You will have no right or interest in any such other licenses, proprietary marks or systems.

6.5 Notification of Infringement and Claims.

You agree that you will notify us immediately of any apparent infringement of, or challenge to your use of any of the Proprietary Marks, or any claim by any person of any rights

in any of the Proprietary Marks. You agree that you will not communicate with any person, other than us and our legal counsel, in connection with any such infringement, challenge or claim. We will have the sole discretion to take such action as we may deem appropriate to protect the Proprietary Marks and the exclusive right to control any litigation, United States Patent and Trademark Office proceeding, or other proceeding arising out of any such infringement, challenge, claim or otherwise relating to any Proprietary Marks. You agree to execute any and all instruments and documents, render such assistance, and do such acts and things as may, in the opinion of our counsel, be necessary or advisable to protect and maintain our interests in connection with any such litigation or proceeding, or to otherwise protect and maintain our interests in the Proprietary Marks.

ARTICLE 7. TRADE SECRETS AND PROPRIETARY INFORMATION

7.1 Innovations.

During the Term, you and your principals, officers, managers and employees may conceive, invent, create, design or develop various ideas, techniques, methods, processes and procedures, recipes, formulae, products, packaging or other concepts and features relating to restaurant operations, business practices or the manufacturing, production, marketing and sale of super-premium ice cream, cakes, pies, smoothies, shakes, specialty beverages, other dessert with frozen confections, and other food and beverage items, and related goods now in existence or later developed, adopted, or improved in connection with the Franchised Business (individually and collectively, "Innovations"). You, without further consideration, hereby assign any and all of your rights, title and interest in the Innovations, including any intellectual property rights, to us, and also agree to cooperate with us and our counsel in the protection of the Innovations, including the perfecting of title thereto in us. In addition, you will require all of your principals, officers, managers and employees to sign an agreement in the form set forth in our System Standards and incorporated herein by reference ("Confidentiality Agreement"), and shall be liable to us for obligating your principals, officers, managers and employees to assign all of their rights, title and interest to the Innovations to us and requiring your principals, officers, managers and employees to cooperate in obtaining, protecting, maintaining and enforcing our right, title and interest in the Innovations.

7.2 Confidentiality Agreement.

a. In connection with the operation of the Franchised Business, you will from time to time receive, have access to, or learn certain information and materials that are proprietary to us or our affiliate. You and any person signing this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*" agree that you will keep confidential, and will not use for your own purposes, nor supply or divulge to any other person, any of our Trade Secrets, including our methods of operation, processes, techniques, formulae and procedures, information a reasonable person would believe to be confidential and any other proprietary information regardless of whether such is expressly marked as confidential ("Confidential Information"). You acknowledge that much of the information imparted to you by us is confidential, constitutes Trade Secrets, are unique to us, and remains our sole exclusive property. Our Confidential Information includes the following:

1. The Confidential Manual and any amendments thereto;
2. Ingredients, recipes, and methods of preparation of food products;

3. Methods of operation of *Cold Stone Creamery* restaurants;
4. Information about products, services, or procedures before they become public knowledge;
5. Information which relates in any manner to our business or the System Standards, whether oral or reduced to writing, and which is not generally known to, or readily ascertainable by, other persons who might derive economic benefit from its disclosure or use; and
6. Any other information which may be imparted to you from time to time and designated by us as confidential.

b. You and any person signing this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*" acknowledge and agree that the Confidential Information and any business goodwill of the Franchised Business is our sole and exclusive property, and that you will preserve the confidentiality thereof. Upon termination or expiration of this Agreement, all items, records or documentation recording or incorporating any Confidential Information, including any copies thereof, will be immediately turned over by you to us or our authorized representative.

c. You agree to take all steps necessary, at your own expense, to protect the Confidential Information, including our Trade Secrets, and to adopt and implement all reasonable procedures prescribed by us from time to time to prevent the unauthorized use or disclosure of any of the Confidential Information. We require that all of your executive officers, agents, directors, shareholders, trustees, beneficiaries, partners and managers who may or are likely to obtain knowledge concerning the Proprietary Information (and who do not sign this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*") sign the Confidentiality Agreement binding such person to preserve the confidentiality of the Confidential Information as part of the terms and conditions of such person's employment or association with you. You must obtain a Confidentiality Agreement signed by any such person prior to or at the same time that you begin employment of, or association with, that person. This will be a continuing obligation on your part throughout the Term. You must keep each original signed Confidentiality Agreement and provide us with a copy of each Confidentiality Agreement when requested by us or our authorized representative.

d. Notwithstanding the above, Confidential Information shall not include information which you can reasonably prove: (i) entered the public domain through no breach by you or your affiliate of any duty of confidentiality, or (ii) you received our prior express written consent to disclose in the manner in which you disclosed it.

e. If anyone under a Confidentiality Agreement is legally compelled or required by a regulatory body to disclose any Confidential Information, he/she/it will notify us as soon as possible and will use his/her/its best efforts to obtain, and give us an opportunity to obtain, appropriate assurances of confidential treatment.

f. The requirements under this *Section 7.2* will remain in full force and effect during the Term and after termination or expiration of this Agreement.

ARTICLE 8. RELATIONSHIP OF THE PARTIES AND INDEMNIFICATION

8.1 Relationship of the Parties.

You and we agree that this Agreement does not create any fiduciary or employment relationship between you, or any of your employees, and us, that you are an independent contractor, and that nothing in this Agreement is intended to make either you or us a general or special agent, legal representative, subsidiary, joint venture, partner, employee or servant of the other for any purpose. You shall not enter into any agreement on behalf of or otherwise bind us for any purpose.

Should it ever be asserted that Franchisor is the employer, joint employer or co-employer of any of your or your affiliate's employees in any private or government investigation, action, proceeding, arbitration, or other setting, you irrevocably agree to assist Franchisor in defending said allegation, including (if necessary) appearing at any venue requested by Franchisor to testify on our behalf (and, as may be necessary, submitting itself to depositions, other appearances and/or preparing affidavits dismissive of any allegation that Franchisor is the employer, joint employer or co-employer of any of your employees.

8.2 Indemnification of Franchisor.

You agree to indemnify, defend and hold us and our affiliates (including our parent and subsidiary companies, current, past and future predecessors, successors and assigns), and each of our shareholders, owners, directors, officers, members, managers, partners, joint venturers, attorneys, employees, contractors, agents, representatives, guarantors, insurers, spouses, heirs, executors, trustees and estates (collectively with us, "Indemnified Parties") harmless for, from and against any and all claims, liabilities, causes of action, suits, debts, duties, accounts, covenants, contracts, agreements, promises, taxes, demands, obligations, costs and expenses, including reasonable attorneys' fees, damages, judgments, and proceedings, of every kind and nature whatsoever, whether actual or threatened, in law or equity, or otherwise, under local, state or federal law including, without limitation the Americans with Disabilities Act ("ADA"), or the law of any other applicable jurisdiction (individually and collectively, "Claims") suffered or incurred by any of the Indemnified Parties arising out of or relating to your construction, ownership, marketing, Promotions (as defined in *Article 10*), operation, including your failure to comply with PCI DSS or any law, statute, regulation, order, rule, or ordinance, or management of the Franchised Business, except for Claims held to have resulted solely from our gross negligence or willful misconduct. Notwithstanding the foregoing, we will have the right, at our option, to defend any Claim, but you must reimburse us upon demand for the costs and expenses of such defense. You shall immediately give us notice of any demand, investigation, written inquiry, action, suit, proceeding, or claim in any way related to us or the *Cold Stone Creamery* brand.

8.3 Indemnification of Franchisee.

We agree to indemnify, defend and hold you and your affiliates, and their shareholders, directors, officers, members, managers, partners, employees, agents, successors and assignees harmless for, from and against any and all Claims, arising out of any Claim of infringement or unfair competition in connection with your authorized use of the Proprietary Marks or Confidential Information, provided that such use is in accordance with the provisions of this Agreement. However, if we require you to modify or discontinue use of our Proprietary Marks

or Confidential Information or use other information or rights in its place at any time other than upon us granting you a successor term to operate the Franchised Business pursuant to *Article 13*, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the Proprietary Marks or Confidential Information infringed upon a third-party's rights, we will bear the cost of those modifications or discontinuances as set forth in this Agreement.

8.4 Special Power of Attorney.

You agree to cooperate with and assist us as we may request from time to time to obtain, protect, maintain or enforce our intellectual property and Proprietary Marks, including executing documents and appearing as a witness. You hereby appoint us as your attorney-in-fact and hereby grant us an irrevocable Special Power of Attorney, coupled with an interest, with full power and authority for the purpose of executing documents or taking such action as necessary or appropriate as you might or could do if personally present, hereby ratifying all that we, as your attorney-in-fact, shall lawfully do or cause to be done by virtue of this Special Power of Attorney to obtain, protect, maintain or enforce our intellectual property and Proprietary Marks if we are, for any reason, unable to obtain your cooperation or assistance. The Special Power of Attorney granted by this *Section 8.4*, shall survive your dissolution, death, incompetence or disability and the termination or expiration of this Agreement.

ARTICLE 9. OPERATING STANDARDS AND DUTIES OF FRANCHISE OWNER

9.1 Compliance with System Standards and Confidential Manual.

You understand and acknowledge that every detail of the operation of the Franchised Business is important in order to develop and maintain high and uniform standards of quality, cleanliness, appearance, service, facilities and techniques; to increase the demand for the System; and to protect our reputation and goodwill and that of other *Cold Stone Creamery* franchisees. You also acknowledge that the operation of the Franchised Business is your sole responsibility, and that neither we nor our affiliates have any responsibility to obtain customers for you. The System Standards will constitute provisions of this Agreement as if fully set forth herein.

9.2 Authorized Products and Services.

a. You agree that you will not, without our prior written approval, offer at the Location any menu items, beverages, products or services that are not authorized by us for the Franchised Business, as set forth in the System Standards.

b. You have complete discretion in establishing the minimum price you charge for your products. Although we may suggest pricing strategy, you will have the final pricing decision.

c. Notwithstanding the terms of *Section 9.2b.*, we may conduct periodic promotional campaigns during which a specified product or products are promoted at a specified price. During the promotional period, you may not charge your customers more than the specified promotional price, although you may charge less than the promotional price.

d. We may conduct new marketing, research and development, branding and operational program tests, which will generally be conducted with experienced, existing franchisees and may include incentives and other rights that are not available to all franchisees.

e. You hereby consent to third-party vendors, suppliers and distributors sharing with us any and all information, reports, invoices and related documentation covering and otherwise detailing your purchases for the Franchised Business, and to us sharing your contact information with them when we reasonably believe they may offer you a desired benefit.

f. You are required to accept debit and credit cards (including Visa®, MASTERCARD® and AMERICAN EXPRESS®) and Gift/Loyalty Cards from consumers at the Franchised Business. You are required to acquire, as necessary, and maintain during the Term, an approved debit, credit and Gift/Loyalty Card processing system (“Card Processing System”) to use during the operation of the Franchised Business. Additionally, you must utilize our approved third-party payment card processor, as identified in the System Standards, for processing all Card Processing System transactions.

9.3 Specifications and Standards for Supplies; Approved Suppliers; Rollouts.

a. You must purchase or otherwise acquire certain proprietary or required equipment and supplies utilized in the Franchised Business only from our designated approved distributors or suppliers. If, during the Term, we change designated approved distributors or suppliers for any of the proprietary or required equipment and supplies utilized in the Franchised Business, you shall change to the new designated approved distributor or supplier within sixty (60) days after written notification of such change from us.

You acknowledge Franchisor and/or its affiliates has the right to receive commissions, volume discounts, purchase discounts, performance payments, bonuses, rebates, marketing and advertising allowances, co-op advertising, administrative fees, enhancements, price discounts, economic benefits and/or other payments (“Payments”) based upon the actual purchases of the foods, beverages, and other products by Franchisor, its affiliates, area developers and franchisees from suppliers. Any such Payments made to Franchisor may be retained by Franchisor deems appropriate, in its sole discretion. All Payments received from a supplier for a designated purpose (such as participation at an annual convention, etc.) will be spent in accordance with the supplier’s designated purpose.

b. If you desire to purchase or otherwise acquire any equipment, supplies or inventory items required by the System Standards but not previously approved by us, or from sources not previously approved by us, you must submit to us sufficient specifications, photographs, drawings and other information sufficient to allow us to determine whether such equipment, supplies or inventory items meet our System Standards. We may require that our representatives be allowed to inspect the facilities of the proposed supplier and revoke its approval upon the supplier's failure to meet any of our then-current minimum System Standards. We may also require that samples from the proposed supplier be delivered, at no charge to us, either to us or to our designee for testing. A charge not to exceed the reasonable cost and expense of the inspection and the actual cost and expense of the test must be paid to us either by you or by the proposed supplier. We will notify you within sixty (60) days after your request of our approval or disapproval of the proposed product or supplier, with such determination to be made at our sole discretion. You acknowledge and agree that our approval of any item or supplier of equipment, supplies or inventory not previously approved by us will not, in and of

itself, make the supplier of that item an approved supplier for other *Cold Stone Creamery* franchise owners in the System. We may, in our sole discretion, at any time and from time to time, re-inspect the facilities and products of any approved supplier and revoke its approval upon the supplier's failure to meet any of our then-current System Standards. If you receive a notice of revocation from us, you must immediately stop selling disapproved products and purchasing from the disapproved supplier.

c. We will provide to you a list of all recommended and required items of equipment, fixtures, supplies, smallwares and interior decor. This list will be included in the System Standards.

d. At any time and from time to time, we may in our sole option engage in new product rollouts to add to or change the menu items offered for sale in the Franchised Business and the ingredients or supplier of ingredients utilized in the preparation of the menu items sold in the Franchised Business ("Rollout"). If we engage in a Rollout, you shall participate in the changes that are the subject of such Rollout, including offering the new menu items, changing the menu items, changing to the new supplier of the ingredients utilized in the preparation of the menu items, and changing to the new ingredients utilized in the preparation of the menu items. If we engage in a Rollout, we will notify you of the details of the Rollout and provide you sixty (60) days from said notification to take the applicable actions required by the Rollout.

9.4 Compliance with Legal Requirements and Good Business Practices.

You must, at your sole expense, operate the Franchised Business in full compliance with all applicable Federal, state and local statutes, laws, ordinances and regulations, including health and safety regulations, food and drug laws, disability laws, labor and employment laws and data privacy laws, as may be amended, supplemented or enacted from time to time. You must pay all costs and expenses incurred by, and in the conduct of, the Franchised Business, including all rent, salaries, taxes (excluding our income taxes), disbursements, license or permit fees, insurance premiums, traveling expenses and any other business expenses. If you receive any demand, action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality relating to your Franchised Business, you must immediately notify us, and in no event, later than three (3) days after your receipt. Any such notice must be accompanied by a copy of the demand, complaint, order, writ, injunction, award, decree or other similar document. You must, in all dealings with your employees, customers, suppliers, the public and us adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business practice that may be injurious to the System or the goodwill associated with the Proprietary Marks.

9.5 Maintenance of Insurance.

At all times during the Term, you must maintain in full force and effect at least the minimum types and amounts of insurance coverage that we require, under one (1) or more policies of insurance (each of which shall be primary coverage and shall not be contributory or secondary to any other coverage maintained by us), insured under the particular name of the Franchisee and for the particular address of the Franchised Business.

Such insurance policies must be issued by insurers acceptable to us having an A.M. Best's financial strength rating of at minimum "A-VIII," and grant us authority to obtain copies of your certificate of insurance directly from the carrier or your agent/broker. The particular

requirements of our minimum insurance coverage will be made available to you throughout your term. Currently, the general liability insurance required by this Agreement must: (i) name Kahala Franchising, L.L.C. as the certificate holder; (ii) name Kahala Franchising, L.L.C. and MTY Franchising USA, Inc. and their parents, subsidiaries, affiliates, officers, directors, and employees as additional insureds; (iii) contain a waiver by the insurance carrier of all subrogation rights against us and our affiliates and our affiliates' respective officers, directors and employees for casualty losses; (iv) indicate the address of the Franchised Business being insured; and (v) provide that we will receive a copy, via an endorsement, thirty (30) days' prior notice of cancellation of any such policy. Additional minimum insurance coverage requirements (subject to increase or otherwise change in our sole discretion) are as follows:

| TYPE OF COVERAGE | LIMITS/SPECIFICATIONS |
|---|--|
| General Liability | \$1,000,000 Bodily Injury/Property Damage Per Occurrence / \$2,000,000 Aggregate |
| Building Improvements and Betterments | 100% of Full Replacement Cost – No Coinsurance (minimum of \$100,000) |
| Business Personal Property | 100% of Full Replacement Cost – No Coinsurance – Special Form or equivalent (minimum of \$100,000) |
| Spoilage | \$5,000 |
| Flood, Earthquake and Volcanic Eruption | Subject to Territory Limitations – required if in a designated Flood Zone |
| Workers' Compensation and Employer's Liability Insurance | As required by law |
| Employment Practices Liability Insurance with Franchisor Defense coverage | \$1,000,000 |
| Hired and Non-Owned Automobile Liability | \$1,000,000 Combined Single Limit per accident |

You need to evaluate if your particular business will require greater coverage or other types of insurance. For example, we strongly recommend that you consult with an insurance broker to discuss whether your particular lease/situation requires and/or should obtain additional common types of insurance (including without limitation, umbrella insurance, and cyber liability/data breach insurance coverage). Such insurance may significantly increase your premiums, but may also save you money in the long run.

You are responsible for maintaining insurance coverage and limits as required by us, at minimum, pursuant to this *Section 9.5*, provided, if your landlord requires additional coverage, higher limits, or any other requirements not required by us, then you are responsible for maintaining such additional items as well. You must always keep the required insurance coverage in force at all times during the operation of the Franchised Business, and you must comply with any changes we make periodically to our insurance requirements. Upon 30 days'

notice to you, we may require you to increase and/or otherwise change the minimum coverage of the insurance referred to above, including to reflect identification of special risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances.

Subject to *Section 3.1*, before you may open your restaurant, annually thereafter at least ten (10) days prior to renewal of your insurance coverage, and at any other time on our request, you must provide us with certificates of insurance or copies of insurance policies showing that you are in compliance with our insurance requirements, as well as proof that you have paid the premiums you owe for the insurance we require. You will pay your insurance premiums to your insurance broker or to the insurance company issuing the policy. We or our affiliate may, at our option and in addition to our other rights and remedies under this Agreement, obtain such insurance coverage on your behalf, and you must promptly execute any applications or other forms or instruments required to obtain any such insurance and pay to us, on demand, any costs, expenses and premiums (in whole or part) incurred by us. Your obligation to obtain and maintain the insurance described above will not be limited in any way by reason of any insurance maintained by us, nor will your performance of such obligations relieve you of any obligations under *Section 8.2*.

9.6 Management of the Franchised Business.

You are directly responsible for all aspects of operating the Franchised Business, and you agree that you will, at all times, operate the Franchised Business and use your best efforts to enhance your Franchised Business and the System. The Franchised Business must be personally managed and directly operated by either you or another partner, shareholder or member of your business organization, or a manager.

9.7 Inspections by Franchisor.

For the purpose of this *Section 9.7*, you must make available to us or our authorized representatives such financial and other information concerning the Franchised Business, and you must permit us or our authorized representatives to have full and free access to such information at your Franchised Business Location during regular business hours without prior notice. We and our authorized representatives will have the right to communicate freely with your employees, and make extracts from, and copies of, all such information. Our authorized representative may make announced or unannounced inspections of your Franchised Business to ensure compliance with all of the requirements of this Agreement.

9.8 Personal Guaranty; Non-Disclosure and Non-Competition Agreement.

If you are an individual and married, your spouse must execute and deliver to us a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement at the same time that you sign the Agreement unless your spouse is also signing the Agreement as an individual.

If you are a corporation, limited liability company, or other business entity, each of your shareholders, members, or other owners, whether direct or indirect (and their respective spouses, if married) must execute and deliver to us a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement at the same time that you sign this Agreement.

In the event any person who has not previously signed a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement becomes your spouse or shareholder, member, or other owner, direct or indirect or a spouse of such shareholders, members, or other owner, at any time after the execution of this Agreement, you must cause such person(s) to immediately execute and deliver a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement to us.

Failure to provide a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement to us may, in our sole discretion, be grounds for termination of this Agreement as set forth in *Section 14.2a*.

9.9 Not Applicable.

ARTICLE 10. ADVERTISING AND PROMOTION

10.1 Advertising by Franchisor.

We (or at our election a third-party which may be an affiliate of ours) will administer the Advertising Fund that will include your Advertising Fee and those of other franchise owners in the System. If an affiliate of ours administers the Advertising Fund or places advertising in connection with the System, such affiliate may be paid a fee that will not exceed the fee that would be payable to unrelated third-parties for comparable services. Unless required by applicable law, we will have no obligation to create a trust account, escrow account or other special account for the Advertising Fund, and the monies comprising the Advertising Fund may be placed in our general account. We may also reserve the Advertising Fee for use in a subsequent year.

We will direct all advertising and promotional programs. We will have sole discretion over all creative concepts, materials and media used in such programs and the placement and allocation of such programs. The Advertising Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* trade name, System, products and services. We are entitled to deduct, free of charge, the following from the Advertising Fund: reimbursement of expenses, overhead, and employee salaries for services provided; and rent for office space provided to the Advertising Fund. We are not required to use any specific amounts from the Advertising Fund in your market. However, we in our sole discretion, may use some amounts contributed by you to any Advertising Fund, if any (see *Section 5.3*), in the same geographic area in which your Franchised Business is located.

10.2 Advertising by Franchisee.

In addition to your Advertising Fee, if applicable, and unless your Franchised Business is located in an enclosed shopping mall or other enclosed structure identified in *Section 1.1*, you agree to pay for a regular (white pages) and classified (yellow pages) telephone directory advertisement in the main directory distributed in the area where your Franchised Business is located, in such directory categories as we specify, utilizing forms of listing and classified directory advertisements approved by us. We also recommend that, in addition to your Advertising Fee, you spend at least two percent (2%) of your monthly Gross Sales on local advertising.

Your own local marketing and advertising plan should be developed to maximize your particular customer base. You should not rely upon a marketing program or plan by us as the sole means of obtaining customers. All marketing and advertising materials must be reviewed by the marketing department for look and feel. The marketing department's review is not for determining compliance with federal, state and local laws.

All advertising by you in any medium must be conducted in a professional manner and must conform to the System Standards. We may make available to you, from time to time, advertising, promotional plans and materials for purchase.

Under no circumstances may you use, without limitation, the name, image, or voice of a celebrity, public figure, character or other person in connection with the Proprietary Marks or the Franchised Business without our prior written consent. We retain the sole and exclusive right to use, without limitation, the name, services or image of any celebrity, public figure, character or other person in advertising, endorsing or recommending the System.

ARTICLE 11. ACCOUNTING PROCEDURES AND REPORTS

11.1 Maintenance of Records.

You shall keep full, complete, and accurate books and accounts in accordance with generally accepted accounting principles, and in the form and manner indicated below or as from time to time further required by us. You agree to submit reports and data to us electronically if we advise you to do so. You agree:

- a. to submit to us electronically the weekly Gross Sales as set forth in *Section 5.6*;
- b. to submit to us, on or before the thirtieth (30th) day of each month, commencing with the opening of the Franchised Business, in a format and method approved by us (including through a third-party vendor that franchisee may be required to pay for), a profit and loss statement of the Franchised Business for the preceding calendar month prepared in accordance with generally accepted accounting principles;
- c. to submit to us, within ninety (90) days after the end of each calendar year, commencing with the opening of the Franchised Business, in a format approved by us, a profit and loss statement and balance sheet (including a statement of retained earnings or partnership account) for the preceding calendar year;
- d. to submit to us, at the times required, such other periodic forms, reports and information as may from time to time be required by us;
- e. to preserve, in the English language and for the time periods set forth below, all accounting records and supporting documents related to the Franchised Business (individually and collectively, "Records"), including:
 1. daily cash reports;
 2. cash receipts journal and general ledger;
 3. cash disbursements journal and weekly payroll register;
 4. monthly bank statements, daily deposit slips and canceled checks;

5. all tax returns, including your personal returns and those of your officers, shareholders, partners and members;
6. suppliers invoices (paid and unpaid);
7. dated cash register tapes (detailed and summary);
8. semi-annual balance sheets and monthly profit and loss statements;
9. daily production, throwaway and finishing records and weekly inventories;
10. records of promotion and coupon redemptions;
11. records of all outside sales; and
12. such other records as we may from time to time request.

f. to record all sales on cash registers approved by us, as specified in the Confidential Manual;

g. to file all of your federal and state tax returns on a timely basis and to provide copies of them to us. We may, where applicable, require that tax returns from all of your shareholders, members or partners be provided to us, if you are other than an individual;

h. During the Term, you shall preserve the Records for at least the current fiscal year and for the three (3) immediately preceding fiscal years. For three (3) years after the date of any transfer of an interest in this Agreement, the transferor of such interest will preserve the Records for its last three (3) fiscal years of operation under this Agreement. For three (3) years after the expiration of the Term (or after any earlier termination), you shall preserve the Records for the last three (3) fiscal years of operation of the Franchised Business; and

i. In connection with our efforts to attract additional franchise owners to the System, we will have the right to use (without identifying you, except as required or allowed by law) any financial statements, sales reports, profit and loss statements or balance sheets provided by you and, in connection therewith, you authorize us to disclose any information contained on such financial reports as may be required by any federal or state registration or disclosure law.

11.2 Audit by Franchisor.

We will have the right, at any time during business hours, and with or without prior notice to you, to inspect and audit, or cause to be inspected and audited, the Records and cash control devices of the Franchised Business, and your corporate, partnership or limited liability company books and records (if you are a corporation, partnership, limited liability company, or other entity). You agree that we may access any computers utilized by you for such purposes.

You will fully cooperate with our authorized representatives and independent accountants hired by us to conduct any such inspection or audit. In the event any such inspection or audit discloses an understatement of your Gross Sales for any period in question, you will pay to us, immediately after receipt of the inspection or audit report, any additional Royalty Fee or Advertising Fee due as a result of any such understatement, plus interest at the Default Rate from the date originally due until the date such understatement is paid in full.

In addition, in the event such inspection or audit is made necessary by your failure to timely furnish Records, or if an understatement of the Royalty Fee or Advertising Fee for the period of any audit (which period shall not be for less than one (1) month) is determined by any such audit or inspection to be five percent (5%) or greater, you must reimburse us all amounts incurred in connection with such audit or inspection including our employee costs and expenses, any independent accountants' and attorneys' fees, transportation, room, and meal expenses.

The remedies in this *Section 11.2* will be in addition to all our other remedies and rights under this Agreement or under applicable law.

ARTICLE 12. TRANSFER

Sections 12.1 through *12.4* apply to all transfers, except transfers by us, which are described in *Section 12.5*.

12.1 Prior Consent of Franchisor.

a. As used in this Agreement, "Transfer" means any voluntary, involuntary (including by operation of law), direct or indirect assignment, sale, gift or other transfer by you, including:

1. "Full Transfer," which is any act or circumstance, except those set forth in *Section 12.1.a.2.*, by which fifty percent (50%) or more of the ownership or control is shifted from any individual or corporation, partnership or other business entity (individually and collectively, "Entity") to another, including:

(i) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement;

(ii) Transfer of an interest in you, if you are an Entity;

(iii) Merger, consolidation or issuance of additional ownership interests or redemption of ownership interests in you, if you are an Entity; or

(iv) Transfer of an interest in any other Entity holding an interest in this Agreement or you, if you are an Entity.

2. "Affiliate Transfer," which includes:

(i) Transfer in a separation or divorce, regardless of how much of the ownership or control is shifted from any individual or Entity to another;

(ii) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement from your name as an individual(s) to your Entity name in which you are the sole owner(s) of the Entity;

(iii) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement, from your Entity name in which you are the sole owner(s) to your name as an individual(s);

(iv) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement from one Entity name to another Entity name in which the owners of the entities are the same;

(v) Removing an owner from the Franchisee (unless the person has a fifty percent (50%) or more ownership interest);

(vi) Adding an owner to the Franchisee (unless the person has a fifty percent (50%) or more ownership interest); or

(vii) Transfer by which less than fifty percent (50%) of the ownership or control is shifted from any individual or entity to another for any act or circumstance listed in *Section 12.1.a.1*.

b. We are entering into this Agreement based upon our knowledge of and faith in your ability. Therefore, the Franchised Business and all the rights granted by this Agreement are personal to you and you may not Transfer without our prior written consent. Any attempted Transfer without our prior written consent will be null and void, and will give us the right to terminate this Agreement and your rights under it, in addition to any remedies which we may have for the breach of this covenant by reason of an attempted Transfer.

c. We shall not unreasonably withhold or delay our consent to a Transfer, so long as it is shown to our satisfaction that the potential transferee ("Potential Transferee") can perform a franchisee's obligations under the then-current form of franchise agreement and all other agreements, legal instruments and documents required of new franchisees.

12.2 Advance Notice of Proposed Terms and Right of First Refusal.

a. If you, or any of your shareholders, members or partners, have received and desire to accept a signed bona fide written offer from a third-party to Transfer, you shall notify us and provide us with a complete copy of the offer (letter of intent) which must include the name, address and telephone number for every Potential Transferee. You must also include information as to the identity of all who will own an interest in this Agreement or in the Franchised Business after the completion of the Transfer, their respective interests, and the proposed terms and conditions of sale and payment.

b. We shall have the right and option, exercisable within thirty (30) days after the date we receive a copy of the offer, to purchase the interest proposed to be transferred, at the price and upon the same terms and conditions specified in the notice.

c. If we do not exercise our option, and the terms of the unaccepted offer are altered, you must, in each such instance, notify us of the changed offer; and we will again have thirty (30) days to exercise our right to purchase on the altered terms. If we do not exercise our option, then the Transfer may take place on the terms and price set forth in the notice; provided: (i) we give our written consent; (ii) the Transfer takes place no later than six (6) months from receipt of our written refusal to exercise our option to purchase; and (iii) all the conditions set forth in *Section 12.3* are satisfied.

12.3 Requirement for Consent to Transfer.

If a Transfer is proposed and we do not exercise our right of first refusal pursuant to *Section 12.2*, then we will consent to the Transfer, provided that:

a. All your obligations under this Agreement are fully paid and satisfied, including the Royalty Fee and Advertising Fee; you are not in default under any provisions of this Agreement or any other agreement, legal instrument or document with us or any of our affiliates; and you enter into written agreements with us, including (except where prohibited by law) a general release by you of all claims against us;

b. Potential Transferee provides to us a completed application and financial documents, is financially acceptable, is not associated with any of our competitors, is of good moral character and reputation, and meets our criteria, which includes: work experience and aptitude; ability to devote time and best efforts to the Franchised Business; equity interest in the Franchised Business; ability to speak and read English sufficient in our opinion to communicate with employees, customers and suppliers and to satisfactorily complete our training; no conflicting interests; and other criteria and conditions that we apply to new franchisees;

c. Potential Transferee provides us with copies of all governing documents of Potential Transferee (e.g., certificate of incorporation or organization, by-laws, stock certificates, operating agreement, membership certificates (if any)) which must be reasonably satisfactory to us in our sole discretion;

d. You provide to us a copy of the purchase and sale agreement, if a Full Transfer, or other documentation evidencing the Transfer, if an Affiliate Transfer, and following our analysis of the terms and conditions of the proposed Transfer, we, in our sole discretion, conclude that such terms and conditions will not interfere with the financial feasibility of the future operation of the Franchised Business;

e. Potential Transferee enters into all agreements, legal instruments and other documents, whether our then-current agreements, legal instruments and documents or a transfer of this Agreement and related legal instruments and documents, as determined by us (individually and collectively, "Transfer Documents"). The terms of the Transfer Documents may vary materially from the current agreements used by us, including the payment of a higher Royalty Fee and Advertising Fee;

f. Not applicable;

g. Potential Transferee pays to us the transfer franchise fee set forth in the Transfer Documents, if a Full Transfer; or Potential Transferee pays us the Document Administration Fee, if an Affiliate Transfer; Franchisee shall be liable to the Franchisor for the transfer franchise fee or Document Administration Fee in the event the Potential Transferee fails to pay such fee that is owing in full;

h. Not applicable;

i. Potential Transferee successfully completes the training program required by the Transfer Documents, if a Full Transfer;

j. Potential Transferee agrees to complete all remodeling and improvements as required by us, and must upgrade the POS System to the then-current required POS System, within the time period specified by us, if a Full Transfer;

k. You and Potential Transferee agree not to assert any security interest, lien, right or claim now or in the future, in the Franchised Business. Any security interest, lien, claim or right asserted with respect to any personal property at the Location must not include any after-acquired property and must be subject, junior and subordinate to any security interest, lien, right or claim now or in the future, asserted by us, our successors or assigns; and

l. You agree to complete and sign a letter of agency, letter of authorization, or equivalent and provide it to Potential Transferee so that Potential Transferee may keep the existing telephone number when the store is transferred to Potential Transferee.

12.4 Death or Incapacity of Individual Franchisee; Change in Entity.

a. Death or incapacity of Franchisee when Franchisee is an individual:

(i) In the event of your death or incapacity, your legal representative may, for a period of ninety (90) days from the date of death or incapacitation, continue to operate the Franchised Business, provided that the operation is conducted in accordance with this Agreement and any other agreements with us.

(ii) If your representative desires to continue the operation of the Franchised Business beyond the ninety (90) day period, then, prior to the expiration of this period, your legal representative must apply in writing for the right to transfer the Franchised Business to the person or persons (whether spouse, heir, devisee, purchaser, or any other person), as the legal representative may specify. The application for transfer will be treated in the same manner as any other proposed Transfer under this Agreement.

(iii) If your legal representative does not comply with the provisions of the preceding paragraph, or does not propose a Potential Transferee acceptable to us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

b. Death or incapacity of any shareholder, partner, or member in Franchisee when Franchisee is a business entity:

(i) In the event of the death or incapacity of any of your shareholders, partners, or members, the surviving shareholders, partners, or members may, for a period of ninety (90) days from the date of death or incapacitation, continue to operate the Franchised Business, provided that the operation is conducted in accordance with this Agreement and any other agreements with us.

(ii) If your shareholders, partners or members desire to continue the operation of the Franchised Business beyond the ninety (90) day period, then, prior to the expiration of this period, your shareholders, partners, or members must apply jointly with all surviving shareholders, partners or members in writing, for the right to transfer the Franchised Business (or the interest of the deceased or incapacitated shareholder, partner, or member in the Franchised Business), to the person or business entity as the surviving shareholders, partners, or members may specify. The application for transfer will be treated in the same manner as any other proposed Transfer under this Agreement.

(iii) If all surviving shareholders, partners or members do not comply with the provisions of the preceding paragraph, or do not propose a Potential Transferee acceptable to us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

12.5 Assignment by Franchisor.

You agree and affirm that we may, without your prior consent, sell our business, our assets, or our System, in whole or in part, to a third-party; may issue a public offering of our securities; may engage in private placement of some or all of our securities; may merge with or acquire other corporations, or be acquired by another corporation; and may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. You further agree and affirm that we have the right, now and in the future, without your prior consent, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of such franchise network, chain or business, which you acknowledge may be proximate to your Franchised Business, and to operate, franchise or license such franchise networks, chains or businesses operating under the Proprietary Marks or any other marks following our purchase, merger, acquisition or affiliation. With regard to any of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages against us arising from or related to the loss of your rights to use the System as authorized under this Agreement.

This Agreement will inure to the benefit of our successors and assigns. In conjunction with one (1) or more of the transactions contemplated above, or as otherwise determined by us, we have the right to assign our rights and obligations under this Agreement to any person or entity, without your prior consent. Upon such assignment, we will be relieved of all obligations or liabilities then existing or thereafter able to be asserted under this Agreement.

12.6 Restrictions on Security Interests and Subfranchising.

Except as otherwise set forth in this *Section 12.6*, you shall not have any rights to pledge, encumber, hypothecate or otherwise give any third-party a security interest in this Agreement in any manner whatsoever, nor subfranchise or otherwise transfer, or attempt to subfranchise or transfer the Franchised Business, in whole or in part, so long as it is operated as the Franchised Business, without our express prior written permission, which permission may

be withheld for any reason whatsoever in our sole discretion. Notwithstanding anything contained herein to the contrary, you shall have the right to pledge your accounts receivable, net of royalties and rent, without our prior written consent for the sole purpose of obtaining financing for the operation of the Franchised Business, provided you are in full compliance with this Agreement and any other agreement, arrangement or understanding with us.

ARTICLE 13. SUCCESSOR TERM

We have no obligation under any circumstances to extend your rights to operate the Franchised Business beyond the Term. Notwithstanding the foregoing, in the event the Term expires in accordance with *Section 1.3*, you may apply to us to extend your rights to operate the Franchised Business for a successor term. In the event you desire to apply to us to extend your rights to operate the Franchised Business for a successor term, you must give us notice to that effect at least one hundred twenty (120) days prior to the expiration date of the Term. In addition to giving the notice of intent to apply for a successor term referred to above in a timely manner, in order to qualify for a license to operate the Franchised Business for a successor term, you must also, at a minimum, meet each of the following requirements:

a. You must successfully complete the then-current application process required of new franchisees;

b. You must not then be in default under this Agreement or any other agreement, legal instrument or document with us or any of our affiliates, and no event shall have occurred that, with the giving of notice, the passage of time, or both, would constitute a default under this Agreement, including all financial obligations to us;

c. You must be in complete compliance with the terms of this Agreement, including all financial obligations to us, and the then-current Confidential Manual;

d. You must not have received more than three (3) notices of default or breach of this Agreement during its term, nor more than two (2) notices of default or breach during the five (5) years immediately preceding the effective date of the proposed successor term;

e. You must have the existing right to maintain possession of the Location or you must have secured and developed a suitable substitute location that meets our then-current minimum site requirements (such confirmation will be provided to you by us in writing);

f. You must sign a general release provided by us;

g. You and we must execute all agreements, legal instruments and other documents (individually and collectively, "Successor Franchise Documents") then used by us in the granting of franchises and then being required of new franchise owners in connection with the System. The Successor Franchise Documents will supersede this Agreement, but will not terminate your liability to perform any obligations which you have not yet performed under this Agreement, or which survive the termination of this Agreement; nor will the Successor Franchise Documents terminate or supersede any Guaranty of Franchise Agreement, Confidentiality Agreement, or Non-Disclosure and Non-Competition Agreement executed pursuant to this Agreement. The terms of the Successor Franchise Documents may vary materially from the current agreements used by us, including the payment of a higher Royalty Fee and Advertising Fee;

h. The equipment, fixtures and signage used in connection with the operation of the Franchised Business must either meet our then-existing System specifications and standards, or you must agree, within a timeframe required by us, to replace or refurbish such items, and otherwise modify the methods of operation of the Franchised Business at your cost and expense, in order to comply with our System specifications and standards then applicable to new franchise owners;

i. You agree to complete all remodeling and improvements as required by us, and must upgrade the POS System to the then-current required POS System, within the time period specified by us; and

j. You shall have paid to us the then-current initial franchise fee.

We reserve the right to reject your application for a successor term, at our sole discretion, for any reason, without limitation, failure to meet our then-current standards or requirements for new franchisees. If we decide to reject your application for a successor term to operate the Franchise Business, we will give you a notice to that effect within sixty (60) days after you deliver to us your notice of intent to apply for a successor term.

ARTICLE 14. DEFAULT AND TERMINATION

14.1 Default; Termination.

a. You will be in default under this Agreement:

(i) If: (a) you become insolvent or make an assignment for the benefit of creditors; (b) you file a petition in bankruptcy, or if such a petition is filed against and consented to by you, and such petition is not dismissed within thirty (30) days from the filing date of such petition; (c) you are adjudicated bankrupt; (d) a bill in equity or other proceeding for the appointment of your receiver or other custodian for your business or assets is filed and is consented to by you or is not dismissed within thirty (30) days from the filing date of such bill or other proceeding; (e) a receiver or other custodian is appointed; (f) proceedings for composition with creditors under any state or federal law is instituted by or against you; (g) the real or personal property of the Franchised Business is sold at levy thereupon by any sheriff, marshal or constable, or sold by a secured party under any state's Commercial Code;

(ii) If you fail to pay, perform, observe or comply with any of your duties and obligations under this Agreement or the Confidential Manual, including failure to provide a fully-executed copy of the lease to us when due and failure to pay when due, any sum due to us under this Agreement (including the Royalty Fee and Advertising Fee) or to any Advertising Fund (inclusive of any Association); or if you breach any of your obligations under any lease, sublease, mortgage, equipment agreement, promissory note, vendor account, conditional sales contract or other contract arising from, or in connection with, the Franchised Business, to which you are a party or by which you are bound, whether or not we are a party thereto;

(iii) If your lease or sublease for the Location of the Franchised Business is either: (a) in default and you fail to cure such default as provided in the lease or sublease; (b) is terminated for reason of default by you; or (c) the Location is lost as a result of your failure to comply with the lease or sublease;

(iv) If you fail, within thirty (30) days of the entry of a final judgment against you in an amount exceeding Two Thousand Dollars (\$2,000), to discharge, vacate or reverse the judgment or to stay its execution pending appeal, or to discharge any judgment which is not vacated or reversed within thirty (30) days after expiration of the stay of execution;

(v) If we determine that a serious health or safety problem exists at the Franchised Business, in which case, we may require you to immediately correct the problem or cease operating until the problem is corrected;

(vi) If you, or any owner, co-owner or principal of the Franchised Business, is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that is reasonably likely to adversely affect the System, the goodwill associated therewith, or our interest therein;

(vii) Except for any reason provided in *Section 5.2*, if you abandon the Franchised Business, which abandonment shall conclusively be deemed established if the Franchised Business is closed for more than three (3) consecutive days;

(viii) Except for any reason provided in *Section 5.2*, if you close or relocate the Franchised Business, without our express advance written consent;

(ix) If you fail to maintain an independent contractor relationship with us;

(x) If you either negligently or knowingly inaccurately report, or fail to report, any information in your franchise application;

(xi) If you or any owner, co-owner or principal of the Franchised Business commits an act, or permits an act to be committed, that violates any federal, state or local law that adversely impacts the Franchised Business;

(xii) If you fail to participate in any Rollout detailed in *Section 9.3*;

(xiii) If you violate any of the provisions of *Sections 2.3, 3.2, 9.2, 9.3 or 9.4* including the requirement that you: (a) sell or offer for sale only those products and services authorized by us; (b) purchase such authorized products and services only from suppliers or service providers who are approved in writing by us; and (c) utilize or switch to any of our designated approved suppliers, including a supplier who has entered into a national or regional master supplier agreement with us;

(xiv) If you transfer or attempt to transfer any rights or obligations under this Agreement or any other property or assets to any third-party in violation of the provisions of *Article 12*;

(xv) If you or any of your owners, officers, directors, managers, members, or partners (as applicable): (a) become subject to U.S. Executive Order 13224 or are involved in any activity that violates the U.S. Foreign Corrupt Practices Act or any other anti-corruption, bribery or any other laws, orders or governmental notices affecting your ability to conduct business in or with the United States, as may be amended and whether in effect as of the Effective Date or at any time during the Term, (b) are identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specialty Designated National and Blocked Persons

list, or (c) receive any funding from any country that is subject to an embargo by the United States, any foreign government or government official, political party; or

(xvi) If you intentionally made any false representations and warranties under *Section 17.1*.

b. **Cross-default:** A default by you under this Agreement will be deemed a default of all agreements between: (i) you and your principals in his or her individual capacity or any other entity in which your principals are owners, members, managers, shareholders or partners (individually and collectively, "Franchisee Entity"); and (ii) us or any of our affiliates or predecessors (individually and collectively, "Franchisor Entity"). A Franchisee Entity's default of any other agreement, legal instrument or other document between the Franchisee Entity and a Franchisor Entity will be deemed a default under this Agreement. A default by any guarantor of your obligations under this Agreement or any agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity will be deemed a default of this Agreement.

c. **Termination:** If you fail to cure any default to our satisfaction, within the applicable period following notice from us, if applicable, or otherwise breach this Agreement, we may, in addition to all other remedies at law or in equity or as otherwise set forth in this Agreement, immediately terminate this Agreement. This termination will be effective immediately upon the giving of notice pursuant to *Article 15*.

d. **Cross-termination:** If this Agreement is terminated as a result of your default of this Agreement or any other agreement related to the Franchised Business, we may, at our option, elect to terminate any or all other agreements, legal instruments or documents between a Franchisee Entity and a Franchisor Entity. If any agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity is terminated as a result of a default by the Franchisee Entity, we may, at our sole discretion, elect to terminate this Agreement. It is agreed that an incurable or uncured default under this Agreement or any other agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity will be grounds for termination of this Agreement or any other agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity, without additional notice or opportunity to cure.

14.2 Opportunity to Cure.

a. **Fourteen-Day Cure Period** - Except as otherwise provided in this *Section 14.2*, you will have the right to cure your default under this Agreement within fourteen (14) days after notice of default is given by us pursuant to *Article 15*. Notwithstanding the foregoing, the following lesser periods will apply under the circumstances described:

b. **Seven-Day Cure Period** - A seven (7) day cure period will apply if you fail, refuse, or neglect to pay when due, any monies owing to us (including the Royalty Fee and Advertising Fee), or otherwise to any Advertising Fund (inclusive of any Association), or if you fail to maintain the insurance coverage set forth in this Agreement;

c. **48-Hour Cure Period** - A forty-eight (48) hour cure period will apply (1) if you are in default of *Section 3.4* or (2) if you fail to participate in any limited time product offering, value offering, contest, promotion or charity event. You must initiate your participation in such offering, contest, promotion or event within forty-eight (48) hours and fully participate in such

offering, contest, promotion or event as soon as reasonably possible, in our sole discretion, thereafter;

d. 24-Hour Cure Period - A twenty-four (24) hour cure period will apply to your violation of any law, regulation, order or our standards relating to health, sanitation or safety; or, except as provided in *Section 5.2*, if you cease to operate the Franchised Business for a period of forty-eight (48) hours without our prior written consent. In addition, a twenty-four (24) hour cure period will apply if you post on any Site or direct others to any site or page, post, blog or other social media site where there are posted any defamatory or offensive comments about: other franchisees; the *Cold Stone Creamery* brand; other brands franchised by us or one of our affiliates; your or other franchisees' customers; any of our, your or franchisees' vendors; us or any of our affiliates; or any of our, your or franchisees' competitors;

e. Immediate Cure Period (less than 24 hours) – An immediate cure period (less than twenty-four (24) hours) will apply if you post any content to a Site in which the content includes any inappropriate public displays of affection, our or others' confidential information or materials, violations of health or safety standards, foul or obscene language, or any images of or information about any persons from whom you did not obtain prior written consent;

f. No Cure Period - No cure period will be available: (1) if you are in default of *Sections 3.1, 7.2, 9.4, 14.1a.(i), 14.1a.(iii), 14.1a.(vi), 14.1a.(vii), 14.1a.(viii), 14.1a.(xiv), 14.1a.(xv), or 14.6*; (2) if you intentionally underreport weekly Gross Sales, falsify financial data, fail to promptly provide upon our request financial data and records specified in this Agreement, or otherwise commit an act of fraud with respect to your rights or obligations under this Agreement; (3) if you repeatedly fail to comply with the provisions of this Agreement, whether or not subsequently cured; (4) if you, having twice previously cured a default of this Agreement, commit the default again; (5) if you made any false representations and warranties under *Sections 17.1f., 17.1g., 17.1m. or 17.1n.*; or (6) if you engage in trademark misuse or otherwise materially misuse or make an unauthorized use of any of the components of the System or commit any other act which does, or can reasonably be expected to, materially impair the goodwill or reputation associated with any aspect of the System;

g. Statutory Cure Period - If a statute in the state or municipality in which the Franchised Business is located requires application of that state or municipal law, and that statute requires a cure period for the applicable default which is longer than any cure period specified in this *Article 14*, the statutory cure period will apply.

14.3 Our Right to Take Over Management.

We have the right (but not the obligation), under the circumstances described below, to enter the Franchised Business and assume the Franchised Business' management for any period of time we feel is appropriate. If we assume the Franchised Business' management, you must pay us, in addition to the Royalty Fee and Advertising Fee, six percent (6%) of the Gross Sales, plus our direct out-of-pocket cost and expenses, for the period of time we assume the Franchised Business' management. If we assume the Franchised Business' management, you acknowledge that our duty is limited to using our reasonable efforts, and we will not be liable to you or your owners for any debts, losses or obligations the Franchised Business incurs, or to any of your creditors for any supplies or services the Franchised Business purchases. We may assume the Franchised Business' management if you abandon the Franchised Business or if you fail to comply with any provision of this Agreement and did not cure the failure within the

time period we specify in our notice to you. You agree to complete and sign a letter of agency, letter of authorization, or equivalent and provide it to us upon our request if we assume the Franchised Business' management so that we may keep the existing telephone, facsimile, alarm, and credit card machine numbers (as applicable) in operation under our phone service provider. You also agree to keep the phone, water, gas, electric service (as applicable) turned on and active for one (1) week after we assume the Franchised Business's management to allow us to switch the services over to us or our affiliate. Our exercise of our management rights under this *Section 14.3* will not affect our right to terminate this Agreement.

14.4 Remedies.

a. Interest, Costs and Damages - If you fail to remit when due any payments required under this Agreement, you agree to pay, in addition to the unpaid amounts, all of our collection costs and expenses, expert fees, reasonable attorneys' fees, and costs and expenses, including all fees, costs and expenses of court, including all appeals, with interest on the unpaid amounts at the Default Rate or the highest permissible rate. If you fail to cure a default, following notice, within the applicable time period set forth in *Section 14.2*, or if this Agreement is terminated as a result of your default, you shall pay to us all damages of any kind and nature whatsoever and all collection costs and expenses, expert fees, reasonable attorneys' fees, and costs and expenses, including all fees, costs and expenses of court, including all appeals, together with interest at the Default Rate or the highest permissible rate. If you fail to report Gross Sales in accordance with *Sections 5.2* and *5.6*, we may estimate your Royalty Fee and Advertising Fee based on prior reports, and may sue for and obtain judgment for such estimates unless you prove, prior to the entry of any default order or judgment, that your Royalty Fee and Advertising Fee are different than the estimates.

b. Waiver of Punitive Damages - Both we and you waive, to the full extent permitted by law, any right they otherwise may have had to claim, pursue, demand or receive any exemplary or punitive damages arising out of or related in any way to this Agreement and its addenda, amendments, appendices, exhibits and attachments.

c. If you breach any of the terms of this Agreement, including if you are in default of this Agreement, we may enforce our rights by injunction, specific performance, or any other remedy available under this Agreement, at law or in equity, including termination. These remedies are cumulative and not exclusive and we may use all remedies available. In addition, we may elect to terminate this Agreement and all your rights under it as set forth in *Section 14.5*.

d. If you breach any of the terms of this Agreement, including if you are in default of this Agreement, we have the right to have a receiver appointed to take possession, manage and control the assets of the Franchised Business, collect the profits, and pay the net income for the operation of the Franchised Business as ordered by a court of competent jurisdiction. The right to appoint a receiver will be available regardless of whether waste or danger of loss or destruction of the assets exists.

14.5 Effect of Termination or Expiration.

Upon termination or expiration of this Agreement, we can advise all suppliers of *Cold Stone Creamery* proprietary food items and other supplies bearing any of the Proprietary Marks or service marks to cease delivering the items and products to you.

Upon your abandonment of the Franchised Business (whether voluntary or involuntary), any termination of this Agreement (whether pursuant to *Sections 14.1, 14.2, 14.4*, or otherwise), or upon expiration of the Term, you must immediately cease to hold yourself out to the public as a franchise owner of the System, and you must comply with the following:

a. Immediately pay to us or any affiliate of ours all sums owing from you to us or such affiliate, including the Royalty Fee and Advertising Fee, for any period prior to the date of termination, the applicable Early Termination Damages (as defined in Section 14.9 below), and all amounts owed for services, supplies or other items purchased by you from us or any affiliate of ours, or that were financed by us or any affiliate of ours, or which we or any affiliate of ours loaned to you, together with any interest or late fees accrued thereon, together with all other sums due us under this Agreement, and all damages of any kind or nature whatsoever that may be allowed by law;

b. Immediately cease to use, in any manner whatsoever, including in all advertising, the Proprietary Marks, any Trade Secrets, any Confidential Information, any benefits of the System or any part thereof, any methods associated with the System, any forms, recipes, Confidential Manual, slogans, signs, sign posts, marks, symbols, or devices used in connection with the operation of the Franchised Business; and you must deliver or destroy all of the above-mentioned materials, including any materials containing or referencing any of the foregoing, to us as directed by us. If we do not recover any such items, such items shall be valued at their then-current replacement cost, for purposes of determining the damages owing by you to us for failure to return such items, if we pursue a damage claim as a result thereof;

c. Immediately discontinue all advertising as a franchisee of the System, and thereafter refrain from any advertising that would indicate that you are or ever were a franchisee or licensee of ours, or otherwise were affiliated with us or the System;

d. Immediately take such steps as may be necessary or appropriate to:

(i) delete your listing in all telephone directories, if applicable, and terminate any other listings that indicate that you are or were a franchisee or licensee of ours, or otherwise were affiliated with us or the System; and

(ii) transfer to our designee or us all telephone numbers used by you in connection with the Franchised Business. You acknowledge that between you and us, we have the sole right and interest in all telephone numbers and directory listings associated with any Proprietary Marks, and you authorize us and appoint us and any officer or agent of ours, as your attorney-in-fact, to direct the telephone company and all listings agencies to accept such direction, or this Agreement, as conclusive evidence of our exclusive rights in such telephone numbers and directory listings and our authority to direct their transfer;

e. Immediately take such action as may be required to cancel all fictitious or assumed names, amend any entity name, or dissolve any entity that contains any Proprietary Mark, in whole or in part, regardless of whether the entity name was authorized by us, and amend or cancel any and all equivalent registrations relating to your use of any Proprietary Mark. You acknowledge that between you and us, we have the sole right and interest in all such fictitious or assumed names, entity name, and equivalent registrations, and you authorize us and appoint us and any officer or agent of ours as your attorney-in-fact, to effect the termination or cancellation of such fictitious or assumed names or equivalent registrations

should you fail or refuse to do so, and the appropriate federal, state, and local agencies may accept your direction or this Agreement as conclusive evidence of our exclusive rights in such fictitious or assumed names or equivalent registrations, and our authority to direct their termination or cancellation;

f. Comply with the confidentiality requirements and the covenant against competition in this Agreement for the specified period. You acknowledge that you, or (if an entity) your authorized representative, has carefully reviewed the confidentiality requirements and the covenant against competition in this Agreement; and that you have agreed to be bound by all the requirements and covenants; and

g. Maintain at a place made known to us all books, records and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, to allow us to make a final inspection of your books and records for the purpose of verifying that all amounts owing have been paid.

If you fail to do any of the foregoing, we may pursue any remedy available at law or in equity against: (i) you; (ii) any or all guarantors of your obligations under this Agreement; and (iii) you and any or all guarantors of your obligations under this Agreement.

We have the right, but not the obligation, to purchase from you any assets or property (but not leasehold improvements) used in the operation of the Franchised Business for an amount equal to the Value (as defined below), as of the termination date. If we are required, by law, regulation or court order, to purchase the equipment and other tangible assets used in connection with the Franchised Business, the purchase price will be equal to the Value. For purposes of this Agreement, the term "Value" means, subject to applicable law, an amount equal to your cost for such assets, less depreciation and amortization using a two hundred percent (200%) declining balance method over a five (5) year period. If all, or any portion of, your assets that are being purchased by us or our authorized representative are subject to lien(s), we or our authorized representative may pay, on your behalf, the lienholder(s) that portion of the purchase price for your assets (which may be the entire purchase price) that is necessary to obtain the release of those assets from the lien(s), in lieu of paying you those funds. Further, we may offset any amounts payable to you pursuant to this *Section 14.5*, or otherwise pursuant to this Agreement, against any unpaid amounts payable to us or our affiliates pursuant to this Agreement or any agreement executed in connection with this Agreement.

14.6 Covenant Not to Compete; Conflicting Interests.

a. During the Term and for a period of two (2) years after your abandonment of the Franchised Business, expiration of this Agreement, or termination of this Agreement (whether voluntary or involuntary), you shall not engage in any Competing Business (as defined in *Section 14.6c.*) with any *Cold Stone Creamery* restaurant, nor shall you have any Conflicting Interest (as defined in *Section 14.6d.*) in a Competing Business. The provisions of this Agreement bind you in any capacity, including as a franchisee, sole proprietor, partner, limited partner, member, employer, franchisor, shareholder, officer, director or employee.

b. During the Term, and for a period of two (2) years after your abandonment of the Franchised Business, expiration of this Agreement, or termination of this Agreement (whether voluntary or involuntary), you shall not divert or attempt to divert any business, customers, or

potential customers of the *Cold Stone Creamery* System to any Competing Business, by direct or indirect inducement or otherwise. In addition, you shall not at any time do or perform any act, directly or indirectly, which harms the goodwill or reputation of us or the System.

c. For purposes of this *Section 14.6*, "Competing Business" means a business which is primarily engaged in the sale of ice cream, along with cakes, cupcakes, pies, smoothies and other dessert products prepared or served with ice cream or as an ingredient, and all variations thereof, within a geographical area consisting of: (1) during the Term, anywhere else; and (2) after abandonment, expiration or termination of this Agreement, within a ten (10) mile radius from the Location or location of any *Cold Stone Creamery* restaurant of ours, our third-party licensees or our third-party franchisees. The term "*Cold Stone Creamery* restaurant" includes not only the restaurants now in existence, but also those established at a later date. The term of this covenant will be extended by any time consumed in litigation to enforce it in both trial and appellate courts. If a court of competent jurisdiction determines that the restrictions in this paragraph are excessive in time, geographic scope, or otherwise, the court may reduce the restriction to the level that provides the maximum restriction allowed by law.

d. For purposes of this *Section 14.6*, "Conflicting Interest" means an interest by which you, or your executive officers, directors and shareholders (if you are a corporation), or your partners (if you are a partnership), or your members (if you are a limited liability company), or your designated manager, directly or indirectly, have a controlling interest in, lend money to, consult with or otherwise assist any Competing Business. If any of the persons named above do not sign this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*," then you agree to obtain the execution by such person of a written agreement setting forth the foregoing in a form acceptable to us.

14.7 Continuing Obligations.

All your obligations that expressly survive the expiration or termination of this Agreement, including *Sections 14.5* and *14.6*, or by the implicit nature thereof require performance after the expiration or termination of this Agreement, will continue in full force and effect (subsequent to, and notwithstanding, your abandonment of the Franchised Business (whether voluntary or involuntary) the expiration of the Term, or termination of this Agreement), until they are satisfied in full or by their nature expire. The indemnities and obligations set forth in *Article 8* will continue in full force and effect subsequent to, and notwithstanding, the expiration or termination of this Agreement.

14.8 Remedies.

You acknowledge and agree that the restrictions contained in this Agreement, including in this *Article 14*, are fair and reasonable and necessary for the protection of our legitimate business interests and you intend and agree that such restrictions be enforceable and enforced to their fullest extent. You further understand and agree that, notwithstanding any other provision of this Agreement, your breach of your obligations under this *Article 14*, will cause us irreparable harm for which recovery of monetary damages alone would not be an adequate remedy. Both parties shall be entitled to obtain timely injunctive relief, including a temporary restraining order, preliminary and permanent injunctions, to protect their rights under this Agreement, in addition to and not exclusive of any and all other remedies available to each party.

14.9 Early Termination Damages.

If you discontinue operating your Franchised Business before this Agreement expires, with or without obtaining our prior written consent, or in the event of a termination of this Agreement arising from or related to your default and breach of its provisions, you will become obligated to pay Franchisor early termination damages ("Early Termination Damages"). The Early Termination Damages shall be considered damages and not a penalty, are not in lieu of other damages, and your payment of these damages shall not constitute a release of any other obligation owed to us. Franchisor, Franchisee, each individual signing on behalf of Franchisee, and each guarantor guaranteeing Franchisee's obligations hereunder, hereby acknowledge and agree that Franchisor's losses due to Franchisee's unilateral closure of the Franchised Business or termination of this Agreement would be highly difficult or impossible to calculate with reasonable certainty and, therefore, have agreed at the outset of this Agreement that the Early Termination Damages, and the formula for calculating these damages, constitutes a reasonable, good faith forecast of Franchisor's estimated losses and damages due to the premature closure of the Franchised Business or termination of this Agreement.

The amount of the Early Termination Damages is calculated as follows:

- a. Compute the average monthly Royalty Fee and Advertising Fee due for any consecutive twelve (12) month period within the forty-eight (48) months immediately preceding the date we receive notification of the closure, or if you failed to timely notify us of the closure then the date the Franchise Business closed, or, if the Franchised Business has been open for less than twelve (12) months, the average monthly Royalty Fee and Advertising Fee due since the opening of the Franchised Business ("Monthly Average");
- b. Multiply the Monthly Average by the number of months remaining in the Term;
and
- c. Divide the resulting total computed in b. above by two (2).

For example purposes only: If the average monthly Royalty Fee and Advertising Fee were collectively \$1,000 and there were five years (60 months) remaining in the Term, the Early Termination Damages would be \$30,000, calculated as follows: $\$1,000 \times 60 \text{ months} = \$60,000 \div 2 = \$30,000$.

If you unilaterally terminate this Agreement prior to the end of the Term, you must give us ninety (90) days prior notice of the early termination ("Early Termination Notice"). Within ten (10) days after our receipt of your Early Termination Notice, we will calculate the Early Termination Damages, which will be due and payable thirty (30) days prior to the closure of your Franchised Business. In the event of a termination arising from or related to your default under this Agreement, or that you do not: (i) provide us with the Early Termination Notice at least ninety (90) days prior to the early termination of your Franchised Business and this Agreement; (ii) remain open for at least ninety (90) days after providing us with the Early Termination Notice; and (iii) pay the Early Termination Damages in full at least thirty (30) days prior to closing of the Franchised Business, the Early Termination Damages due may, in our sole discretion, be increased as follows: it will be calculated by multiplying the Monthly Average by the number of months remaining in the Term, and will not be divided by two (2).

If you have not paid your Royalty Fee and Advertising Fee for any period(s) within the forty-eight (48) months prior to notifying us of your early termination, or if you have not reported your Gross Sales for any period(s) within the forty-eight (48) months prior to notifying us of your intended early termination, we will estimate the Royalty Fee and Advertising Fee based upon prior reports to calculate the Monthly Average.

ARTICLE 15. NOTICES

Unless otherwise provided in this *Article 15*, all notices specified by this Agreement or required by law must be in writing and given by personal delivery, sent by carrier (i.e., FedEx[®], UPS[®], etc.), U.S. certified mail, return receipt requested. All notices to us must be given at the address set forth on page 1 of this Agreement or to such other address as we may designate in writing from time to time in accordance with this *Article 15*. All notices to you may be given at the address set forth on page 1 of this Agreement, at the address of the Franchised Business, at any of your franchised restaurants, at your residence (if an individual), or at the residence of your principal shareholder(s), partner(s), or member(s) (if a business entity). Notices will be conclusively deemed to be given, delivered, and effective when sent pre-paid and actually left in the custody of an adult agent, employee or resident at a place of business or residence if given by personal delivery; or if given by carrier, twenty-four (24) hours after deposited with carrier, or if by U.S. certified mail, three (3) days after deposited with the U.S. Postal Service. You have an obligation to promptly notify us pursuant to this *Article 15* whenever your mailing address, phone number or email address change. Notwithstanding the foregoing, we may give you written notice via email to an email address you provide us regarding all notices specified by this Agreement or required by law, with such email notification to be deemed received by you twenty-four (24) hours after we send it, unless you otherwise earlier acknowledge receipt.

ARTICLE 16. CONSTRUCTION AND ENFORCEMENT; MISCELLANEOUS

16.1 Independent Contractors.

The relationship between you and us is that of independent contractors. You are in no way to be deemed our partner, joint venturer, agent, employee, or servant. You have no authority to bind us to any contractual obligation or incur any liability for or on our behalf. You shall identify yourself as an independent owner of the Franchised Business in all dealings with customers, lessors, contractors, suppliers, public officials, employees, and others.

16.2 Severability and Substitution of Provisions.

Except as provided to the contrary in this Agreement, each article, section, term and provision of this Agreement, and any portion thereof, will be considered severable, and if, for any reason, any such portion of this Agreement is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation, or as a result of a final, non-appealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which we are a party, that regulation or ruling will not impair the operation of, or have any other effect upon, such other portions of this Agreement as may otherwise remain valid, and such other portions will continue to be given full force and effect and bind the parties to this Agreement. If the severed provision is material to this Agreement, we shall promptly provide a substitute provision to replace the invalid severed provision consistent with then-current law and the original intent of the parties.

If any applicable and binding law or rule of any jurisdiction requires a greater prior notice of the termination of, or refusal to renew or grant a successor term to, this Agreement than is required under this Agreement, or the taking of some other action not required under this Agreement, or if under any applicable law, regulation, or court ruling of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by us is invalid or unenforceable, the prior notice or other action required by such law, regulation, or court ruling will be substituted for the comparable provisions of this Agreement, and we will have the right, in our sole discretion, to modify such invalid or unenforceable provision, specification, standard or operating procedure to the extent required to be valid and enforceable. Such modifications to this Agreement shall be effective only in such jurisdiction, unless we elect to give them greater applicability, and otherwise shall be enforced as originally made and entered into in all other jurisdictions.

16.3 Dispute Resolution.

a. Except as otherwise provided herein, any dispute, claim or controversy arising out of or relating to this Agreement, the breach hereof, the rights and obligations of the parties hereto or the relationship between the parties, or the entry, making, interpretation, or performance of either party under this Agreement (“Dispute”), which cannot be resolved by mediation under *Section 16.3d.* or is not subject to mediation under the terms of this Agreement, shall be settled by arbitration administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules as modified below.

b. Any arbitration shall take place before a sole arbitrator in Maricopa County, Arizona or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration shall take place in the county in which our headquarters are located at the time the arbitration is commenced. You agree that conducting the arbitration where we are located is appropriate due to the multiple locations throughout the United States where our franchisees are located. The parties agree that the arbitrator shall be an attorney licensed to practice law in the United States and must have a minimum of five (5) years of experience in franchise law. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator shall, in the award, allocate all of the costs and expenses of the arbitration, including the fees of the arbitrator and the reasonable attorneys’ fees of the prevailing party, against the party who did not prevail. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any other dispute, arbitration proceeding or litigation, except to the extent such issue may have been specifically determined in another proceeding between the parties. This agreement to arbitrate shall survive any termination or expiration of this Agreement, however effected. The parties agree that any arbitration shall be solely between them (including any affiliates) and shall not include as a party, by consolidation, joinder, or in any other manner, any other person or entity, unless both parties consent in writing. Both parties shall have the absolute right to refuse such consent. Further, the parties expressly waive any right to bring or participate in any class or other consolidated, joined or multi-party arbitration claim or proceeding, whether or not permissible under the AAA Commercial Arbitration Rules, including any claim brought on their behalf by an association of which it, he or she is a member. At the request of any party, the arbitration shall be conducted in a manner that maintains the confidentiality of the proceedings.

c. The arbitrator will issue a reasoned award, with findings of fact and conclusions of law. Actions to enforce an express obligation to pay monies may be brought under the Expedited Procedures of the AAA’s Commercial Arbitration Rules. The Federal Arbitration Act

shall govern, excluding all state arbitration laws. Arizona law will govern all other issues. With respect to discovery, the arbitrator shall require each party to make a good cause showing before any discovery exceeding that specifically authorized by the AAA Commercial Arbitration Rules will be granted.

d. Prior to the commencement of an arbitration proceeding, the parties must first submit any Dispute to non-binding mediation. At the request of any party, the mediation will be confidential. The mediation shall be conducted in Maricopa County, Arizona or in the county in which our headquarters are located at the time of mediation, unless the parties shall mutually agree to a different location. The parties to the mediation will share equally in its costs and expenses, except those costs and expenses incurred separately by each party, including counsel fees and expenses. The mediation process will be deemed "Completed" when the parties agree that it has been completed, the mediator declares that any impasse exists, or sixty (60) days have elapsed since the date of the initiating party's notice to the other party that it is initiating the mediation process, whichever occurs first.

e. Notwithstanding anything contained in this Agreement to the contrary, the provisions of Sections 16.3a., 16.3b., 16.3c. and 16.3d. do not apply to a Dispute where: (i) we bring an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action at law for damage to our goodwill, the Confidential Information, the Proprietary Marks or for fraudulent conduct by you; or (ii) the delay resulting from the mediation process may endanger or adversely affect the public (for example, unhealthy, unsafe or unsanitary conditions would continue to exist). For such disputes, we may bring an action in any federal or state court having jurisdiction, whether for monetary damages, temporary preliminary and permanent injunctive relief or specific performance in addition to, and not exclusive of, any other remedies available to us. You hereby consent to and waive any objection or defense and agree not to contest venue, forum non conveniens or jurisdiction of such court or arbitration.

f. Disputes concerning the validity or scope of arbitration, including whether the Dispute is subject to arbitration, are beyond the authority of the arbitrator and will be determined by a court of competent jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. §1 et seq., as amended from time to time.

g. Either party may appeal the final award of the arbitrator, if it is over One Hundred Thousand Dollars (\$100,000), to the appropriate U.S. District Court. The Court's review of the arbitrator's findings of fact will be under the clearly erroneous standard, and the Court's review of all legal rulings will be *de novo*. If it should be determined that this provision for federal court review is not enforceable, then either party may appeal the arbitrator's final award, if it is over One Hundred Thousand Dollars (\$100,000), to a panel of three (3) arbitrators chosen under AAA Optional Appellate Arbitration Rules , which will employ the same standards of review stated immediately above.

16.4 Applicable Law and Forum; Waiver of Jury; Statute of Limitations.

a. Except to the extent that the United States Trademark Act of 1946, as amended (15 U.S.C., § 1051 et seq.) or the franchising laws of any state that may be applicable, the laws of the State of Arizona govern all rights and obligations of the parties under this Agreement without regard to conflict of law. The parties agree, subject to the mandatory mediation and arbitration provisions of *Section 16.3*, that any appropriate state or federal court located in

Maricopa County, Arizona has exclusive jurisdiction over any Dispute arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy. Notwithstanding the foregoing any action initiated by us may, at our election, be brought in any jurisdiction where you are domiciled or that has jurisdiction over you. The parties hereto irrevocably submit to the jurisdiction of, and venue in, any such court, and hereby waive any objection or defense thereto. THE PARTIES AGREE THAT ALL DISPUTES SUBMITTED TO THE COURT PURSUANT TO THIS SECTION SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

b. Notwithstanding anything contained in this Agreement to the contrary, the parties agree that any claims under, arising out of, or related to, this Agreement must be brought within two (2) years of the date on which the underlying cause of action accrued, and the parties hereby waive any right to bring any such action after such two (2)-year period, except for the collection of any unpaid Royalty Fee, Advertising Fee, and any other amount due to us or our affiliate.

c. **YOU HEREBY WAIVE THE RIGHT TO SEEK OR COLLECT PUNITIVE, MULTIPLE, CONSEQUENTIAL AND SPECIAL DAMAGES IN ANY FORUM, INCLUDING ARBITRATION. YOU HEREBY FURTHER WAIVE THE RIGHT, IF ANY, OF ANY ASSOCIATION OR MEMBERSHIP GROUP TO ASSERT CLAIMS ON YOUR BEHALF IN ANY ACTION.**

d. **YOU HEREBY WAIVE THE RIGHT TO ANY DAMAGES IN CONNECTION WITH OR RESULTING FROM THE WRONGFUL ISSUANCE OF AN INJUNCTION.**

e. The parties agree that the maximum damages that you may recover in connection with a wrongful termination of your franchise and this Agreement will be an amount equal to the product of:

(i) the annual net profit (as defined below) multiplied by

(ii) the lesser of:

(a) The number of full years existing between the date on which the franchise and this agreement were wrongfully terminated and the date on which the Term would have otherwise expired; or

(b) Three.

For purposes of this Agreement, the term "net profit" means an amount equal to the net profits of your Franchised Business, as reflected on your tax return filed with the Internal Revenue Service prior to such termination; provided, however, that if such tax return reflects the operations of your Franchised Business for a period less than one (1) year, such net profits will be annualized based upon the net profits reflected in such tax return.

16.5 No Guarantee of Franchisee's Success.

You have been informed of and acknowledge the highly competitive nature of the business involved, and agree that the successful operation of your Franchised Business will

depend in part, upon your best efforts, capabilities, management, and efficient operation; as well as the general economic trend and other market conditions.

16.6 Existence of Various Forms of Franchise Agreements.

You acknowledge that our present and future franchisees operate under a number of forms of franchise agreements and consequently, our obligations and rights with respect to our various franchisees may differ materially in certain instances. The existence of different forms or versions of the franchise agreement does not entitle you to benefit from any such difference; nor does it operate to alter or amend the agreement of the parties set forth in this Agreement.

16.7 Franchise Owner May Not Withhold Payments.

You agree that you will not, on grounds of alleged or actual nonperformance or breach by us of any of our obligations under this Agreement, withhold payment of any Royalty Fee, Advertising Fee, amounts due to us or any of our affiliates for goods or services purchased by you, or any other amounts due to us or any of our affiliates.

16.8 Remedies Are Cumulative.

The rights and remedies of the parties to this Agreement are cumulative and not exclusive, and no exercise or enforcement by either party of any right or remedy under this Agreement shall preclude the exercise or enforcement by such party of any other right or remedy under this Agreement or otherwise available at law or in equity to such party.

16.9 Interpretation.

All the terms and provisions of this Agreement will be binding upon and inure to the benefit of the successors and assigns of the parties. However, nothing in this *Section 16.9* may be construed as our consent to the Transfer of this Agreement or any rights by you.

16.10 Waiver.

Our failure to insist upon the strict performance of any term, covenant or condition contained in this Agreement will not constitute or be construed as a waiver or relinquishment of our right to enforce thereafter any such term, covenant or condition and such term, covenant or condition will continue in full force and effect. For example, Franchisor's acceptance of any payments made by Franchisee after a breach of this Agreement shall not be, nor be construed as, a waiver by Franchisor of any breach by Franchisee of any term, covenant or condition of this Agreement.

16.11 Litigation Expense.

If an action at law or suit in equity is brought to establish, obtain or enforce any right by either of the parties to this Agreement, the prevailing party in the suit or action, in the trial and appellate courts, will be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs and expenses and disbursements incurred in such suit or action.

16.12 No Third-Party Beneficiaries.

This Agreement is not intended to benefit any other person or entity except the named parties hereto and no other person or entity shall be entitled to any rights hereunder by virtue of so-called “third-party beneficiary rights” or otherwise.

16.13 Binding Effect; Modification.

This Agreement is binding upon the parties to this Agreement and their respective executors, administrators, personal representatives, heirs, permitted assigns and successors in interest. No amendment, change, or modification of this Agreement shall be binding on any party unless executed in writing by you and us.

16.14 Entire Agreement; Nature and Scope; Construction.

This Agreement, all exhibits, attachments, addendums, and amendments, constitute the entire understanding and agreement between the parties, and there are no other oral or written understandings or agreements between us and you relating to the subject matter of this Agreement. If required to be signed, any state specific addendums are incorporated herein by reference. Any representation not specifically contained in this Agreement made prior to entering into this Agreement does not survive subsequent to the execution of this Agreement. We and you have entered into this Agreement for the sole purpose of authorizing you to use the System licensed by this Agreement in the operation of the Franchised Business during the Term in which those specific items designated by us for sale and use in such locations are offered for sale and use in individual, face-to-face transactions with patrons visiting the Franchised Business (and equivalent telephone or mail transactions accepted as a convenience to that customer group). All consideration being furnished by us to you during the course of performance of this Agreement has been determined based on the limited rights and other limitations expressed herein. No other rights have been bargained for or paid for. This provision is intended to define the nature and extent of the parties' mutual contractual intent, there being no mutual intent to enter into contract relations, whether by agreement or by implication, other than as set forth in this Agreement. The parties further acknowledge that these limitations are intended to achieve the highest possible degree of certainty in the definition of the contract being formed, in recognition of the fact that uncertainty creates economic risks for both parties which, if not addressed as provided in this Agreement, would affect the economic terms of this bargain.

Nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the Disclosure Document. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

16.15 Terminology.

In addition to the terms defined elsewhere in this Agreement, the following terms defined below are incorporated in this Agreement by reference and shall be deemed to include all persons who succeed to the interest of the original, where applicable:

The term “affiliate” means any person who, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with any person;

The term “Dollars” means United States Dollars and all amounts due under this Agreement shall be paid in United States currency;

The use of the terms “includes” and “including” in any provision of this Agreement followed by specific examples used shall not be construed to limit application of the provision to only the specific examples used;

The term “person” means any natural person, corporation, partnership, trust, other entity, association or form of organization;

The term “will” and “shall” shall be synonymous, and shall be mandatory and not discretionary, unless otherwise specifically provided herein; and

Any references to articles or sections refer to articles and sections in this Agreement unless specified otherwise.

16.16 Counterparts.

This Agreement may be executed in one (1) or more original counterparts, and all of which, when taken together, shall be deemed to be one (1) original Agreement. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature. A fully-executed copy of this Agreement shall be of the same force and effect as the original.

16.17 Offerings.

If you are a corporation, partnership or other entity, and if you intend to offer securities, partnership interests or other ownership interests in you through any public or private offering, you shall not use any Proprietary Marks in such public or private offering, except to reflect your franchise relationship with us; nor shall you misrepresent your relationship with us by any statement or omission of an essential statement. You shall indemnify and hold us harmless from any liability in connection with such offering. Nothing in the foregoing shall modify the provisions of *Article 12*, and no such offering shall be made without first complying with any applicable provisions of *Article 12*.

16.18 Time.

Time is of the essence of each and every provision of this Agreement.

16.19 Force Majeure.

Neither of the parties will be liable for loss or damage or be deemed to be in breach of this Agreement if the failure to perform the party’s obligations results from: (a) transportation shortages, inadequate supply of equipment, merchandise, supplies, labor, material or energy, or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any government or any department or agency thereof, or (b) acts of God, in each case, being unforeseeable forces which Franchisee could not by the exercise of due diligence

have avoided; provided however that Franchisee must: (i) immediately upon the start of the above-mentioned act, provide written notice to Franchisor that it expressly enacts its rights granted under this Section, and (ii) use all commercially reasonable efforts to mitigate the effect of the event of Force Majeure upon its performance and to fulfill its obligations under this Agreement. Any delay resulting from any of these causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that no such cause will excuse payments of amounts owed at the time of such occurrence or payment of the Royalty Fee and all other amounts due to us and our affiliates thereafter, or permit Franchisee to permanently close the Franchised Business.

16.20 Plurals and Captions.

Words in the singular number include the plural when the context requires (and vice-versa). The table of contents and the captions are inserted only for convenience and are not a part of this Agreement or a limitation of the scope of the particular article or section to which each refers.

16.21 Joint and Several Liability.

If you consist of two (2) or more individuals, whether in the form of separate individuals or a business entity controlled by the individuals, then each individual will be jointly and severally liable under the provisions of this Agreement.

16.22 Trademark Notice.

All trademarks referenced in this Agreement are those of their respective owners.

16.23 No Accord or Satisfaction.

If you pay, or we otherwise receive, a lesser amount than the full amount provided for under this Agreement for any payment due hereunder, such payment or receipt may, in our sole discretion, be applied against the earliest amount due us. In addition, if interest or late fees are owed, we may, in our sole discretion, apply any amounts paid to the late fees and interest before such amounts are applied to the principal amount owed. We may accept any check or other payment in any amount without prejudice to our right to recover the entire balance of the amount due or to pursue any other right or remedy. No endorsement or statement by you on any check or payment or in any letter accompanying any check or payment or elsewhere shall constitute or be construed as an accord or satisfaction.

ARTICLE 17. ACKNOWLEDGMENTS AND REPRESENTATIONS OF FRANCHISEE

17.1 Certain Representations and Warranties of Franchisee.

You represent and warrant that the following statements are true and complete as of the Effective Date:

a. You do not seek to obtain the Franchised Business for speculative or investment purposes and have no present intention to sell or transfer or attempt to sell or transfer the Franchised Business except as previously approved by Franchisor and subject and conditioned to Article 12 of this Agreement.

b. You understand and acknowledge the value to the System of uniform and ethical

standards of quality, appearance and service described in and required by the Confidential Manual and the necessity of operating the Franchised Business under the System Standards. You represent that you have the capabilities, professionally, financially and otherwise, to comply with our System Standards.

c. If you are a corporation, limited liability company, partnership, or other form of entity, you are duly incorporated, organized, or formed and are qualified to do business in the state and any other applicable jurisdiction within which the Franchised Business is located, and you are and shall remain duly organized and in good standing during the Term.

d. You represent and warrant that: (i) if you are an individual, you are; or (ii) if you are an entity, that each of your owners, shareholders, partners, and members are, a United States citizen or a lawful resident alien of the United States.

e. All financial and other information that you have provided to us or otherwise made available to us in connection with your application for this franchise is true, complete, accurate, and not intentionally misleading.

f. The execution of this Agreement by you will not constitute or violate any other agreement or commitment to which you are a party.

g. Any individual executing this Agreement on your behalf is duly authorized to do so and the Agreement shall constitute your valid and binding obligation and, if applicable, all of your partners, members, or shareholders, if you are a partnership, limited liability company, or corporation.

h. You have, or if you are a partnership, corporation or other entity, your partners or principals have, carefully read this Agreement and all other related documents to be executed by you concurrently or in conjunction with the execution hereof; that you have obtained, or had the opportunity to obtain, the advice of counsel in connection with the execution and delivery of this Agreement; that you understand the nature of this Agreement and that you intend to comply with and be bound by this Agreement.

i. You have read and understand the information and disclosures made in the Disclosure Document provided to you as acknowledged in *Section 17.3e*. You understand and acknowledge that: (i) estimates for initial start-up expenses are estimates only and there can be additional start-up expenses; and (ii) your sales may differ substantially from any sales provided in Item 19 of the Disclosure Document, and there is no assurance that your sales will meet or exceed any sales listed in Item 19 of the Disclosure Document. You have had the opportunity to and have consulted or elected not to consult with your attorney, accountant and business advisors before entering into this Agreement.

j. You understand and agree that, while not applicable in every case, our past experience indicates that owner-operated restaurants generally perform better than absentee owners with hired managers. The food business is a personal business and is dependent upon your business skill and judgment. This includes your choice of employees. Your skill in hiring the right people to work in your Franchised Business is very important in determining whether people decide to purchase menu items from your Franchised Business or from another restaurant in the same vicinity.

k. You understand and agree that ownership of a franchise and the Franchised Business carries certain risks. These risks include the loss of your initial investment, other continued financial losses such as rent payments due under lease obligations and other contractual obligations, the loss of your time and energy in starting up and running your Franchised Business, and loss of earnings and investment income from your investment in the Franchised Business. You understand and agree that the Franchised Business may make money and may lose money and are entering this business venture with this express understanding. You are not relying upon anything which is not contained within this Agreement or the Disclosure Document in determining and deciding to become a franchisee.

l. Notwithstanding the foregoing, you understand and agree that the System must not remain static if it is to meet (without limitation) presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, social trends and other market place variables, and if it is to best serve the interests of us, you and all other franchisees. Accordingly, you expressly understand and agree that we may from time to time change the components of the System, including altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition or other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which your Franchised Business is authorized and required to offer, modifying or substituting entirely the equipment, signage, trade dress, décor, color schemes and uniform System Standards and specifications and all other unit constructions, design, appearance and operation attributes which you are required to observe under this Agreement; and, abandoning, changing, improving, modifying or substituting the Proprietary Marks. You expressly agree to comply with any such modifications, changes, additions, deletions, substitutions and alterations. You shall accept, use and effectuate any such changes or modifications to, or substitution of, the System as if they were part of the System at the time that this Agreement was executed. Except as provided herein, we shall not be liable to you for any expenses, losses or damages sustained by you as a result of any of the modifications contemplated hereby.

m. You represent that neither you nor any of your affiliates, officers, directors, managers, members, or partners (as applicable) or funding sources are subject to U.S. Executive Order 13224, identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specially Designated National and Blocked Persons list, or any terrorist list or other blocked persons list. In addition, you represent that you have not received funding from, nor are you owned, controlled, or acting on behalf of the government of any country that is subject to an embargo by the United States, any foreign government official, political party or international organization, and that no foreign government or government official, political party or international organization has any financial interest in the Franchised Business or any monies earned by the Franchised Business.

n. You represent, warrant and agree that you, your officers, directors, managers, members, or partners (as applicable) will each at all times conduct themselves in an ethical manner and avoid any activity that might result in a violation of the U.S. Foreign Corrupt Practices Act, Anti-Terrorism Laws, or any other applicable anti-corruption or bribery laws.

17.2 Additional Information Respecting Franchisee.

a. You have delivered to us or will deliver concurrent herewith, complete and

accurate copies of all of your organizational documents, including all partnership agreements, certificates of partnership, articles of organization, operating agreements, articles or certificates of incorporation, by-laws and shareholder agreements, including all amendments, side letters and other items modifying such documents.

b. Reserved.

17.3 Acknowledgements of Franchisee.

a. You acknowledge that you have conducted an independent investigation of the business venture contemplated by this Agreement and recognize that this business venture involves substantial business risks and will largely depend upon your ability. Other than the financial performance representation contained in Item 19 of the Disclosure Document, if any, we expressly disclaim making, and you acknowledge that you have not received or relied on, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the Franchised Business contemplated by this Agreement.

Franchisee Initials ____/____

b. You hereby certify that none of our employees, no other person speaking on our behalf, and no Area Representative, if applicable, have: (i) made any oral, written, visual, or other representation, agreement, commitment, claim, or statement that stated or suggested any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise other than any financial performance representation contained in Item 19 of the Disclosure Document; or (ii) made any oral, written, visual, or other representation, agreement, commitment, claim, or statement from which any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise might be ascertained, related to a *Cold Stone Creamery* franchise, that is different from, contrary to, or not contained in the *Cold Stone Creamery* Disclosure Document; or (iii) made any representation, agreement, commitment, claim or statement to you that is different from, contrary to, or not contained in, the *Cold Stone Creamery* Disclosure Document. You acknowledge and agree that we do not make or endorse, nor do we allow any of our employees or other persons speaking on our behalf to make or endorse, any additional oral, written, visual, or other representation, agreement, commitment, claim, or statement that states or suggests any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise with respect to a *Cold Stone Creamery* franchise other than any financial performance representation contained in Item 19 of the Disclosure Document.

Franchisee Initials ____/____

c. You acknowledge that you have received, read and understand this Agreement and the related exhibits, attachments and agreements and that we have afforded you sufficient time and opportunity to consult with advisors selected by you about the potential benefits and risks of entering into this Agreement.

Franchisee Initials ____/____

d. You understand that this Agreement, including any amendments and exhibits, contains the entire agreement between the parties concerning the Franchised Business, and that any prior oral or written statements that are not set out in this Agreement, including any

amendments, exhibits and attachments will not be binding. You acknowledge and agree that we do not permit any representations, agreements, commitments, claims, or statements or approve any changes in this Agreement or any of the amendments, exhibits and attachments to this Agreement, except by means of a written amendment or addendum signed by all parties to this Agreement. You acknowledge that nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the Disclosure Document.

Franchisee Initials ____/____

e. You acknowledge receipt of our Disclosure Document fourteen (14) days prior to the execution of this Agreement or your payment of any monies to us or our agent (or sooner if required by applicable state law).

Franchisee Initials ____/____

f. You acknowledge that, other than what was previously disclosed to you in our Disclosure Document to which you acknowledge receipt thereof, you have not: (1) received any financial statements for us or any of our parent or affiliated companies; or (2) relied on the financial condition of us or of any of our parent or affiliated companies when making the decision to purchase the Franchised Business.

Franchisee Initials ____/____

g. You acknowledge, as detailed in *Section 2.3*, that you must, at your own cost and expense, use only our designated and approved Design Architect for the design of your Franchised Business.

Franchisee Initials ____/____

h. You acknowledge that the following is your Area Representative (if applicable):

Franchisee Initials ____/____

i. If an Area Representative is identified in *Section 17.3h.*, you make the following representations with respect to the Area Representative:

(i) You have met or spoken to only _____, the Area Representative;

(ii) Other than any financial performance representation contained in Item 19 of the Disclosure Document, at no time did the Area Representative make any promises or statements, or projections or forecasts, or estimates or warranties or representations or other statement or agreement concerning profits or expenses or costs or actual or projected sales of any kind directly or by implication about *Cold Stone Creamery* restaurants or about the Franchised Business that we desire to develop under this Agreement or about obtaining the confirmed Location or about any other matter other than what is contained in the *Cold Stone Creamery* Disclosure Document or *Cold Stone Creamery* restaurant brochure.

(iii) You acknowledge that you have not received any written materials from us or the Area Representative except for the *Cold Stone Creamery* brochure and Disclosure Document; and

If there are any exceptions to *Sections 17.3i.(i) – (iii)*, identify the item number and list the exception here:

Franchisee Initials ____/____

j. You acknowledge there have been no other inducements made with any person or entity, including the Identified Area Representative, encouraging you to purchase the Franchised Business, such as a “side deal” or other promise or agreement not included in the Agreement.

Franchisee Initials ____/____

k. You acknowledge and understand that *Article 6* covers the use of the *Cold Stone Creamery* trademark and prohibition on registration of our Proprietary Marks. You acknowledge the ownership of the Proprietary Marks by us, and you agree that during the Term and after its expiration or termination, you will not, directly or indirectly, apply to register, register or otherwise seek to use or control or in any way use “*Cold Stone Creamery*”, or any other of our proprietary marks, or any confusingly similar form or variation, in any place or jurisdiction either within or outside the United States; nor will you assist any others to do so. You further agree that your corporate, partnership or other entity name will not include any of the Proprietary Marks or phrases similar thereto as a part thereof. Furthermore, you acknowledge and understand that you are prohibited from filing applications for the registration of our trade names used in connection with your Franchised Business.

Franchisee Initials ____/____

l. You acknowledge and understand that in the event you have registered a trade name or entity name containing our trademarks, you will be required to immediately discontinue all further use of the trademark, all Proprietary Marks and any other marks or names confusingly similar thereto in your entity name. Furthermore, you will take such action as may be required to amend your entity name and affirmatively cancel or terminate and dissolve all fictitious or assumed names or other registrations that contain our Proprietary Marks. In the event you do not comply and execute any and all instruments and documents necessary to protect and maintain our interests in the Proprietary Marks, we will then have power of attorney to execute any documents necessary to protect and maintain our interests in the Proprietary Marks.

Franchisee Initials ____/____

ARTICLE 18. SUBMISSION OF AGREEMENT

The submission of this Agreement to you does not constitute an offer and this Agreement shall become effective only upon the execution thereof by the parties. THIS AGREEMENT SHALL NOT BE BINDING ON US UNLESS AND UNTIL IT SHALL HAVE BEEN ACCEPTED AND SIGNED BY FRANCHISOR.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this Agreement as of the Effective Date.

FRANCHISEE: _____, a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

FRANCHISOR: KAHALA FRANCHISING, L.L.C., an
Arizona limited liability company

By: _____
[Name, Title]

PERSONAL ACCEPTANCE OF SECTIONS 7.1, 7.2, 14.6, AND 14.8

Each of the undersigned individually and personally accepts and agrees to be bound by the provisions of Sections 7.1, 7.2, 14.6, and 14.8 of the foregoing Franchise Agreement.

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
(signature) individual
Date: _____

EXHIBIT E-3

TO THE FRANCHISE DISCLOSURE DOCUMENT

Franchise Agreement (Transfer)

COLD STONE CREAMERY

**FRANCHISE AGREEMENT
(Transfer)**

between

KAHALA FRANCHISING, L.L.C.

and

_____, a(n) _____

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**COLD STONE CREAMERY
FRANCHISE AGREEMENT**
(“Agreement”)

PARTIES:

KAHALA FRANCHISING, L.L.C.,
an Arizona limited liability company
Attn: Legal Department
9311 E. Via De Ventura
Scottsdale, Arizona 85258

(“Franchisor”)

a(n) _____

Telephone No.: _____

([individually and collectively,] “Franchisee”)

RESTAURANT NO.: _____

EFFECTIVE DATE: _____

(“Effective Date”)

TRADITIONAL RESTAURANT (YES or NO): _____

RESTAURANT DESCRIPTION IF NON-TRADITIONAL: _____

A “traditional” restaurant is a restaurant that is easily accessible by the general public, such as a free-standing building, inline retail shop, shopping mall and street front location. A traditional *Cold Stone Creamery* restaurant normally offers a full menu. A “non-traditional” restaurant is a *Cold Stone Creamery* restaurant that is located in a non-traditional marketplace, as determined by us (in our sole discretion), such as an airport, amusement park, sports or entertainment venue, train station, travel plaza, toll roads, cafeteria, retail store, convenience store, military base, hospital, office building, movie theater, hotel, casino, kiosk, cart, or high school or college campus. A non-traditional restaurant may also be a *Cold Stone Creamery* restaurant that is co-branded into another brand restaurant, at Franchisor’s sole discretion. A non-traditional *Cold Stone Creamery* restaurant normally offers a limited version of the full *Cold Stone Creamery* menu.

To simplify the language in this Agreement, the terms “we,” “us,” “our” and the like may be used to refer to the Franchisor, and the terms “you,” “your” and the like may be used to refer to the Franchisee. The term “you” as used herein is applicable to one (1) or more persons, a corporation, partnership, trust, other entity, association or form of organization as the case may be, and the singular usage includes the plural, masculine, neuter, feminine, and possessive usages. Franchisor and Franchisee may individually be referred to as a “party” and collectively referred to as the “parties.”

RECITALS:

This Agreement is entered into with reference to the following facts and circumstances:

A. We have, over a period of time and at considerable expense, developed and established a uniform and unique method of operation, customer service, advertising, publicity, processes, recipes, techniques and technical knowledge in connection with the restaurant business, specializing in super-premium ice cream, cakes, pies, smoothies, shakes, specialty beverages, other dessert with frozen confections, and other related beverage and food items. These restaurants do business under the trade name "*Cold Stone Creamery*[®]". These Cold Stone Creamery recipes, techniques, processes and methods constitute our "Trade Secrets." All of our knowledge, experience, Trade Secrets, processes, methods, specifications, techniques, Proprietary Marks (as defined in Recital B.), System Standards (as defined in *Section 1.4*) and information are referred to in this Agreement as the "System." The System may be changed, supplemented, improved and further developed by us from time to time.

B. We have owned and issued franchises to others for the operation of franchised restaurants in the United States and in other countries. We have registered and applied for proprietary marks with the United States Patent and Trademark Office and with offices in other countries serving similar functions. These proprietary interests, trademarks, service marks, logos, insignias, trade names and trade dress are referred to in this Agreement as the "Proprietary Marks."

C. We are engaged in the business of licensing the right to use the Proprietary Marks in connection with the operation and promotion of the System.

D. You understand and recognize that: (1) our Trade Secrets, Proprietary Marks, developments and other properties as recited above are of considerable value; and (2) it is of importance to us and all of our franchisees to maintain the development of the System in a uniform and distinctive manner, allowing you and our other franchisees to enjoy a public image and reputation greater than most single franchisees could establish.

E. You desire to make use of the "*Cold Stone Creamery*[®]" trademark and to enjoy the benefits of that mark, the other Proprietary Marks, and the System; and to establish a "*Cold Stone Creamery*" franchise to be operated in accordance with System Standards set forth from time to time by us. System Standards are set forth in, without limitation, the confidential "ops package," which consists of the "operations manual" ("Operations Manual"), "ops toolkit" and related printed and electronic documents, both now existing and hereinafter developed (individually and collectively, "Confidential Manual"). We are willing to grant you the right to do so under the terms, conditions and provisions set forth in this Agreement, which includes any and all appendices, addenda, amendments, attachments and exhibits.

F. You recognize the necessity and desirability of protecting our reputation, goodwill, Trade Secrets, and other confidential business information; and that disclosure of Trade Secrets and confidential business information, including specifics of the System to any third-party, will cause irreparable damage and harm to us.

AGREEMENT:

The parties agree as follows:

ARTICLE 1. GRANT OF FRANCHISE; TERM; SYSTEM STANDARDS

1.1 Franchise Grant.

We hereby grant to you a *Cold Stone Creamery* franchise that includes the right to use the System ("Franchised Business") as provided in this Agreement, at the following location:

Arena, Mall, Facility, or Center Name: _____
(if applicable)

Street Address: _____

City/State/Zip Code: _____ ("Location")

1.2 Location of the Franchised Business; No Exclusive Territory or Other Rights.

You must operate the Franchised Business only from the Location, including any catering services of *Cold Stone Creamery* menu items you provide. You acknowledge that the *Cold Stone Creamery* franchise granted under this Agreement is non-exclusive, that we are not granting you any territorial protection or any other exclusive rights, and that we, directly or through one (1) or more affiliates, reserve the right in our sole discretion, and without compensating you or seeking your prior approval: (i) to establish, and grant to other franchisees or licensees the right to establish, a *Cold Stone Creamery* restaurant or any other business using the Proprietary Marks, the *Cold Stone Creamery* System or any variation thereof, in any location other than the approved Location (including locations in the immediate vicinity of your Location), on any terms and conditions that we deem appropriate; (ii) to establish, and grant to other franchisees or licensees the right to establish, any restaurant concept other than *Cold Stone Creamery* in any location on any terms and conditions that we deem appropriate (including locations in the immediate vicinity of the Location); (iii) to sell products identified by the Proprietary Marks or other trademarks, service marks or commercial symbols in any location through any distribution channels, including grocery stores, convenience stores, supermarkets, club stores, vending machines, delivery services and restaurants other than *Cold Stone Creamery* restaurants; and (iv) to take any other action that we are not expressly prohibited from taking under this Agreement.

We hereby grant to you during the term of this Agreement, a non-exclusive right and license to operate a single restaurant at the Location only, according to the System Standards and subject to the terms, conditions and restrictions contained in this Agreement. This Agreement is limited to the operation of one traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.

Except as expressly limited in this Agreement, we (for ourselves and our affiliates and designees) retain all rights with respect to all Proprietary Marks and the sale of *Cold Stone Creamery* products anywhere in the world with no compensation or liability to you, including the right to:

- a. Establish and operate (or license to any other person or entity the right to establish and operate) *Cold Stone Creamery* restaurants owned or licensed by us at any location;

b. Develop, market, own, operate and participate in any other business under the Proprietary Marks or any other trademarks (including trademarks identified in the Franchise Disclosure Document ("Disclosure Document") and other trademarks we or our affiliates own or have the right to license);

c. Develop, lease and license the use of, at any location, trademarks other than the Proprietary Marks, in connection with the operation of a system that offers products or services that are the same as, or similar to, those offered by us under this Agreement on any terms or conditions that we deem advisable, in our sole discretion;

d. Merge with, acquire or be acquired by any other business, including a business that competes with your Franchised Business, or acquire and convert any retail stores, including retail stores operated by competitors, or otherwise operated independently or as part of, or in association with, any other system or chain, whether franchised or corporate-owned;

e. Distribute, sell and license other persons or entities to distribute and sell products through all other channels of distribution, including catalog sales, telemarketing, grocery stores, warehouses, big box shops, specialty shops, limited access highway food facilities, vending machines and similar automated dispensing systems, mobile units, off-site sales accounts, electronic mail, Internet sales, and movie theaters (individually and collectively, "Other Channels"); and

f. Implement multi-area marketing programs that may allow us or others to solicit or sell to customers anywhere. We also reserve the right to issue mandatory policies to coordinate such multi-area marketing programs.

1.3 Term of Agreement.

a. This Agreement will commence on the Effective Date and will expire on either: (1) the ten (10) year anniversary of the Effective Date if you own the property where this Franchised Business is located or if you enter into a lease directly with the landlord or other third-party for the property where this Franchised Business is located; or (2) if you have entered into a sublease with one of our affiliates, the expiration of the term of the sublease for the Location excluding any extensions or renewal options, unless terminated earlier in accordance with *Article 14* or any other provisions of this Agreement, renewed in accordance with *Article 13*, or transferred in accordance with *Article 12* ("Term").

1.4 System Standards.

You shall operate the restaurant in accordance with our standards, including the following:

- a. restaurant design, maintenance, health and safety and remodeling;
- b. types, models, brands and suppliers of required fixtures, furnishings, equipment, signs, materials and supplies;
- c. recipes and ingredients, menu items and menu design;

d. cooperation with and participation in sales, marketing, advertising and promotional programs (including discount coupons, discount gift cards, special menu promotions, and entering into product and service agreements directly with third-party vendors and service providers as required by us) and materials and media used in those programs, including discontinued use and removal of promotional materials as directed by us;

e. use and display of the Proprietary Marks;

f. restaurant operations, including matters related to the management of the restaurant; training of your employees consistent with the System Standards; and commercial impression of the Franchised Business to the public;

g. cooperation with and participation consistent with our responses and resolutions in response to customer feedback;

h. cooperation with and participation in: (i) market research and testing; and (ii) product and service development programs;

i. acceptance of our stored value gift cards, including gift cards sold at a discount, loyalty cards, frequency cards, gift certificates, vouchers, and any other similar electronic card and payment programs (individually and collectively, "Gift/Loyalty Card"), credit and debit cards, other payment systems, check verification services and use of point of sale computer systems; You agree to enter into a separate participation agreement with the approved vendor for data processing services;

j. bookkeeping, accounting, data processing and record keeping systems; computer hardware and software; connections to the Internet or to proprietary networks; forms, methods, formats, content and frequency of reports to us of Gross Sales (as defined in *Article 5*), financial performance and condition; and providing tax returns and other operating and financial information to us; and

k. conduct and maintain the Franchised Business and Location so as not to distract from or interfere with the integrity of the System (individually and collectively, "System Standards"). We may, in whole or in part, change, improve, update and further develop the System Standards, from time to time during the term. You shall comply with the updated System Standards as directed by us.

The operation and maintenance of your restaurant according to the System Standards are essential to the well-being and vitality of the System and to preserve the goodwill of the Proprietary Marks for us and for all other franchisees operating under the System. It is critical to the *Cold Stone Creamery* System for all restaurants operating under the *Cold Stone Creamery* System to present a uniform and professional image to *Cold Stone Creamery* customers regardless of which location the customer visits. Any information regarding the operation of the restaurant will be considered a mandatory System Standard, unless it is clear from the express language of our communication that the information is merely optional or is intended by us as a suggestion, rather than a requirement.

You agree that System Standards constitute binding provisions of this Agreement as if they were an integral part of this Agreement.

ARTICLE 2. SELECTION OF LOCATION; CONSTRUCTION AND RELOCATION

2.1 Location Selection Procedures.

You are ultimately responsible for the selection of the Location. We will not have any liability to you with respect to your selection of the Location, any assistance we provide you in making your selection, our recommendation of any location or a third party to assist you in selecting a location, or our allowing you to move forward on any location. You agree that your selection of the Location will be based on your own independent investigation of the suitability of the Location.

2.2 Lease and Purchase Approval.

If you intend to lease the Location for your Franchised Business, the lease will be subject to our prior limited review and acknowledgment so that we can confirm that certain lease terms are incorporated into the lease. You must provide us, at least thirty (30) days prior to executing the lease, a copy of the lease and details relating to square footage, rent per square foot, the term of the lease, and either confirmation that such other terms as we reasonably require are incorporated into the lease or that you and the landlord agree to incorporate the lease addendum to lease agreement as an exhibit to the lease. You or your attorney shall be responsible for negotiating the terms of the lease, which shall be subject to our final limited review and acknowledgment. If you do not submit all of the required documents to us, we will not allow you to move forward with your lease. We have no liability to you regarding the terms or negotiations of the lease.

If, prior to executing the lease, you or your attorney request a full review of your lease, including any and all exhibits attached thereto, and we or our designated affiliate review your entire lease and exhibits and provide to you or your attorney its review of the entire lease and suggested changes to the lease ("Lease Review"), you must pay a Lease Review Fee (as defined in *Section 5.7*) to compensate for time and effort in reviewing the lease. The Lease Review is optional and only completed by us or our designated affiliate at your or your attorney's request. The Lease Review Fee is due only in the event that you or your attorney request us or our affiliate to complete a Lease Review. Each lease must contain the required lease terms set forth in the Lease Addendum to Lease Agreement, and must specifically state that we are a third-party beneficiary of the lease. If we cure any default by you under the lease, any amounts that we pay to cure the default will be payable by you to us on demand, together with interest thereon, at the lesser rate of one and one-half percent (1½%) or the maximum rate that does not violate applicable state usury laws ("Default Rate") per month from the date we make such payment.

You acknowledge and agree that on the earlier of thirty (30) days after: (i) you receive a fully executed copy of your lease for the Location of your Franchised Business; or (ii) you open your Franchised Business to the public, you must provide a fully-executed copy of your lease for the Location to us. Failure to timely provide us with a fully-executed copy of the lease will result in a default under this Agreement.

If you intend to purchase the Location for your Franchised Business, the terms of such purchase shall be subject to our prior approval, and you must provide us, at least thirty (30) days prior to executing the purchase agreement, a copy of the purchase agreement and details relating to square footage, price per square foot and such other terms as we reasonably require.

You acknowledge and understand that our confirmation that you may move forward with any specific location, lease or purchase agreement does not in any way guarantee or ensure the success or profitability of the Franchised Business, or the conformity of the Location, lease or purchase agreement to applicable laws, and such confirmations are only for our own benefit.

2.3 Construction.

a. You must, at your sole cost and expense, construct, furnish, make improvements to and equip, if necessary, the Franchised Business at the Location selected by you and meeting our minimum site requirements, in accordance with plans and specifications approved by us or our third-party approved architect, if applicable. Our approval of plans is solely for complying with our System Standards and not for determining compliance with codes, ordinances and other legal requirements, including the Americans with Disabilities Act ("ADA") or any requirements under the lease for your Location. You are solely responsible for ensuring that your Location conforms to all codes and ordinances, including the ADA, and all lease-specific requirements. You must, at your sole cost and expense, use our designated and approved third-party design architect ("Design Architect") to prepare the initial design drawings for any construction, alterations or improvements, as applicable, for your Franchised Business. The Design Architect must provide us with one (1) set of the design drawings, including landscaping and parking spaces if applicable, which are the detailed plans and specifications ("Plans") for your Franchised Business. We will provide you with a copy of the Plans upon our approval of the Plans. You must also, at your sole cost and expense, retain a licensed architect of record to prepare the permitted construction set of drawings for any construction, alterations or improvements. The permitted construction set of drawings must be submitted to us for our files prior to the start of construction, alterations or improvements. In addition, you must obtain the appropriate construction documents and all mechanical, plumbing, electrical and architectural plans must be sealed and stamped, as we may require, even if local laws in the jurisdiction where your restaurant is located do not require same.

b. Any material modifications to the approved Plans must be submitted to us for approval and you will not undertake any construction, alterations or improvements until such modifications have been approved by us. Approval of such modifications does not constitute any representation by us of compliance with applicable zoning laws, building codes or other laws.

c. You will be solely responsible for the cost and expense of obtaining all necessary governmental construction permits and licenses, and you must, at your sole cost and expense, comply with all laws, zoning ordinances, rules and regulations of any governmental agencies that may govern any construction, alterations or improvements of the Franchised Business in accordance with the approved Plans. We will have the right, but are not required, to meet with the Design Architect and to inspect any construction, alterations or improvements during its course to ensure that the provisions of this *Section 2.3* are being observed; and you agree to allow our authorized representatives, at any and all times while construction, alterations or improvements are in progress, to meet with the licensed architect and general contractor and enter onto the Location for this purpose. If we determine in good faith that the provisions of this *Section 2.3* are not being observed, you will, at your sole cost and expense, immediately take all necessary corrective action.

d. You must, at your sole cost and expense, use a general contractor that is licensed, and if applicable, registered in the state and local jurisdiction where your restaurant is

located for any and all construction, alterations and improvements. The general contractor must have prior experience in the construction, alterations and improvement of quick-service restaurants.

e. You acknowledge that the design and appearance of the *Cold Stone Creamery* restaurant is part of the System, and that uniformity is essential to the System. Therefore, you agree that after the restaurant has been constructed, altered or improved, you will not make any material changes to the building plan or design or its appearance without our prior written consent, and you will, at your sole cost and expense, maintain the interior and exterior décor of the restaurant in a first class condition and in such manner as we may reasonably prescribe from time to time. In addition to any remodeling required by us upon the transfer of the Franchised Business and upon the renewal of this Agreement, as set forth in *Articles 12 and 13*, respectively, you will, upon thirty (30) days' prior notice from us, and at your sole cost and expense, remodel and make all alterations and improvements in and to your Franchised Business as reasonably determined by us to reflect the then-current *Cold Stone Creamery* System specifications, standards, format, image and appearance.

f. A certificate of occupancy for your Franchised Business must be submitted to us approximately six (6) days prior to the day you open your Franchised Business to the public and as otherwise requested by us throughout the Term.

2.4 Signage.

You will acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, signs for advertising and identifying the Franchised Business as a *Cold Stone Creamery* restaurant. All signs must be in accordance with the System Standards, specifications and any local governing body (i.e., city or county governments), as well as any other applicable laws, including the Americans with Disabilities Act ("ADA"), and exterior signage must be the maximum size allowed by the landlord and local governing body. You acknowledge that quality control is essential to protect and promote our Proprietary Marks, standards, and uniform image, and you shall acquire all signs only from approved suppliers. In addition, you shall prominently display on all communications, forms, advertising, business stationery and business cards, and in a sign easily visible to consumers at the Franchised Business, the following words: "INDEPENDENTLY OWNED AND OPERATED."

2.5 Relocation.

a. If you desire to relocate the Franchised Business, you may request our consent upon the following conditions:

(i) Not less than sixty (60) days prior to the desired date of relocation (unless prior notice is impractical because of a required relocation, due to a third-party or our request, in which event notice shall be made as soon as possible), you must make a written request for consent to relocate, describing the reasons for the relocation and providing details respecting any proposed new location.

(ii) Within twenty-one (21) days after receiving your written request, we shall advise you in writing if the proposed new location meets our minimum real estate site requirements as provided in *Section 2.1* and if you have our authorization to proceed with the

relocation. In the event of our denial to proceed with the relocation, you may request an alternative proposed new location pursuant to the provisions of this *Section 2.5*.

(iii) The Term will not be extended in connection with the requested relocation.

b. At the time you request to relocate the Franchised Business, you must also meet each of the following requirements:

(i) You must not be in default under this Agreement or any other agreement or note then in effect between us or you and any affiliate of ours, and no event shall have occurred that, with the giving of notice, the passage of time, or both, would constitute a default under this Agreement;

(ii) You must neither have received more than three (3) notices of default or breach during the Term; nor more than two (2) notices of default or breach during the five (5) years immediately preceding the effective date of the proposed relocation;

(iii) The equipment, fixtures and signage used in connection with the operation of the Franchised Business must either meet our then-existing System specifications and System Standards, or you must agree, within a timeframe required by us, to replace or refurbish such items, and otherwise modify the methods of operation of the Franchised Business at your cost and expense, in order to comply with our System specifications and System Standards then applicable to new franchise owners; and

(iv) You shall have paid to us a Relocation Fee (as defined in *Section 5.14*).

c. If we approve the relocation of your Franchised Business, (i) you and we must execute an amendment to this Agreement indicating the address for your relocated Franchised Business, and (ii) you must open your Franchised Business at the new location within thirty (30) days after you close your Franchised Business at the current Location. Provided that you comply with all of the terms and conditions set forth in this Agreement including this Section 2.5, during the period of time between the closure of your Franchised Business at the current Location, and the opening of the Franchised Business at the approved relocation address, you will not owe the Royalty Fee (as defined in *Section 5.2*).

2.6 Restricted Use of Restaurant Location.

You may not wholly or partially sublet the Location without our prior written consent. The Location may be used only for the operation of a *Cold Stone Creamery* restaurant in compliance with this Agreement and the System Standards. You shall not conduct other businesses or activities at the Location without our prior written consent.

2.7 Not Applicable.

ARTICLE 3. OPERATIONS

3.1 Commencing Operations.

You agree to start operating your *Cold Stone Creamery* restaurant at the Location as of the Effective Date. You acknowledge that before starting operations you must, at your own

expense, do the following (in addition to any other requirements set forth in this Agreement):

- a. Complete a food safety training program at your sole cost and expense. We will accept the certificate for the required program through your local county or state health department or any other nationally recognized food safety program. You must provide us with a copy of your certificate prior to commencing training;
- b. Successfully complete the Training Program described in *Section 4.1*;
- c. Purchase, lease or otherwise acquire from the list of approved sources provided by us all the signage, supplies, equipment, fixtures, inventory and other items necessary to operate the *Cold Stone Creamery* Franchised Business; and
- d. Obtain liability insurance in accordance with the requirements described in *Section 9.5* and provide to us evidence that such insurance has been obtained.

Prior to starting operations of the Franchised Business, you must notify us that you have satisfied all requirements to begin operations, and provide us with such documents as we may reasonably request that show your compliance with all such requirements. If you do not begin operations of your restaurant at the Location as of the Effective Date, then we may terminate this Agreement by giving you notice to that effect.

3.2 Supplies and Promotional Materials; Rollouts.

You agree to sell only those menu items, products and services authorized under the terms of this Agreement and as specified in the Confidential Manual, and you shall use only supplies and ingredients in making those menu items that are in compliance with the standards as set forth in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You shall purchase all such services, supplies and ingredients only from approved vendors and utilize approved distributor(s) as specified in the documents provided by, or approved by, us as they presently exist or may exist in the future. You must purchase promotional materials containing the Proprietary Marks, including stationery, business cards, promotional and advertising materials and similar items, from suppliers approved by us, except that we must first approve all such promotional and advertising materials before you use them, and all such printed materials containing any of the Proprietary Marks shall be accompanied by the words "INDEPENDENTLY OWNED AND OPERATED." Additionally, during the Term, you agree to participate in any Rollout of new products and suppliers, as defined in *Section 9.3*.

3.3 Fixtures, Furnishings, and Equipment.

Unless otherwise approved by us in writing, you will: (1) acquire, repair and replace, as necessary, and maintain in a first class condition throughout the Term, fixtures, furnishings, and equipment to be used in the operation of your Franchised Business that is in accordance with the System Standards, specifications set forth by us in the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future, and with applicable laws including, without limitation, including the Americans with Disabilities Act ("ADA"); and (2) procure the fixtures, furnishings, and equipment from suppliers or vendors previously approved in writing by us.

3.4 Online Presence.

You may not maintain a website, software application, an App (application), social media account (including an account, group or page on Facebook®, Flickr®, Foursquare®, Google+®, Instagram®, LinkedIn®, Pinterest®, Snapchat®, Tumblr®, Twitter®, YouTube®, Vine®, VKontakte or Weibo®), or otherwise maintain a presence or advertise on the Internet or any other public computer network (individually and collectively, “Site”) in connection with the Franchised Business without our prior written approval, which we may withhold in our sole discretion. If we grant you written approval, you agree to submit to us for approval before use, true and correct printouts, of all Site pages you propose to use in connection with the Franchised Business. You understand and agree that our right of approval of all such Site pages is necessitated by the fact that such Site pages will include and be inextricably linked with our Proprietary Marks. If we approve your use of a Site, you may only use Site pages that we have approved. Your Site must conform to all online presence requirements, policies and procedures per our System Standards. You agree to provide all information regarding your online presence that we require. If we grant approval for a Site, you may not use any of the Proprietary Marks on the Site except as we expressly permit. You may not post any of our proprietary, confidential or copyrighted material or information on the Site without our prior written permission. If you wish to modify your approved Site, all proposed modifications must also receive our prior written approval. You explicitly understand that you may not post on any Site (whether yours or someone else’s) any material in which a third-party has any direct or indirect ownership interest (including video clips, photographs, sound bites, copyrighted text, trademarks or service marks, or any other text or image which any third-party may claim intellectual property or other rights in). If we grant approval, you agree to list on the Site any website and social media account maintained by us, and any other information we require in the manner we dictate. You agree to obtain our prior written approval for any Internet domain name, home page address and Uniform Resource Locator. The requirement for our prior approval set forth in this *Section 3.4* will apply to all activities on the Internet or other communications network to be conducted by you, except that you may maintain one (1) or more e-mail addresses and may conduct individual e-mail communications without our prior written approval. You agree to obtain our prior approval as provided above if you propose to send advertising to multiple addressees via e-mail or text messages. You may not use a Site to represent that: (1) the Site is an official account, application, page or group of, or video produced by us; or (2) you are the owner of the *Cold Stone Creamery* brand. On any Site you use in connection with the Franchised Business, you must affirmatively state: (a) that you are a franchisee and the opinion and content being expressed are your own and not that of the *Cold Stone Creamery* brand; and (b) the Location of your Franchised Business.

3.5 Continuing Working Capital Requirement.

You must have Fifteen Thousand Dollars (\$15,000) in working capital at the time you open your Franchised Business.

ARTICLE 4. TRAINING, ASSISTANCE AND START-UP MATERIALS

4.1 Training Program.

We will provide up to two (2) natural persons (individually and collectively, “Trainees”) with a training program designed to inform the participants as to the fundamentals of operating the Franchised Business prior to your opening of the Franchised Business. At minimum, one

(1) of the two (2) natural persons must have an ownership interest in the Franchised Business. The remaining position may be filled by a natural person with an ownership interest in or management responsibility for the Franchised Business. The training program is made up of the “In-Store Training,” which is approximately eighty (80) hours, and “New Owner Training,” which is approximately forty (40) hours (collectively, “Training Program”). You will be solely responsible for all transportation costs, food, lodging and other personal expenses incurred by you and your employees in connection with the Training Program. The New Owner Training will be conducted either online or in person at our sole discretion. If the New Owner Training is conducted in person, it will be at the Franchisor training and education center in Scottsdale, Arizona or at such other location as we may designate at our sole discretion and the In-Store Training will be conducted at a training store in Arizona or such other location as we may designate at our sole discretion. You acknowledge that adequate knowledge regarding the operation of the Franchised Business is essential to the growth of your franchise and to the promotion of the System. Notwithstanding the foregoing, Franchisor has the right to require Franchisee and/or its manager(s) to attend additional training and pay the Additional Training Fee (as defined below), as provided for in this *Section 4.1* and *Section 5.10*, in the event Franchisee is not operating the Franchised Business pursuant to Franchisor’s Systems Standards.

4.2 Employee Training.

You acknowledge that the employees of your *Cold Stone Creamery* Franchised Business are an integral and important part of the Franchised Business, as they will have substantial contact with customers. You alone are responsible, and acknowledge that we have no direct or indirect control and no right or authority, for the hiring, firing, training, supervising, setting the terms and conditions of employment (including employee tasks and work schedules), compensation of your employees, or maintaining employment records, for the safety of your employees and for your employees’ compliance with the System Standards. The System Standards are in place to protect our interests in the System and not for exercising any control over you, your employees or your Franchised Business. You must ensure that your employees who have direct interaction with the public are able to speak and read English and any other language that may be required to adequately meet the public needs in your Franchised Business.

4.3 Additional Programs; Continuing Assistance.

We will provide one (1) of our representatives to come to your restaurant during opening week for up to five (5) days, at our expense, to work with you or your manager on operating your restaurant. We may, in the future, request that Trainees participate in refresher or additional training programs. We may also hold an annual conference to introduce new products, discuss sales and marketing techniques, personnel training, advertising programs, merchandising procedures and other subjects. You may be charged a nominal registration fee for these programs and you will be solely responsible for the cost of transportation, food, lodging and other expenses incurred by Trainees at any such program. Attendance at these additional training programs and conferences is mandatory. They will be held in the metropolitan Phoenix, Arizona area, or at other locations in the United States chosen by us, at our sole discretion.

In addition to the initial training available under *Section 4.1*, we shall provide such periodic evaluations or inspections as we deem appropriate, utilizing our field representatives who may visit the Franchised Business from time to time. The frequency and duration of such

visits to a Franchised Business by our representatives shall be in our sole discretion. Any such evaluation or inspection is not intended to exercise any control over your employees or the daily operation of your Franchised Business. In addition, we will be available on an ongoing basis at our offices for consultation and guidance with respect to the operation and management of the Franchised Business. In addition to the Confidential Manual, we may, but are not required to, from time to time provide you with additional materials relating to the Franchised Business.

4.4 Area Representatives.

We may retain the services of an independent third-party area representative ("Area Representative") to represent us in the area in which the restaurant is located and perform some or all of the services we provide under this Agreement. The services the Area Representative may perform could include: (i) assistance in location selection and evaluating and confirming that the Location meets our minimum site requirements; (ii) advice and guidance regarding lease negotiations; (iii) assistance in opening new *Cold Stone Creamery* locations; (iv) assistance with training on the approved POS System (as defined in *Section 4.6a.*); (v) assistance with marketing advice; (vi) periodic Quality Service Cleanliness and Experience ("QSCE") evaluations; (vii) assistance with collection of the various sums due to us from *Cold Stone Creamery* franchisees; and (viii) coordination with other *Cold Stone Creamery* franchisees in your area and general supervision and monitoring of your Franchised Business on our behalf. You agree in advance to our delegation to an Area Representative of some or all of our obligations, and assignment to an Area Representative of some or all of our rights under this Agreement. You agree that we may require you to submit to an Area Representative any reports you are required to submit to us. Upon our request, you will provide the Area Representative with access, inspection and audit rights to the same extent we have those rights under this Agreement. You are not a third-party beneficiary of any agreement between us and any Area Representative. If we have designated an Area Representative for your restaurant as of the Effective Date, the name and contact information of the Area Representative is shown in *Section 17.3h*. We reserve the right in our sole discretion to remove any Area Representative in your area at any time and to appoint any other Area Representative for your area. We have no obligation to appoint an Area Representative in the area in which your restaurant is located, and we have no obligation to appoint a new Area Representative after we have removed an Area Representative.

You acknowledge that Area Representatives and their owners and employees may not contractually bind us without our express written authorization. You further acknowledge no Area Representative has the authority to: (i) enter into agreements or execute any agreements on our behalf; or (ii) bind us in any way without our prior written consent. Unless expressly authorized and agreed to by us in writing, we disavow any agreements, whether verbal or written, entered into by an Area Representative that in any way attempts to bind us. In any litigation or arbitration proceeding, you agree to waive any claim or defense that an Area Representative is our express or implied agent and such an assertion by you constitutes a material default under this Agreement.

4.5 Confidential Manual.

To protect the reputation and goodwill of the System and to maintain the uniform standards of operation under the Proprietary Marks, you must conduct your business in accordance with our Confidential Manual. The Confidential Manual is confidential and remains our property.

The Operations Manual is available to Franchisee via the Franchisee portal at: <https://portal.kahalamgmt.com>. In the event Franchisee desires to receive a hard copy of the Operations Manual, then Franchisee shall submit such request in writing to training@kahalamgmt.com. Upon such request, a hard copy of the Operations Manual will be mailed to Franchisee via regular mail within approximately forty-five (45) days thereafter.

So that you may benefit from new knowledge gained by us as to improved techniques in the operation of the Franchised Business, we may from time to time revise, amend, restate or supplement the content of the Confidential Manual or other documents provided by, or approved by, us as they presently exist or may exist in the future. You will at all times ensure that your copy of the Confidential Manual is kept current and up to date. In the event of a dispute regarding any of the content of the Confidential Manual, the master copies maintained by us at our corporate office will control.

4.6 Computer Systems; Debit and Credit Card Processing.

a. Prior to the opening of your restaurant, you will be required to acquire, to maintain, and to exclusively use an approved cash register/computer system ("POS System") during the operation of the Franchised Business. You and your employees must complete training for the POS System as we require, and you will be required to use the POS System to produce sales reports, keep inventory control and post sales tax, refunds, credits and allowances and submit that information to us immediately upon our request. You are required to obtain high-speed/always-on internet connection service for your POS System. If high-speed/always-on internet is not available in your area, dial-up Internet access may be used until high-speed/always-on service becomes available in your area. The POS System must be configured so that we will have remote access to the information and data stored in the POS System, which may include inventory information. This access will allow us to exchange/collect data and other information on such bases as we will communicate to you from time to time. You will be required to maintain the POS System in good working order at all times, and to upgrade or update the POS System during the Term as we may require from time to time. It will be your responsibility to enter into contracts for the maintenance, upgrades and updates to the POS System with an approved supplier of such services identified by us on the list of approved vendors and distributors or other notification to you from us advising of suppliers for your market area. You shall also be required to own a personal computer or similar device with access to the Internet that allows you to report your Gross Sales (as defined in *Section 5.2*) online, send and receive e-mails with us, and receive online orders. All *Cold Stone Creamery* franchisees are required to participate in online ordering and delivery programs, which includes entering into one or more participation agreement(s) with one of our affiliates and/or other approved vendor(s) for remote/online order processing services and delivery services under the terms, conditions, and fees established by such vendor for the purpose of developing, implementing, using, maintaining, supporting, updating and/or upgrading technologies in connection with the franchise system, including web-based and/or mobile applications and websites. We may charge, collect for a third-party or require you to remit to a third-party, amounts used to develop and use technologies within the franchise system. This may include amounts paid to third-party delivery service platforms and aggregators. To provide for the inevitable but unpredictable nature to changes to technological needs and opportunities, you agree and acknowledge that we shall have the right to establish, in writing, new standards and fees for developing, implementing, using, maintaining, supporting, updating and/or upgrading technologies in connection with the franchised system. There is no contractual limitation on the frequency and cost of this obligation. We may

require you to upgrade the hardware and software including, but not limited to, your operating system, as reasonably necessary to provide reports and information required by us.

b. You are required to accept debit and credit cards and Gift/Loyalty Cards from consumers at the Franchised Business. You will be required to acquire and maintain an approved debit, credit and Gift/Loyalty Card processing system to use during the operation of the Franchised Business. Additionally, you must utilize our approved third-party Gift/Loyalty payment card processor for processing all such Gift/Loyalty Card transactions, including entering into a Gift Card Participation Agreement with one of our affiliates, or its successors or assigns, or other approved vendor for the Gift/Loyalty Card processing services. The Payment Card Industry (“PCI”) requires all companies that process, store, or transmit credit card information to protect the cardholders’ information by complying with the PCI Data Security Standard (“PCI DSS”). Therefore, as a franchisee who accepts credit cards, you are required to be PCI compliant by following and adhering to PCI DSS, which includes ensuring that your POS System, back office computer (if supplied), and any other device that is plugged into the network is **only** used for business purposes. You are also required to complete an annual questionnaire and quarterly network PCI scans and install a network firewall appliance for logging, tracking, reporting, and security assessment. You are also required to validate with Franchisor that your store is PCI compliant. To show such validation you must send us your Passing Certificate showing your store is PCI compliant, and Franchisor may in its sole discretion require you to install a particular type of firewall (hardware and/or software). You are also required to verify that you have a PCI compliant firewall appliance installed at your location if you process credit cards via high speed internet connectivity. We require your Franchised Business’ POS System, including terminals, computers, and software to be in compliance with the PCI DSS at all times. The PCI DSS is often updated, and you are required to obtain and comply with all updated standards. You must also be PCI compliant in order to obtain cyber liability/data breach insurance coverage.

ARTICLE 5. FEES AND DEPOSITS

You agree to pay each of the following amounts to us via a lump sum, with each and every amount being non-refundable because of our investment in time and money, in addition to any other benefits conferred upon you, including processing your application, reviewing your documents, and providing you with relevant information, unless otherwise expressly specified below, in accordance with the provisions set forth in this *Article 5*. Notwithstanding your designation to the contrary, we have the sole discretion to apply any of your payments, in part or in whole, to any of your indebtedness to us.

5.1 Not Applicable.

5.2 Royalty Fee and Surcharge.

For the period of time commencing on the later of the Effective Date or the date the Franchised Business opens to the public, and for the duration of the Term, you must pay to us a weekly royalty fee equal to six percent (6%) of total Gross Sales (as defined below) (“Royalty Fee”). If we or the landlord of the Location require you to remodel your Franchised Business in such a way that your Franchised Business (including catering) stops offering items to the public, or if there is a disaster at your Franchised Business, such as a fire, flood or damage caused by an act of God, that requires you to temporarily close your Franchised Business, you are not required to pay the Royalty Fee during the period of time of such temporary closure; provided

you provide us or our authorized representative with notice of such temporary closure as soon as reasonably possible, but in no event more than twenty-four (24) hours after such closure begins. Notwithstanding the above, all amounts owed to us under this Agreement prior to the temporary closure shall still be fully due and payable. The temporary closure of your Franchised Business shall not exceed ninety (90) days, but may be extended on a case-by-case basis at our sole discretion and with our prior written approval.

In our sole discretion, we may charge, in addition to the Royalty Fee, a surcharge of up to Ten Dollars (\$10) per week if your Franchised Business is located in a state that imposes additional reporting requirements on a franchisor ("Surcharge"). The Royalty Fee and applicable Surcharge shall be due and payable no later than Monday of each week, which day may be modified by us without prior notice to or approval from you, for the week ending on the preceding Tuesday in which applicable Gross Sales (as defined below) were earned from the Franchised Business. The weekly Royalty Fee and applicable Surcharge shall be paid by electronic funds transfer, as detailed below.

For the period of time commencing on the later of the Effective Date or the date the Franchised Business opens to the public, and for the duration of the Term, you are required to report Gross Sales to our designated accounting office, which as of the Effective Date, is via the Internet at <http://franchisee.kahalamgmt.com>, as set forth in *Section 5.6*. Nothing herein shall prevent Franchisor from electronically polling Franchisee's POS system, restaurant management software, and financial records (or similar tools thereto) daily, or more frequently, by electronic or other remote means and Franchisee hereby grants Franchisor authority to do so. You shall be required to establish a Depository Account (as defined in *Section 5.6*) at the time you execute this Agreement as set forth in *Section 5.6*. Payment of the Royalty Fee, Advertising Fee (as defined in *Section 5.3*), and all other fees due under this Agreement to us shall be made via electronic transfer of funds from the Depository Account. To accomplish this electronic transfer of funds from the Depository Account, you must complete, sign and deliver to us, and maintain for the duration of the Term, a current Electronic Funds Transfer Authorization in a form that we provide.

As used in this Agreement, "Gross Sales" means all sales, money or things of value, received or receivable, directly or indirectly, by Franchisee on account of the Franchised Business, less applicable sales taxes and any properly documented refunds, credits and allowances given by you to customers in accordance with the System Standards, but without deducting any of your income taxes, costs and other expenses. All sales made from catering services must be included in the Gross Sales.

5.3 Advertising Fee.

a. You must pay to us, or directly into a national advertising fund or also any regional advertising funds, as designated by us at our sole discretion, (individually and collectively, "Advertising Fund") a weekly advertising fee of three percent (3%) of the Gross Sales for the preceding week ("Advertising Fee"). Upon thirty (30) days' notice by us to you, we may unilaterally increase the Advertising Fee from its current level not to exceed four percent (4%) of your weekly Gross Sales. The Advertising Fee shall be due and payable with the Royalty Fee under *Section 5.2*. The Advertising Fee is our property and may be deposited by us into our general operating account.

b. The Advertising Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* name, System, products and services. We are entitled to deduct, free of charge the following from the Advertising Fund: (i) reimbursement of expenses, overhead, and employee salaries for services provided; and (ii) rent for office space provided to the Advertising Fund. We have no fiduciary obligation to you in connection with the operation of any Advertising Fund. No interest on an unexpended Advertising Fee shall be imputed or otherwise charged for the benefit of, or payable to, you. You understand and agree that the only obligations we have regarding the collection and spending of the Advertising Fee or the administration of the Advertising Fund are the express contractual obligations in this *Section 5.3*. We are not acting as a trustee, fiduciary, agent or in any other special capacity. We do not give any representation or warranty regarding the quality or effectiveness of the advertising and marketing activities funded by the Advertising Fee or of the Advertising Fund, and we will have no liability to you with respect to how these funds are spent.

c. Two percent (2%) of your Gross Sales is deposited into the national Advertising Fund; and, if a cooperative exists where your Franchised Business is located, the remaining one percent (1%) of your Gross Sales is deposited into the regional Advertising Fund for your cooperative, if no cooperative exists where your Franchised Business is located, your Franchised Business will be considered a “single store” cooperative and you must contribute the remaining one percent (1%) of your Gross Sales to the regional Advertising Fund for your store. Your own local marketing and advertising should be developed to maximize your particular customer base.

5.4 Cooperative Advertising.

a. We encourage the formation and operation of franchisee cooperative advertising associations (each an “Association”). Each Association will help coordinate advertising, marketing efforts and programs, and attempt to maximize the efficient use of local advertising media. If an Association is formed for your region, you must contribute financially to the Association as required by us. Failure to do so will be deemed a breach of this Agreement and you may also, in Franchisor’s sole discretion, lose your right to vote as to decisions regarding advertising and marketing efforts and programs.

b. Upon our request, you will assist in establishing an Association or in deciding how to allocate all or part of any Fund contribution we elect to distribute to the Association. We will decide in our sole discretion whether to make contributions from the Fund to an Association and how much to contribute. We reserve the right to establish general standards concerning the operation of an Association, advertising agencies retained by an Association, and advertising programs conducted by an Association. Notwithstanding anything to the contrary, no Association decision will be made or advertising collections spent without our prior written approval.

5.5 Not Applicable.

5.6 Depository Account; Payment Procedures.

You are required to establish, at the time you execute this Agreement, and maintain for the duration of the Term a depository account (“Depository Account”) at a bank or other federally insured financial institution (“Depository”). You will initially deposit no less than Three Thousand Dollars (\$3,000) into the Depository Account and are required to maintain a balance

of at least Three Thousand Dollars (\$3,000) in the Depository Account at all times during the Term by replenishing the Depository Account to at minimum Three Thousand Dollars (\$3,000) after any withdrawals. We shall not be responsible for any bank service charges incurred by you which result from the withdrawal of funds from your Depository Account.

On Wednesday of each week, you must submit a report to us regarding the weekly period which ended on the preceding Tuesday, including details on Gross Sales and other statistical data as provided in this Agreement, Confidential Manual, or as otherwise specified from time to time by us. We will withdraw funds electronically on Monday of each week from the Depository Account. The withdrawals are based upon the figures you report and constitute the Royalty Fee and Advertising Fee as described in *Sections 5.2 and 5.3*. If you do not submit a report on any Wednesday, we may estimate the Royalty Fee and Advertising Fee based upon prior reports and withdraw the estimated amounts up to the entire Three Thousand Dollars (\$3,000). We will return or credit back to you, in our sole discretion, any overage within thirty (30) days after our receipt of your report(s). We shall not be responsible to you for any interest charges for any overage collected due to your failure to timely report your sales. You shall instruct the Depository to disburse each week to our designated bank, via electronic funds transfer by the close of business on Monday (or preceding banking business day, if Monday is a bank holiday), the weekly Royalty Fee and Advertising Fee and other fees due for that week, which week shall end on the preceding Sunday. The days of the week specified above may be modified by us without prior notice to or approval from you.

We will also withdraw the monthly POS Help Desk Phone Support Maintenance Fee (as defined in *Section 5.20*) from the Depository Account on the last Thursday of each month. Under no circumstances shall such access to the Depository Account be deemed control or joint control of the Depository Account by us.

Subject to reasonable advance notice for non-recurring payment amounts, we have the right to debit your Depository Account, or any other depository account you have with us, according to the terms of your Electronic Funds Transfer Authorization for any of the payments described in this Agreement. If you do not pay all amounts due by the due date, we may suspend our and our affiliates' services and support until your payment default is cured. Repeated failure to pay all amounts when due, whether or not the defaults are subsequently cured, may be cause for termination under *Article 14*.

You shall pay us Fifty Dollars (\$50) for each electronic funds transfer attempted from your Depository Account pursuant to this *Section 5.6* that is returned for non-sufficient funds. You shall also reimburse us for all other costs and expenses incurred by us in collecting or attempting to collect funds due to us from the Depository Account (for example, without limitation, charges for non-sufficient funds, uncollected funds or other discrepancies in deposits or maintenance of the Depository Account balance in accordance with the terms hereof). The Depository Account shall be established and maintained solely for the purposes set forth in this *Section 5.6* and any other fees authorized under this Agreement and any other agreements between you and us or any of our affiliates.

5.7 Lease Review Fee.

If you request us or one of our designated affiliates to complete a Lease Review, you are required to pay us or our designated affiliate a lease review fee in the amount of Two Thousand

Five Hundred Dollars (\$2,500) ("Lease Review Fee") for reviewing and providing comments to your proposed lease.

5.8 Lease Guarantee Fee.

If, in order to obtain the lease agreement for the Location of your Franchised Business, the landlord requires you to obtain a lease guarantee, and we or one of our affiliates agree to serve as such guarantor, you will pay us or our affiliate a fee in the amount of ten percent (10%) of the total amount of the rental obligations being guaranteed under the lease during its term up to a maximum fee of Ten Thousand Dollars (\$10,000) ("Lease Guarantee Fee"). The Lease Guarantee Fee will be due and payable upon our or our affiliate's execution of the applicable lease guarantee agreement with the landlord. Neither we nor any of our affiliates are required to serve as a guarantor of your lease for the Location of your Franchised Business; rather, the decision of whether to serve as a guarantor shall be made in our sole discretion. In the event that you request us or our affiliate to either agree to be the tenant under the lease or execute a separate guarantee to the lease, and you pay the required Lease Guarantee Fee, you agree and acknowledge that payment of the Lease Guarantee Fee shall not, in any manner, be deemed as an insurance policy which limits your liability in connection with the Franchised Business, including any and all financial liability under the sublease or lease related to the Location. You further agree and acknowledge that our or our affiliate's agreement to act as tenant or guarantor under the lease, and your payment of the Lease Guarantee Fee to us or our affiliate, does not result in the assumption or transfer of your liability, in connection with the Franchised Business, by or to us or our affiliate.

5.9 Additional Persons Training Fee.

The training of two (2) individuals is included in the fee as set forth in *Section 5.13*. If you desire to have more than two (2) people attend the Training Program, you must pay an additional training fee of One Thousand Dollars (\$1,000) for each such person to attend the In-Store Training and an additional Seven Hundred Fifty Dollars (\$750) for each such person to attend the New Owner Training (individually and collectively, "Additional Persons Training Fee") (see *Section 4.1*).

5.10 Additional Training Fee.

If, after attending the Training Program, you desire to receive additional training, we will provide additional training time to you for a fee of Three Hundred Dollars (\$300) per person per day. Such additional training will be at a time reasonably agreed to by you and us, and will be conducted at Franchisor's headquarters, online, or such other location as we may designate in our sole discretion. You will be solely responsible for all transportation costs and expenses, food, lodging and other personal costs and expenses incurred by you and your employees in connection with this additional training.

5.11 Document Administration Fee.

A document administration fee of Five Hundred Dollars (\$500) ("Document Administration Fee") is payable to us when we must prepare an amendment to your franchise documents (see *Section 12.3g*).

5.12 Renewal Franchise Fee.

A renewal franchise fee of fifty percent (50%) of the then-current initial franchise fee not including any discounts or reductions ("Renewal Franchise Fee") is payable to us when you renew this Agreement (see *Section 13.i*).

5.13 Transfer Franchise Fee.

a. A transfer franchise fee and other applicable initial fees, as set forth in the Consent to Transfer and Release Agreement executed contemporaneously herewith and to which Franchisee is also a party, are payable to us when you sign this Agreement.

b. If, following the Effective Date, Franchisee desires to complete a Full Transfer (as defined in *Section 12.1.a.1.*) of this Agreement, we will require the Potential Transferee (as defined in *Section 12.1.c.*) to pay us Seventeen Thousand Five Hundred Dollars (\$17,500) ("Transfer Franchise Fee") as one of the conditions for Franchisee to receive Franchisor's consent for such Transfer (as required in *Section 12.1.b.*).

5.14 Relocation Fee.

A relocation fee of Five Hundred Dollars (\$500) ("Relocation Fee") is payable to us when you sign the amendment to your Franchise Agreement for your relocation (see *Section 2.5*).

5.15 Not Applicable.

5.16 Annual Meeting Registration Fee.

If we hold an annual meeting ("Meeting"), the Meeting may be held at various locations throughout the United States and/or online as we may designate in our sole discretion. Because the planning and funding of the Meeting must be done well in advance and requires a substantial financial commitment, we have the right to debit your Depository Account for up to One Thousand Dollars (\$1,000) for the Meeting registration fee at any time sixty (60) to ninety (90) days prior to the first day of the Meeting. This fee may be debited from your account (even if you do not attend the Meeting). You will also be solely responsible for all costs incidental to attending the Meeting. If you do not attend the Meeting, we will make available to you one (1) full set of the substantive materials that were presented at the Meeting.

5.17 Late Report; Interest; Late Charge; Non-Sufficient Funds Fee; Breaching Royalties; Draft Draw Charge.

If you fail to submit to us any financial statements, forms, reports or records required to be provided under this Agreement by its due date, including your weekly Gross Sales report for calculating your Royalty Fee and Advertising Fee, you must pay to us a late report charge of One Hundred Dollars (\$100) per week or part thereof.

If any fees or assessments due under this Agreement, including the Royalty Fee and Advertising Fee, are not paid when due, interest shall accrue on the late payment (from the date payment is due until the date payment is made) at the Default Rate, which amount, plus a late charge of five percent (5%) of the unpaid amount, or One Hundred Dollars (\$100), whichever is greater, shall be added to each late payment. For any payments made by you to us under this

Agreement which are returned for non-sufficient funds of a processed check, you shall be charged a non-sufficient funds fee of Twenty-Five Dollars (\$25) per occurrence. Pursuant to *Section 5.6*, for each electronic funds transfer that is attempted from the Depository Account but returned for non-sufficient funds, you shall be charged a Fifty Dollars (\$50) non-sufficient funds fee per occurrence.

Franchisor has the absolute right to charge Franchisee the greater of: three (3) times the fixed Royalty Fee; or, if on a percentage Royalty Fee, the Royalty Fee will be increased up to eighteen percent (18%) of Gross Sales, with respect to any period during which Franchisee is in breach or default of its/his/her obligations under this Agreement. The Royalty Fees paid or owing to Franchisor with respect to the period during which Franchisee is in breach or default are referred to as "Breaching Royalties." Breaching Royalties will be charged for a minimum fourteen (14) day period, regardless of the length of the actual breach or default.

If you fail to provide us any necessary information or documentation with respect to our practice of drawing drafts against your bank accounts, you must pay us a draft draw charge in the amount of One Hundred Dollars (\$100) per day that that failure continues.

If, as a result of your failure to remit payments required under any provision of this Agreement, we retain an attorney or a collection agency to collect such payments, you must pay all collection costs and expenses, including reasonable attorneys' fees and expenses, whether or not legal proceedings are initiated. Our rights under this *Section 5.17* are in addition to any other rights or remedies that we may have as a result of your default under this Agreement.

5.18 Audit Fees.

For the purpose of this *Section 5.18*, we have the right, at any time during business hours, and with or without prior notice to you, to inspect and audit, or cause to be inspected and audited, the business records, cash control devices, bookkeeping and accounting records, sales and income tax records and returns and other records of the Franchised Business and your entity's books and records.

You hereby grant us access to any computers utilized by you for such purposes and we will have the ability, at all times, via modem, to obtain daily and weekly sales reports and other financial records that the POS System provides. You will fully cooperate with our representatives, the Area Representative, if applicable, and independent accountants hired by us to conduct any such inspection or audit. In addition, in the event such inspection or audit is made necessary by your failure to furnish reports, supporting records or other information, as required herein, or to furnish such reports, records or information on a timely basis, or if an understatement of Gross Sales, resulting in an underpayment of the Royalty Fee or Advertising Fee for the period of any audit (which shall not be for less than one (1) month) is determined by any such audit or inspection to be five percent (5%) or greater, you will pay to us, immediately after receipt of the inspection or audit report, any additional Royalty Fee and Advertising Fee and other amounts due as a result of any such understatement, plus interest at the Default Rate from the date originally due until the date of payment and you must reimburse us for such audit or inspection, including the charges of any independent accountants, and the travel expenses, room, board and compensation of such accountants and our employees.

The remedies in this *Section 5.18* will be in addition to all other remedies and rights available to us under this Agreement or otherwise available.

5.19 Data Fee.

We may require you to pay us or a third-party we designate a data fee of up to Seventy-Five Dollars (\$75) per month for polling or collecting data from your POS System.

5.20 POS Help Desk Phone Support Maintenance Service Fee.

You must purchase from us a help desk phone support maintenance service that covers phone support for both the software and hardware of your POS System that is supported by the help desk, the cost of which is currently Sixty Dollars (\$60) monthly, and subject to increase upon thirty (30) days' notice ("POS Help Desk Phone Support Maintenance Service Fee"). The POS Help Desk Phone Support Maintenance Service Fee shall be paid by electronic funds transfer, as detailed in *Section 5.6*, and debited from your account on the last Thursday of each month.

5.21 New Supplier Approval Fee.

All requests for approving new or alternative suppliers must be submitted in writing by you or the supplier to our Purchasing Department. Each request will be reviewed in accordance with our then-current procedures and the supplier must meet our then-current requirements, which may include that our representatives be allowed to inspect the facilities of the proposed supplier, and that samples from the proposed supplier be delivered, at no charge, either to us or to our designee for testing. A charge not to exceed the amounts incurred in connection with the inspection and the test, with such cumulative amount not to exceed Five Thousand Dollars (\$5,000), must be paid by the supplier. If approved, in our sole discretion, we will notify you or the supplier in writing within sixty (60) days after our receipt of an approval request. You must not offer or sell in any manner any of the proposed alternative supplier's products until you receive our written approval of the proposed alternative supplier.

5.22 Reserved.

5.23 Non-participation Fee.

You must offer and sell at the Location of the Franchised Business all products designated by us, consistent with our System Standards. In addition, you must immediately incorporate into the Franchised Business all new products and services designated by us and must fully participate in all local, regional, seasonal, promotional and other programs, initiatives and campaigns adopted by us in which we require you to participate. If you fail or refuse to fully participate in any such program, initiative or campaign, you may, in our sole discretion, be required to pay a non-participation fee of One Hundred Dollars (\$100) per day that you are not in compliance ("Non-participation Fee").

5.24 Not Applicable.

5.25 through 5.35 Not Applicable.

ARTICLE 6. PROPRIETARY MARKS

6.1 Ownership and Right to Use.

We warrant to you that:

[store #]
[doc #]

- a. We are the owner of all right, title and interest in and to the Proprietary Marks;
- b. We have granted to you the personal, non-exclusive, limited, revocable right and license to use the Proprietary Marks in connection with the operation of your Franchised Business;
- c. We have taken and will take all steps reasonably necessary to preserve and protect our rights in the Proprietary Marks; and
- d. We will only permit you to use the Proprietary Marks in accordance with the System Standards.

6.2 Covenants of Franchise Owners.

a. You acknowledge our ownership of the Proprietary Marks, and you agree that during the Term and after its expiration or termination, you will not directly or indirectly contest, or aid in contesting, the validity of the Proprietary Marks or our ownership of the Proprietary Marks, nor will you take any action which might impair or prejudice our ownership of the Proprietary Marks. You shall not, directly or indirectly, apply to register, register or otherwise seek to own or control any of the Proprietary Marks, or any confusingly similar mark thereto, whether in whole or in part, in any place or jurisdiction either within or outside of the United States; nor will you assist any others to do so.

b. You agree that the license granted pursuant to this Agreement authorizes you to use the Proprietary Marks solely in connection with the Franchised Business only at the Location, and for no other purpose. You have no right to license or sublicense any aspect of the System Standards or any of the Proprietary Marks.

c. You agree to use the Proprietary Marks only in the manner and to the extent specifically licensed by this Agreement. You further agree that any unauthorized use or continued use of the Proprietary Marks after the termination or expiration of this Agreement will constitute irreparable harm and is subject to injunctive relief.

d. The license granted by this Agreement includes only the Proprietary Marks, now existing or which may exist in the future. This license does not include the right to use any other trademarks, service marks, trade name or trade dress owned by us or our licensor anywhere in the world. You agree that any and all goodwill associated with and identified by your use of the Proprietary Marks will inure directly and exclusively to our benefit, and that, on the expiration or termination of this Agreement, no monetary amount will be due or payable to you as a result of any goodwill associated with your ownership or operation of the Franchised Business.

6.3 Limitations on Franchisee's Use of Proprietary Marks.

To develop and maintain high and uniform standards of quality and service and thereby protect our reputation and goodwill and that of the System, you agree:

a. To operate and advertise the Franchised Business only under the Proprietary Marks authorized by us;

b. To adopt and use the Proprietary Marks licensed by this Agreement solely in the manner prescribed by us;

c. That your corporate, partnership or other entity name including trade name, will not include any of the Proprietary Marks, in whole or in part, or any terms confusingly similar thereto, unless first authorized by us in writing;

d. To submit all advertising, promotional materials and all printed matter, including stationery, business cards, and any materials to be used on the Internet to us for our written approval before you use any of these items; and

e. That we may from time to time change or modify the System Standards, including modifying existing Proprietary Marks or adopting new marks. You agree, at your own expense, to adopt, use and display any such new or modified Proprietary Marks within ninety (90) days after notification from us. However, if we require you to modify or discontinue use of our proprietary information or use other information or rights in its place at any time other than upon renewal of this Agreement, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the proprietary information infringed upon a third-party's rights, we or our affiliate will bear the actual, direct, and reasonable costs of those modifications or discontinuances. The rights granted to Franchisee under this Section shall be Franchisee's sole and exclusive remedy for any infringement by any part of the System.

Upon your abandonment of the Franchised Business (whether voluntary or involuntary), termination or expiration of this Agreement, you must immediately cease to use, in any manner whatsoever, any of the Proprietary Marks or any other marks which, in whole or in part, may be confusingly similar to any of the Proprietary Marks.

6.4 Non-Exclusive License of Proprietary Marks.

You understand and agree that your license to use the Proprietary Marks is non-exclusive; that we, in our sole discretion, can grant to other franchisees the right to use the Proprietary Marks and obtain the benefits of the System Standards, in addition to the licenses and rights granted to you under this Agreement; and that we or our affiliates may develop and license other proprietary marks in conjunction with concepts other than the *Cold Stone Creamery* concept, on any terms and conditions we deem advisable. You will have no right or interest in any such other licenses, proprietary marks or systems.

6.5 Notification of Infringement and Claims.

You agree that you will notify us immediately of any apparent infringement of, or challenge to your use of any of the Proprietary Marks, or any claim by any person of any rights in any of the Proprietary Marks. You agree that you will not communicate with any person, other than us and our legal counsel, in connection with any such infringement, challenge or claim. We will have the sole discretion to take such action as we may deem appropriate to protect the Proprietary Marks and the exclusive right to control any litigation, United States Patent and Trademark Office proceeding, or other proceeding arising out of any such infringement, challenge, claim or otherwise relating to any Proprietary Marks. You agree to execute any and all instruments and documents, render such assistance, and do such acts and things as may, in the opinion of our counsel, be necessary or advisable to protect and maintain

our interests in connection with any such litigation or proceeding, or to otherwise protect and maintain our interests in the Proprietary Marks.

ARTICLE 7. TRADE SECRETS AND PROPRIETARY INFORMATION

7.1 Innovations.

During the Term, you and your principals, officers, managers and employees may conceive, invent, create, design or develop various ideas, techniques, methods, processes and procedures, recipes, formulae, products, packaging or other concepts and features relating to restaurant operations, business practices or the manufacturing, production, marketing and sale of super-premium ice cream, cakes, pies, smoothies, shakes, specialty beverages, other dessert with frozen confections, and other food and beverage items, and related goods now in existence or later developed, adopted, or improved in connection with the Franchised Business (individually and collectively, "Innovations"). You, without further consideration, hereby assign any and all of your rights, title and interest in the Innovations, including any intellectual property rights, to us, and also agree to cooperate with us and our counsel in the protection of the Innovations, including the perfecting of title thereto in us. In addition, you will require all of your principals, officers, managers and employees to sign an agreement in the form set forth in our System Standards and incorporated herein by reference ("Confidentiality Agreement"), and shall be liable to us for obligating your principals, officers, managers and employees to assign all of their rights, title and interest to the Innovations to us and requiring your principals, officers, managers and employees to cooperate in obtaining, protecting, maintaining and enforcing our right, title and interest in the Innovations.

7.2 Confidentiality Agreement.

a. In connection with the operation of the Franchised Business, you will from time to time receive, have access to, or learn certain information and materials that are proprietary to us or our affiliate. You and any person signing this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*" agree that you will keep confidential, and will not use for your own purposes, nor supply or divulge to any other person, any of our Trade Secrets, including our methods of operation, processes, techniques, formulae and procedures, information a reasonable person would believe to be confidential and any other proprietary information regardless of whether such is expressly marked as confidential ("Confidential Information"). You acknowledge that much of the information imparted to you by us is confidential, constitutes Trade Secrets, are unique to us, and remains our sole exclusive property. Our Confidential Information includes the following:

1. The Confidential Manual and any amendments thereto;
2. Ingredients, recipes, and methods of preparation of food products;
3. Methods of operation of *Cold Stone Creamery* restaurants;
4. Information about products, services, or procedures before they become public knowledge;
5. Information which relates in any manner to our business or the System Standards, whether oral or reduced to writing, and which is not generally known to, or readily

ascertainable by, other persons who might derive economic benefit from its disclosure or use; and

6. Any other information which may be imparted to you from time to time and designated by us as confidential.

b. You and any person signing this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*" acknowledge and agree that the Confidential Information and any business goodwill of the Franchised Business is our sole and exclusive property, and that you will preserve the confidentiality thereof. Upon termination or expiration of this Agreement, all items, records or documentation recording or incorporating any Confidential Information, including any copies thereof, will be immediately turned over by you to us or our authorized representative.

c. You agree to take all steps necessary, at your own expense, to protect the Confidential Information, including our Trade Secrets, and to adopt and implement all reasonable procedures prescribed by us from time to time to prevent the unauthorized use or disclosure of any of the Confidential Information. We require that all of your executive officers, agents, directors, shareholders, trustees, beneficiaries, partners and managers who may or are likely to obtain knowledge concerning the Proprietary Information (and who do not sign this Agreement under the heading "Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*") sign the Confidentiality Agreement binding such person to preserve the confidentiality of the Confidential Information as part of the terms and conditions of such person's employment or association with you. You must obtain a Confidentiality Agreement signed by any such person prior to or at the same time that you begin employment of, or association with, that person. This will be a continuing obligation on your part throughout the Term. You must keep each original signed Confidentiality Agreement and provide us with a copy of each Confidentiality Agreement when requested by us or our authorized representative.

d. Notwithstanding the above, Confidential Information shall not include information which you can reasonably prove: (i) entered the public domain through no breach by you or your affiliate of any duty of confidentiality, or (ii) you received our prior express written consent to disclose in the manner in which you disclosed it.

e. If anyone under a Confidentiality Agreement is legally compelled or required by a regulatory body to disclose any Confidential Information, he/she/it will notify us as soon as possible and will use his/her/its best efforts to obtain, and give us an opportunity to obtain, appropriate assurances of confidential treatment.

f. The requirements under this *Section 7.2* will remain in full force and effect during the Term and after termination or expiration of this Agreement.

ARTICLE 8. RELATIONSHIP OF THE PARTIES AND INDEMNIFICATION

8.1 Relationship of the Parties.

You and we agree that this Agreement does not create any fiduciary or employment relationship between you, or any of your employees, and us, that you are an independent contractor, and that nothing in this Agreement is intended to make either you or us a general or special agent, legal representative, subsidiary, joint venture, partner, employee or servant of the

other for any purpose. You shall not enter into any agreement on behalf of or otherwise bind us for any purpose.

Should it ever be asserted that Franchisor is the employer, joint employer or co-employer of any of your or your affiliate's employees in any private or government investigation, action, proceeding, arbitration, or other setting, you irrevocably agree to assist Franchisor in defending said allegation, including (if necessary) appearing at any venue requested by Franchisor to testify on our behalf (and, as may be necessary, submitting itself to depositions, other appearances and/or preparing affidavits dismissive of any allegation that Franchisor is the employer, joint employer or co-employer of any of your employees).

8.2 Indemnification of Franchisor.

You agree to indemnify, defend and hold us and our affiliates (including our parent and subsidiary companies, current, past and future predecessors, successors and assigns), and each of our shareholders, owners, directors, officers, members, managers, partners, joint venturers, attorneys, employees, contractors, agents, representatives, guarantors, insurers, spouses, heirs, executors, trustees and estates (collectively with us, "Indemnified Parties") harmless for, from and against any and all claims, liabilities, causes of action, suits, debts, duties, accounts, covenants, contracts, agreements, promises, taxes, demands, obligations, costs and expenses, including reasonable attorneys' fees, damages, judgments, and proceedings, of every kind and nature whatsoever, whether actual or threatened, in law or equity, or otherwise, under local, state or federal law including, without limitation the Americans with Disabilities Act ("ADA"), or the law of any other applicable jurisdiction (individually and collectively, "Claims") suffered or incurred by any of the Indemnified Parties arising out of or relating to your construction, ownership, marketing, Promotions (as defined in *Article 10*), operation, including your failure to comply with PCI DSS or any law, statute, regulation, order, rule, or ordinance, or management of the Franchised Business, except for Claims held to have resulted solely from our gross negligence or willful misconduct. Notwithstanding the foregoing, we will have the right, at our option, to defend any Claim, but you must reimburse us upon demand for the costs and expenses of such defense. You shall immediately give us notice of any demand, investigation, written inquiry, action, suit, proceeding, or claim in any way related to us or the *Cold Stone Creamery* brand.

8.3 Indemnification of Franchisee.

We agree to indemnify, defend and hold you and your affiliates, and their shareholders, directors, officers, members, managers, partners, employees, agents, successors and assignees harmless for, from and against any and all Claims, arising out of any Claim of infringement or unfair competition in connection with your authorized use of the Proprietary Marks or Confidential Information, provided that such use is in accordance with the provisions of this Agreement. However, if we require you to modify or discontinue use of our Proprietary Marks or Confidential Information or use other information or rights in its place at any time other than upon renewal of this Agreement, and that requirement is a direct result of proceedings or litigation that determined that our and our franchisees' use of the Proprietary Marks or Confidential Information infringed upon a third-party's rights, we will bear the cost of those modifications or discontinuances as set forth in this Agreement.

8.4 Special Power of Attorney.

You agree to cooperate with and assist us as we may request from time to time to obtain, protect, maintain or enforce our intellectual property and Proprietary Marks, including executing documents and appearing as a witness. You hereby appoint us as your attorney-of-fact and hereby grant us an irrevocable Special Power of Attorney, coupled with an interest, with full power and authority for the purpose of executing documents or taking such action as necessary or appropriate as you might or could do if personally present, hereby ratifying all that we, as your attorney-in-fact, shall lawfully do or cause to be done by virtue of this Special Power of Attorney to obtain, protect, maintain or enforce our intellectual property and Proprietary Marks if we are, for any reason, unable to obtain your cooperation or assistance. The Special Power of Attorney granted by this *Section 8.4*, shall survive your dissolution, death, incompetence or disability and the termination or expiration of this Agreement.

ARTICLE 9. OPERATING STANDARDS AND DUTIES OF FRANCHISE OWNER

9.1 Compliance with System Standards and Confidential Manual.

You understand and acknowledge that every detail of the operation of the Franchised Business is important in order to develop and maintain high and uniform standards of quality, cleanliness, appearance, service, facilities and techniques; to increase the demand for the System; and to protect our reputation and goodwill and that of other *Cold Stone Creamery* franchisees. You also acknowledge that the operation of the Franchised Business is your sole responsibility, and that neither we nor our affiliates have any responsibility to obtain customers for you. The System Standards will constitute provisions of this Agreement as if fully set forth herein.

9.2 Authorized Products and Services.

a. You agree that you will not, without our prior written approval, offer at the Location any menu items, beverages, products or services that are not authorized by us for the Franchised Business, as set forth in the System Standards.

b. You have complete discretion in establishing the minimum price you charge for your products. Although we may suggest pricing strategy, you will have the final pricing decision.

c. Notwithstanding the terms of *Section 9.2b.*, we may conduct periodic promotional campaigns during which a specified product or products are promoted at a specified price. During the promotional period, you may not charge your customers more than the specified promotional price, although you may charge less than the promotional price.

d. We may conduct new marketing, research and development, branding and operational program tests, which will generally be conducted with experienced, existing franchisees and may include incentives and other rights that are not available to all franchisees.

e. You hereby consent to third-party vendors, suppliers and distributors sharing with us any and all information, reports, invoices and related documentation covering and otherwise detailing your purchases for the Franchised Business, and to us sharing your contact information with them when we reasonably believe they may offer you a desired benefit.

f. You are required to accept debit and credit cards (including Visa®, MASTERCARD® and AMERICAN EXPRESS®) and Gift/Loyalty Cards from consumers at the Franchised Business. Prior to the opening of your Franchised Business, you are required to acquire, and maintain during the Term, an approved debit, credit and Gift/Loyalty Card processing system ("Card Processing System") to use during the operation of the Franchised Business. Additionally, you must utilize our approved third-party payment card processor, as identified in the System Standards, for processing all Card Processing System transactions.

9.3 Specifications and Standards for Supplies; Approved Suppliers; Rollouts.

a. You must purchase or otherwise acquire certain proprietary or required equipment and supplies utilized in the Franchised Business only from our designated approved distributors or suppliers. If, during the Term, we change designated approved distributors or suppliers for any of the proprietary or required equipment and supplies utilized in the Franchised Business, you shall change to the new designated approved distributor or supplier within sixty (60) days after written notification of such change from us.

You acknowledge Franchisor and/or its affiliates has the right to receive commissions, volume discounts, purchase discounts, performance payments, bonuses, rebates, marketing and advertising allowances, co-op advertising, administrative fees, enhancements, price discounts, economic benefits and/or other payments ("Payments") based upon the actual purchases of the foods, beverages, and other products by Franchisor, its affiliates, area developers and franchisees from suppliers. Any such Payments made to Franchisor may be retained by Franchisor or distributed to franchisees in such amounts and using such allocation methods as Franchisor deems appropriate, in its sole discretion. All Payments received from a supplier for a designated purpose (such as participation at an annual convention, etc.) will be spent in accordance with the supplier's designated purpose.

b. If you desire to purchase or otherwise acquire any equipment, supplies or inventory items required by the System Standards but not previously approved by us, or from sources not previously approved by us, you must submit to us sufficient specifications, photographs, drawings and other information sufficient to allow us to determine whether such equipment, supplies or inventory items meet our System Standards. We may require that our representatives be allowed to inspect the facilities of the proposed supplier and revoke its approval upon the supplier's failure to meet any of our then-current minimum System Standards. We may also require that samples from the proposed supplier be delivered, at no charge to us, either to us or to our designee for testing. A charge not to exceed the reasonable cost and expense of the inspection and the actual cost and expense of the test must be paid to us either by you or by the proposed supplier. We will notify you within sixty (60) days after your request of our approval or disapproval of the proposed product or supplier, with such determination to be made at our sole discretion. You acknowledge and agree that our approval of any item or supplier of equipment, supplies or inventory not previously approved by us will not, in and of itself, make the supplier of that item an approved supplier for other *Cold Stone Creamery* franchise owners in the System. We may, in our sole discretion, at any time and from time to time, re-inspect the facilities and products of any approved supplier and revoke its approval upon the supplier's failure to meet any of our then-current System Standards. If you receive a notice of revocation from us, you must immediately stop selling disapproved products and purchasing from the disapproved supplier.

c. We will provide to you a list of all recommended and required items of equipment, fixtures, supplies, smallwares and interior decor. This list will be included in the System Standards.

d. At any time and from time to time, we may in our sole option engage in new product rollouts to add to or change the menu items offered for sale in the Franchised Business and the ingredients or supplier of ingredients utilized in the preparation of the menu items sold in the Franchised Business ("Rollout"). If we engage in a Rollout, you shall participate in the changes that are the subject of such Rollout, including offering the new menu items, changing the menu items, changing to the new supplier of the ingredients utilized in the preparation of the menu items, and changing to the new ingredients utilized in the preparation of the menu items. If we engage in a Rollout, we will notify you of the details of the Rollout and provide you sixty (60) days from said notification to take the applicable actions required by the Rollout.

9.4 Compliance with Legal Requirements and Good Business Practices.

You must, at your sole expense, operate the Franchised Business in full compliance with all applicable Federal, state and local statutes, laws, ordinances and regulations, including health and safety regulations, food and drug laws, disability laws, labor and employment laws and data privacy laws, as may be amended, supplemented or enacted from time to time. You must pay all costs and expenses incurred by, and in the conduct of, the Franchised Business, including all rent, salaries, taxes (excluding our income taxes), disbursements, license or permit fees, insurance premiums, traveling expenses and any other business expenses. If you receive any demand, action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality relating to your Franchised Business, you must immediately notify us, and in no event, later than three (3) days after your receipt. Any such notice must be accompanied by a copy of the demand, complaint, order, writ, injunction, award, decree or other similar document. You must, in all dealings with your employees, customers, suppliers, the public and us adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business practice that may be injurious to the System or the goodwill associated with the Proprietary Marks.

9.5 Maintenance of Insurance.

At all times during the Term, you must maintain in full force and effect at least the minimum types and amounts of insurance coverage that we require, under one (1) or more policies of insurance (each of which shall be primary coverage and shall not be contributory or secondary to any other coverage maintained by us), insured under the particular name of the Franchisee and for the particular address of the Franchised Business.

Such insurance policies must be issued by insurers acceptable to us having an A.M. Best's financial strength rating of at minimum "A-VIII," and grant us authority to obtain copies of your certificate of insurance directly from the carrier or your agent/broker. The particular requirements of our minimum insurance coverage will be made available to you throughout your term. Currently, the general liability insurance required by this Agreement must: (i) name Kahala Franchising, L.L.C. as the certificate holder; (ii) name Kahala Franchising, L.L.C. and MTY Franchising USA, Inc. and their parents, subsidiaries, affiliates, officers, directors, and employees as additional insureds; (iii) contain a waiver by the insurance carrier of all subrogation rights against us and our affiliates and our affiliates' respective officers, directors and employees for casualty losses; (iv) indicate the address of the Franchised Business being

insured; and (v) provide that we will receive a copy, via an endorsement, thirty (30) days' prior notice of cancellation of any such policy. Additional minimum insurance coverage requirements (subject to increase or otherwise change in our sole discretion) are as follows:

| TYPE OF COVERAGE | LIMITS/SPECIFICATIONS |
|---|--|
| General Liability | \$1,000,000 Bodily Injury/Property Damage Per Occurrence / \$2,000,000 Aggregate |
| Building Improvements and Betterments | 100% of Full Replacement Cost – No Coinsurance (minimum of \$100,000) |
| Business Personal Property | 100% of Full Replacement Cost – No Coinsurance – Special Form or equivalent (minimum of \$100,000) |
| Spoilage | \$5,000 |
| Flood, Earthquake and Volcanic Eruption | Subject to Territory Limitations – required if in a designated Flood Zone |
| Workers' Compensation and Employer's Liability Insurance | As required by law |
| Employment Practices Liability Insurance with Franchisor Defense coverage | \$1,000,000 |
| Hired and Non-Owned Automobile Liability | \$1,000,000 Combined Single Limit per accident |

You need to evaluate if your particular business will require greater coverage or other types of insurance. For example, we strongly recommend that you consult with an insurance broker to discuss whether your particular lease/situation requires and/or should obtain additional common types of insurance (including without limitation, umbrella insurance, and cyber liability/data breach insurance coverage). Such insurance may significantly increase your premiums, but may also save you money in the long run.

You are responsible for maintaining insurance coverage and limits as required by us, at minimum, pursuant to this *Section 9.5*, provided, if your landlord requires additional coverage, higher limits, or any other requirements not required by us, then you are responsible for maintaining such additional items as well. You must always keep the required insurance coverage in force at all times during the operation of the Franchised Business, and you must comply with any changes we make periodically to our insurance requirements. Upon 30 days' notice to you, we may require you to increase and/or otherwise change the minimum coverage of the insurance referred to above, including to reflect identification of special risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances.

Subject to *Section 3.1*, before you may open your restaurant, annually thereafter at least ten (10) days prior to renewal of your insurance coverage, and at any other time on our request,

you must provide us with certificates of insurance or copies of insurance policies showing that you are in compliance with our insurance requirements, as well as proof that you have paid the premiums you owe for the insurance we require. You will pay your insurance premiums to your insurance broker or to the insurance company issuing the policy. We or our affiliate may, at our option and in addition to our other rights and remedies under this Agreement, obtain such insurance coverage on your behalf, and you must promptly execute any applications or other forms or instruments required to obtain any such insurance and pay to us, on demand, any costs, expenses and premiums (in whole or part) incurred by us. Your obligation to obtain and maintain the insurance described above will not be limited in any way by reason of any insurance maintained by us, nor will your performance of such obligations relieve you of any obligations under *Section 8.2*.

9.6 Management of the Franchised Business.

You are directly responsible for all aspects of operating the Franchised Business, and you agree that you will, at all times, operate the Franchised Business and use your best efforts to enhance your Franchised Business and the System. The Franchised Business must be personally managed and directly operated by either you or another partner, shareholder or member of your business organization, or a manager.

9.7 Inspections by Franchisor.

For the purpose of this *Section 9.7*, you must make available to us or our authorized representatives such financial and other information concerning the Franchised Business, and you must permit us or our authorized representatives to have full and free access to such information at your Franchised Business Location during regular business hours without prior notice. We and our authorized representatives will have the right to communicate freely with your employees, and make extracts from, and copies of, all such information. Our authorized representative may make announced or unannounced inspections of your Franchised Business to ensure compliance with all of the requirements of this Agreement.

9.8 Personal Guaranty; Non-Disclosure and Non-Competition Agreement.

If you are an individual and married, your spouse must execute and deliver to us a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement at the same time that you sign the Agreement unless your spouse is also signing the Agreement as an individual.

If you are a corporation, limited liability company, or other business entity, each of your shareholders, members, or other owners, whether direct or indirect (and their respective spouses, if married) must execute and deliver to us a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement at the same time that you sign this Agreement.

In the event any person who has not previously signed a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement becomes your spouse or shareholder, member, or other owner, direct or indirect or a spouse of such shareholders, members, or other owner, at any time after the execution of this Agreement, you must cause such person(s) to immediately execute and deliver a Guaranty of Franchise Agreement and a Non-Disclosure and Non-Competition Agreement to us.

Failure to provide a Guaranty of Franchise Agreement or a Non-Disclosure and Non-Competition Agreement to us may, in our sole discretion, be grounds for termination of this Agreement as set forth in *Section 14.2a*.

9.9 Not Applicable.

ARTICLE 10. ADVERTISING AND PROMOTION

10.1 Advertising by Franchisor.

We (or at our election a third-party which may be an affiliate of ours) will administer the Advertising Fund that will include your Advertising Fee and those of other franchise owners in the System. If an affiliate of ours administers the Advertising Fund or places advertising in connection with the System, such affiliate may be paid a fee that will not exceed the fee that would be payable to unrelated third-parties for comparable services. Unless required by applicable law, we will have no obligation to create a trust account, escrow account or other special account for the Advertising Fund, and the monies comprising the Advertising Fund may be placed in our general account. We may also reserve the Advertising Fee for use in a subsequent year.

We will direct all advertising and promotional programs. We will have sole discretion over all creative concepts, materials and media used in such programs and the placement and allocation of such programs. The Advertising Fund will be used for marketing, advertising, production and media expenses to promote the *Cold Stone Creamery* trade name, System, products and services. We are entitled to deduct, free of charge, the following from the Advertising Fund: reimbursement of expenses, overhead, and employee salaries for services provided; and rent for office space provided to the Advertising Fund. We are not required to use any specific amounts from the Advertising Fund in your market. However, we in our sole discretion, may use some amounts contributed by you to any Advertising Fund, if any (see *Section 5.3*), in the same geographic area in which your Franchised Business is located.

10.2 Advertising by Franchisee.

In addition to your Advertising Fee, if applicable, and unless your Franchised Business is located in an enclosed shopping mall or other enclosed structure identified in *Section 1.1*, you agree to pay for a regular (white pages) and classified (yellow pages) telephone directory advertisement in the main directory distributed in the area where your Franchised Business is located, in such directory categories as we specify, utilizing forms of listing and classified directory advertisements approved by us. We also recommend that, in addition to your Advertising Fee, you spend at least two percent (2%) of your monthly Gross Sales on local advertising.

Your own local marketing and advertising plan should be developed to maximize your particular customer base. You should not rely upon a marketing program or plan by us as the sole means of obtaining customers. All marketing and advertising materials must be reviewed by the marketing department for look and feel. The marketing department's review is not for determining compliance with federal, state and local laws.

All advertising by you in any medium must be conducted in a professional manner and must conform to the System Standards. We may make available to you, from time to time, advertising, promotional plans and materials for purchase.

Under no circumstances may you use, without limitation, the name, image, or voice of a celebrity, public figure, character or other person in connection with the Proprietary Marks or the Franchised Business without our prior written consent. We retain the sole and exclusive right to use, without limitation, the name, services or image of any celebrity, public figure, character or other person in advertising, endorsing or recommending the System.

ARTICLE 11. ACCOUNTING PROCEDURES AND REPORTS

11.1 Maintenance of Records.

You shall keep full, complete, and accurate books and accounts in accordance with generally accepted accounting principles, and in the form and manner indicated below or as from time to time further required by us. You agree to submit reports and data to us electronically if we advise you to do so. You agree:

- a. to submit to us electronically the weekly Gross Sales as set forth in *Section 5.6*;
- b. to submit to us, on or before the thirtieth (30th) day of each month, commencing with the opening of the Franchised Business, in a format and method approved by us (including through a third-party vendor that franchisee may be required to pay for), a profit and loss statement of the Franchised Business for the preceding calendar month prepared in accordance with generally accepted accounting principles;
- c. to submit to us, within ninety (90) days after the end of each calendar year, commencing with the opening of the Franchised Business, in a format approved by us, a profit and loss statement and balance sheet (including a statement of retained earnings or partnership account) for the preceding calendar year;
- d. to submit to us, at the times required, such other periodic forms, reports and information as may from time to time be required by us;
- e. to preserve, in the English language and for the time periods set forth below, all accounting records and supporting documents related to the Franchised Business (individually and collectively, "Records"), including:
 1. daily cash reports;
 2. cash receipts journal and general ledger;
 3. cash disbursements journal and weekly payroll register;
 4. monthly bank statements, daily deposit slips and canceled checks;
 5. all tax returns, including your personal returns and those of your officers, shareholders, partners and members;
 6. suppliers invoices (paid and unpaid);

7. dated cash register tapes (detailed and summary);
8. semi-annual balance sheets and monthly profit and loss statements;
9. daily production, throwaway and finishing records and weekly inventories;
10. records of promotion and coupon redemptions;
11. records of all outside sales; and
12. such other records as we may from time to time request.

f. to record all sales on cash registers approved by us, as specified in the Confidential Manual;

g. to file all of your federal and state tax returns on a timely basis and to provide copies of them to us. We may, where applicable, require that tax returns from all of your shareholders, members or partners be provided to us, if you are other than an individual;

h. During the Term, you shall preserve the Records for at least the current fiscal year and for the three (3) immediately preceding fiscal years. For three (3) years after the date of any transfer of an interest in this Agreement, the transferor of such interest will preserve the Records for its last three (3) fiscal years of operation under this Agreement. For three (3) years after the expiration of the Term (or after any earlier termination), you shall preserve the Records for the last three (3) fiscal years of operation of the Franchised Business; and

i. In connection with our efforts to attract additional franchise owners to the System, we will have the right to use (without identifying you, except as required or allowed by law) any financial statements, sales reports, profit and loss statements or balance sheets provided by you and, in connection therewith, you authorize us to disclose any information contained on such financial reports as may be required by any federal or state registration or disclosure law.

11.2 Audit by Franchisor.

We will have the right, at any time during business hours, and with or without prior notice to you, to inspect and audit, or cause to be inspected and audited, the Records and cash control devices of the Franchised Business, and your corporate, partnership or limited liability company books and records (if you are a corporation, partnership, limited liability company, or other entity). You agree that we may access any computers utilized by you for such purposes.

You will fully cooperate with our authorized representatives and independent accountants hired by us to conduct any such inspection or audit. In the event any such inspection or audit discloses an understatement of your Gross Sales for any period in question, you will pay to us, immediately after receipt of the inspection or audit report, any additional Royalty Fee or Advertising Fee due as a result of any such understatement, plus interest at the Default Rate from the date originally due until the date such understatement is paid in full.

In addition, in the event such inspection or audit is made necessary by your failure to timely furnish Records, or if an understatement of the Royalty Fee or Advertising Fee for the period of any audit (which period shall not be for less than one (1) month) is determined by any such audit or inspection to be five percent (5%) or greater, you must reimburse us all amounts

incurred in connection with such audit or inspection including our employee costs and expenses, any independent accountants' and attorneys' fees, transportation, room, and meal expenses.

The remedies in this *Section 11.2* will be in addition to all our other remedies and rights under this Agreement or under applicable law.

ARTICLE 12. TRANSFER

Sections 12.1 through *12.4* apply to all transfers, except transfers by us, which are described in *Section 12.5*.

12.1 Prior Consent of Franchisor.

a. As used in this Agreement, "Transfer" means any voluntary, involuntary (including by operation of law), direct or indirect assignment, sale, gift or other transfer by you, including:

1. "Full Transfer," which is any act or circumstance, except those set forth in *Section 12.1.a.2.*, by which fifty percent (50%) or more of the ownership or control is shifted from any individual or corporation, partnership or other business entity (individually and collectively, "Entity") to another, including:

(i) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement;

(ii) Transfer of an interest in you, if you are an Entity;

(iii) Merger, consolidation or issuance of additional ownership interests or redemption of ownership interests in you, if you are an Entity; or

(iv) Transfer of an interest in any other Entity holding an interest in this Agreement or you, if you are an Entity.

2. "Affiliate Transfer," which includes:

(i) Transfer in a separation or divorce, regardless of how much of the ownership or control is shifted from any individual or Entity to another;

(ii) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement from your name as an individual(s) to your Entity name in which you are the sole owner(s) of the Entity;

(iii) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement, from your Entity name in which you are the sole owner(s) to your name as an individual(s);

(iv) Transfer of this Agreement or the Franchised Business, or any right or interest granted by this Agreement from one Entity name to another Entity name in which the owners of the entities are the same;

(v) Removing an owner from the Franchisee (unless the person has a fifty percent (50%) or more ownership interest);

(vi) Adding an owner to the Franchisee (unless the person has a fifty percent (50%) or more ownership interest); or

(vii) Transfer by which less than fifty percent (50%) of the ownership or control is shifted from any individual or entity to another for any act or circumstance listed in *Section 12.1.a.1*.

b. We are entering into this Agreement based upon our knowledge of and faith in your ability. Therefore, the Franchised Business and all the rights granted by this Agreement are personal to you and you may not Transfer without our prior written consent. Any attempted Transfer without our prior written consent will be null and void, and will give us the right to terminate this Agreement and your rights under it, in addition to any remedies which we may have for the breach of this covenant by reason of an attempted Transfer.

c. We shall not unreasonably withhold or delay our consent to a Transfer, so long as it is shown to our satisfaction that the potential transferee ("Potential Transferee") can perform a franchisee's obligations under the then-current form of franchise agreement and all other agreements, legal instruments and documents required of new franchisees.

12.2 Advance Notice of Proposed Terms and Right of First Refusal.

a. If you, or any of your shareholders, members or partners, have received and desire to accept a signed bona fide written offer from a third-party to Transfer, you shall notify us and provide us with a complete copy of the offer (letter of intent) which must include the name, address and telephone number for every Potential Transferee. You must also include information as to the identity of all who will own an interest in this Agreement or in the Franchised Business after the completion of the Transfer, their respective interests, and the proposed terms and conditions of sale and payment.

b. We shall have the right and option, exercisable within thirty (30) days after the date we receive a copy of the offer, to purchase the interest proposed to be transferred, at the price and upon the same terms and conditions specified in the notice.

c. If we do not exercise our option, and the terms of the unaccepted offer are altered, you must, in each such instance, notify us of the changed offer; and we will again have thirty (30) days to exercise our right to purchase on the altered terms. If we do not exercise our option, then the Transfer may take place on the terms and price set forth in the notice; provided: (i) we give our written consent; (ii) the Transfer takes place no later than six (6) months from receipt of our written refusal to exercise our option to purchase; and (iii) all the conditions set forth in *Section 12.3* are satisfied.

12.3 Requirement for Consent to Transfer.

If a Transfer is proposed and we do not exercise our right of first refusal pursuant to *Section 12.2*, then we will consent to the Transfer, provided that:

a. All your obligations under this Agreement are fully paid and satisfied, including the Royalty Fee and Advertising Fee; you are not in default under any provisions of this Agreement or any other agreement, legal instrument or document with us or any of our affiliates; and you enter into written agreements with us, including (except where prohibited by law) a general release by you of all claims against us;

b. Potential Transferee provides to us a completed application and financial documents, is financially acceptable, is not associated with any of our competitors, is of good moral character and reputation, and meets our criteria, which includes: work experience and aptitude; ability to devote time and best efforts to the Franchised Business; equity interest in the Franchised Business; ability to speak and read English sufficient in our opinion to communicate with employees, customers and suppliers and to satisfactorily complete our training; no conflicting interests; and other criteria and conditions that we apply to new franchisees;

c. Potential Transferee provides us with copies of all governing documents of Potential Transferee (e.g., certificate of incorporation or organization, by-laws, stock certificates, operating agreement, membership certificates (if any)) which must be reasonably satisfactory to us in our sole discretion;

d. You provide to us a copy of the purchase and sale agreement, if a Full Transfer, or other documentation evidencing the Transfer, if an Affiliate Transfer, and following our analysis of the terms and conditions of the proposed Transfer, we, in our sole discretion, conclude that such terms and conditions will not interfere with the financial feasibility of the future operation of the Franchised Business;

e. Potential Transferee enters into all agreements, legal instruments and other documents, whether our then-current agreements, legal instruments and documents or a transfer of this Agreement and related legal instruments and documents, as determined by us (individually and collectively, "Transfer Documents"). The terms of the Transfer Documents may vary materially from the current agreements used by us, including the payment of a higher Royalty Fee and Advertising Fee;

f. Not applicable;

g. Potential Transferee pays to us the Transfer Franchise Fee, if a Full Transfer; or Potential Transferee pays us the Document Administration Fee, if an Affiliate Transfer; Franchisee shall be liable to the Franchisor for the transfer franchise fee or Document Administration Fee in the event the Potential Transferee fails to pay such fee that is owing in full;

h. Not applicable;

i. Potential Transferee successfully completes the training program required by the Transfer Documents, if a Full Transfer;

j. Potential Transferee agrees to complete all remodeling and improvements as required by us, and must upgrade the POS System to the then-current required POS System, within the time period specified by us, if a Full Transfer;

k. You and Potential Transferee agree not to assert any security interest, lien, right or claim now or in the future, in the Franchised Business. Any security interest, lien, claim or

right asserted with respect to any personal property at the Location must not include any after-acquired property and must be subject, junior and subordinate to any security interest, lien, right or claim now or in the future, asserted by us, our successors or assigns; and

I. You agree to complete and sign a letter of agency, letter of authorization, or equivalent and provide it to Potential Transferee so that Potential Transferee may keep the existing telephone number when the store is transferred to Potential Transferee.

12.4 Death or Incapacity of Individual Franchisee; Change in Entity.

a. Death or incapacity of Franchisee when Franchisee is an individual:

(i) In the event of your death or incapacity, your legal representative may, for a period of ninety (90) days from the date of death or incapacitation, continue to operate the Franchised Business, provided that the operation is conducted in accordance with this Agreement and any other agreements with us.

(ii) If your representative desires to continue the operation of the Franchised Business beyond the ninety (90) day period, then, prior to the expiration of this period, your legal representative must apply in writing for the right to transfer the Franchised Business to the person or persons (whether spouse, heir, devisee, purchaser, or any other person), as the legal representative may specify. The application for transfer will be treated in the same manner as any other proposed Transfer under this Agreement.

(iii) If your legal representative does not comply with the provisions of the preceding paragraph, or does not propose a Potential Transferee acceptable to us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

b. Death or incapacity of any shareholder, partner, or member in Franchisee when Franchisee is a business entity:

(i) In the event of the death or incapacity of any of your shareholders, partners, or members, the surviving shareholders, partners, or members may, for a period of ninety (90) days from the date of death or incapacitation, continue to operate the Franchised Business, provided that the operation is conducted in accordance with this Agreement and any other agreements with us.

(ii) If your shareholders, partners or members desire to continue the operation of the Franchised Business beyond the ninety (90) day period, then, prior to the expiration of this period, your shareholders, partners, or members must apply jointly with all surviving shareholders, partners or members in writing, for the right to transfer the Franchised Business (or the interest of the deceased or incapacitated shareholder, partner, or member in the Franchised Business), to the person or business entity as the surviving shareholders, partners, or members may specify. The

application for transfer will be treated in the same manner as any other proposed Transfer under this Agreement.

(iii) If all surviving shareholders, partners or members do not comply with the provisions of the preceding paragraph, or do not propose a Potential Transferee acceptable to us under the standards set forth in this Agreement, all rights licensed to you under this Agreement will terminate immediately and automatically revert to us. We shall have the right and option, in our sole discretion, exercisable upon such termination, to purchase all removable furniture, fixtures, signs, equipment and other chattels, but not leasehold improvements, at a price to be agreed upon by the parties or, if no agreement as to price is reached by the parties, at such price as may be determined by a qualified appraiser, approved by both parties, such approval not to be unreasonably withheld. We shall give notice of our intent to exercise the option no later than twenty-one (21) days prior to termination.

12.5 Assignment by Franchisor.

You agree and affirm that we may, without your prior consent, sell our business, our assets, or our System, in whole or in part, to a third-party; may issue a public offering of our securities; may engage in private placement of some or all of our securities; may merge with or acquire other corporations, or be acquired by another corporation; and may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring. You further agree and affirm that we have the right, now and in the future, without your prior consent, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of such franchise network, chain or business, which you acknowledge may be proximate to your Franchised Business, and to operate, franchise or license such franchise networks, chains or businesses operating under the Proprietary Marks or any other marks following our purchase, merger, acquisition or affiliation. With regard to any of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages against us arising from or related to the loss of your rights to use the System as authorized under this Agreement.

This Agreement will inure to the benefit of our successors and assigns. In conjunction with one (1) or more of the transactions contemplated above, or as otherwise determined by us, we have the right to assign our rights and obligations under this Agreement to any person or entity, without your prior consent. Upon such assignment, we will be relieved of all obligations or liabilities then existing or thereafter able to be asserted under this Agreement.

12.6 Restrictions on Security Interests and Subfranchising.

Except as otherwise set forth in this *Section 12.6*, you shall not have any rights to pledge, encumber, hypothecate or otherwise give any third-party a security interest in this Agreement in any manner whatsoever, nor subfranchise or otherwise transfer, or attempt to subfranchise or transfer the Franchised Business, in whole or in part, so long as it is operated as the Franchised Business, without our express prior written permission, which permission may be withheld for any reason whatsoever in our sole discretion. Notwithstanding anything contained herein to the contrary, you shall have the right to pledge your accounts receivable, net of royalties and rent, without our prior written consent for the sole purpose of obtaining financing for the operation of the Franchised Business, provided you are in full compliance with this Agreement and any other agreement, arrangement or understanding with us.

ARTICLE 13. RENEWAL

Subject to the terms and conditions described below, you will have the right to renew your license to operate the Franchised Business for an additional term of five (5) years. In the event you desire to renew your license, you must give us notice to that effect at least one hundred twenty (120) days prior to the expiration date of the Term. In addition to giving the notice of renewal referred to above in a timely manner, in order to have the right to renew the license to operate the Franchised Business for an additional term, you must also meet each of the following requirements:

a. You must not then be in default under this Agreement or any other agreement, legal instrument or document with us or any of our affiliates, and no event shall have occurred that, with the giving of notice, the passage of time, or both, would constitute a default under this Agreement, including all financial obligations to us;

b. You must be in complete compliance with the terms of this Agreement, including all financial obligations to us, and the then-current Confidential Manual;

c. You must not have received more than three (3) notices of default or breach of this Agreement during its term, nor more than two (2) notices of default or breach during the five (5) years immediately preceding the effective date of the proposed renewal;

d. You must have the existing right to maintain possession of the Location or you must have secured and developed a suitable substitute location that meets our then-current minimum site requirements (such confirmation will be provided to you by us in writing);

e. You must sign a general release provided by us;

f. You and we must execute all agreements, legal instruments and other documents (individually and collectively, "Renewal Documents") then used by us in the renewal of franchises and then being required of new franchise owners in connection with the System. The Renewal Documents will supersede this Agreement, but will not terminate your liability to perform any obligations which you have not yet performed under this Agreement, or which survive the termination of this Agreement; nor will the Renewal Documents terminate or supersede any Guaranty of Franchise Agreement, Confidentiality Agreement, or Non-Disclosure and Non-Competition Agreement executed pursuant to this Agreement. The terms of the Renewal Documents may vary materially from the current agreements used by us, including the payment of a higher Royalty Fee and Advertising Fee;

g. The equipment, fixtures and signage used in connection with the operation of the Franchised Business must either meet our then-existing System specifications and standards, or you must agree, within a timeframe required by us, to replace or refurbish such items, and otherwise modify the methods of operation of the Franchised Business at your cost and expense, in order to comply with our System specifications and standards then applicable to new franchise owners;

h. You agree to complete all remodeling and improvements as required by us, and must upgrade the POS System to the then-current required POS System, within the time period specified by us; and

i. You shall have paid to us the Renewal Franchise Fee as required under *Section 5.12*.

If you do not meet any of the requirements for renewal, we will give you a notice to that effect which will specify the requirements not met. The notice will be given to you within sixty (60) days after you deliver to us your notice of intent to renew.

ARTICLE 14. DEFAULT AND TERMINATION

14.1 Default; Termination.

a. You will be in default under this Agreement:

(i) If: (a) you become insolvent or make an assignment for the benefit of creditors; (b) you file a petition in bankruptcy, or if such a petition is filed against and consented to by you, and such petition is not dismissed within thirty (30) days from the filing date of such petition; (c) you are adjudicated bankrupt; (d) a bill in equity or other proceeding for the appointment of your receiver or other custodian for your business or assets is filed and is consented to by you or is not dismissed within thirty (30) days from the filing date of such bill or other proceeding; (e) a receiver or other custodian is appointed; (f) proceedings for composition with creditors under any state or federal law is instituted by or against you; (g) the real or personal property of the Franchised Business is sold at levy thereupon by any sheriff, marshal or constable, or sold by a secured party under any state's Commercial Code;

(ii) If you fail to pay, perform, observe or comply with any of your duties and obligations under this Agreement or the Confidential Manual, including failure to provide a fully-executed copy of the lease to us when due and failure to pay when due, any sum due to us under this Agreement (including the Royalty Fee and Advertising Fee) or to any Advertising Fund (inclusive of any Association); or if you breach any of your obligations under any lease, sublease, mortgage, equipment agreement, promissory note, vendor account, conditional sales contract or other contract arising from, or in connection with, the Franchised Business, to which you are a party or by which you are bound, whether or not we are a party thereto;

(iii) If your lease or sublease for the Location of the Franchised Business is either: (a) in default and you fail to cure such default as provided in the lease or sublease; (b) is terminated for reason of default by you; or (c) the Location is lost as a result of your failure to comply with the lease or sublease;

(iv) If you fail, within thirty (30) days of the entry of a final judgment against you in an amount exceeding Two Thousand Dollars (\$2,000), to discharge, vacate or reverse the judgment or to stay its execution pending appeal, or to discharge any judgment which is not vacated or reversed within thirty (30) days after expiration of the stay of execution;

(v) If we determine that a serious health or safety problem exists at the Franchised Business, in which case, we may require you to immediately correct the problem or cease operating until the problem is corrected;

(vi) If you, or any owner, co-owner or principal of the Franchised Business, is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that is

reasonably likely to adversely affect the System, the goodwill associated therewith, or our interest therein;

(vii) Except for any reason provided in *Section 5.2*, if you abandon the Franchised Business, which abandonment shall conclusively be deemed established if the Franchised Business is closed for more than three (3) consecutive days;

(viii) Except for any reason provided in *Section 5.2*, if you close or relocate the Franchised Business, without our express advance written consent;

(ix) If you fail to maintain an independent contractor relationship with us;

(x) If you either negligently or knowingly inaccurately report, or fail to report, any information in your franchise application;

(xi) If you or any owner, co-owner or principal of the Franchised Business commits an act, or permits an act to be committed, that violates any federal, state or local law that adversely impacts the Franchised Business;

(xii) If you fail to participate in any Rollout detailed in *Section 9.3*;

(xiii) If you violate any of the provisions of *Sections 2.3, 3.2, 9.2, 9.3 or 9.4* including the requirement that you: (a) sell or offer for sale only those products and services authorized by us; (b) purchase such authorized products and services only from suppliers or service providers who are approved in writing by us; and (c) utilize or switch to any of our designated approved suppliers, including a supplier who has entered into a national or regional master supplier agreement with us;

(xiv) If you transfer or attempt to transfer any rights or obligations under this Agreement or any other property or assets to any third-party in violation of the provisions of *Article 12*;

(xv) If you or any of your owners, officers, directors, managers, members, or partners (as applicable): (a) become subject to U.S. Executive Order 13224 or are involved in any activity that violates the U.S. Foreign Corrupt Practices Act or any other anti-corruption, bribery or any other laws, orders or governmental notices affecting your ability to conduct business in or with the United States, as may be amended and whether in effect as of the Effective Date or at any time during the Term, (b) are identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specialty Designated National and Blocked Persons list, or (c) receive any funding from any country that is subject to an embargo by the United States, any foreign government or government official, political party; or

(xvi) If you intentionally made any false representations and warranties under *Section 17.1*.

b. Cross-default: A default by you under this Agreement will be deemed a default of all agreements between: (i) you and your principals in his or her individual capacity or any other entity in which your principals are owners, members, managers, shareholders or partners (individually and collectively, "Franchisee Entity"); and (ii) us or any of our affiliates or predecessors (individually and collectively, "Franchisor Entity"). A Franchisee Entity's default of

any other agreement, legal instrument or other document between the Franchisee Entity and a Franchisor Entity will be deemed a default under this Agreement. A default by any guarantor of your obligations under this Agreement or any agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity will be deemed a default of this Agreement.

c. Termination: If you fail to cure any default to our satisfaction, within the applicable period following notice from us, if applicable, or otherwise breach this Agreement, we may, in addition to all other remedies at law or in equity or as otherwise set forth in this Agreement, immediately terminate this Agreement. This termination will be effective immediately upon the giving of notice pursuant to *Article 15*.

d. Cross-termination: If this Agreement is terminated as a result of your default of this Agreement or any other agreement related to the Franchised Business, we may, at our option, elect to terminate any or all other agreements, legal instruments or documents between a Franchisee Entity and a Franchisor Entity. If any agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity is terminated as a result of a default by the Franchisee Entity, we may, at our sole discretion, elect to terminate this Agreement. It is agreed that an incurable or uncured default under this Agreement or any other agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity will be grounds for termination of this Agreement or any other agreement, legal instrument or document between a Franchisee Entity and a Franchisor Entity, without additional notice or opportunity to cure.

14.2 Opportunity to Cure.

a. Fourteen-Day Cure Period - Except as otherwise provided in this *Section 14.2*, you will have the right to cure your default under this Agreement within fourteen (14) days after notice of default is given by us pursuant to *Article 15*. Notwithstanding the foregoing, the following lesser periods will apply under the circumstances described:

b. Seven-Day Cure Period - A seven (7) day cure period will apply if you fail, refuse, or neglect to pay when due, any monies owing to us (including the Royalty Fee and Advertising Fee), or otherwise to any Advertising Fund (inclusive of any Association), or if you fail to maintain the insurance coverage set forth in this Agreement;

c. 48-Hour Cure Period – A forty-eight (48) hour cure period will apply (1) if you are in default of *Section 3.4* or (2) if you fail to participate in any limited time product offering, value offering, contest, promotion or charity event. You must initiate your participation in such offering, contest, promotion or event within forty-eight (48) hours and fully participate in such offering, contest, promotion or event as soon as reasonably possible, in our sole discretion, thereafter;

d. 24-Hour Cure Period - A twenty-four (24) hour cure period will apply to your violation of any law, regulation, order or our standards relating to health, sanitation or safety; or, except as provided in *Section 5.2*, if you cease to operate the Franchised Business for a period of forty-eight (48) hours without our prior written consent. In addition, a twenty-four (24) hour cure period will apply if you post on any Site or direct others to any site or page, post, blog or other social media site where there are posted any defamatory or offensive comments about: other franchisees; the *Cold Stone Creamery* brand; other brands franchised by us or one of our affiliates; your or other franchisees' customers; any of our, your or franchisees' vendors; us or any of our affiliates; or any of our, your or franchisees' competitors;

e. Immediate Cure Period (less than 24 hours) – An immediate cure period (less than twenty-four (24) hours) will apply if you post any content to a Site in which the content includes any inappropriate public displays of affection, our or others' confidential information or materials, violations of health or safety standards, foul or obscene language, or any images of or information about any persons from whom you did not obtain prior written consent;

f. No Cure Period - No cure period will be available: (1) if you are in default of *Sections 3.1, 7.2, 9.4, 14.1a.(i), 14.1a.(iii), 14.1a.(vi), 14.1a.(vii), 14.1a.(viii), 14.1a.(xiv), 14.1a.(xv), or 14.6*; (2) if you intentionally underreport weekly Gross Sales, falsify financial data, fail to promptly provide upon our request financial data and records specified in this Agreement, or otherwise commit an act of fraud with respect to your rights or obligations under this Agreement; (3) if you repeatedly fail to comply with the provisions of this Agreement, whether or not subsequently cured; (4) if you, having twice previously cured a default of this Agreement, commit the default again; (5) if you made any false representations and warranties under *Sections 17.1f., 17.1g., 17.1m. or 17.1n.*; or (6) if you engage in trademark misuse or otherwise materially misuse or make an unauthorized use of any of the components of the System or commit any other act which does, or can reasonably be expected to, materially impair the goodwill or reputation associated with any aspect of the System;

g. Statutory Cure Period - If a statute in the state or municipality in which the Franchised Business is located requires application of that state or municipal law, and that statute requires a cure period for the applicable default which is longer than any cure period specified in this *Article 14*, the statutory cure period will apply.

14.3 Our Right to Take Over Management.

We have the right (but not the obligation), under the circumstances described below, to enter the Franchised Business and assume the Franchised Business' management for any period of time we feel is appropriate. If we assume the Franchised Business' management, you must pay us, in addition to the Royalty Fee and Advertising Fee, six percent (6%) of the Gross Sales, plus our direct out-of-pocket cost and expenses, for the period of time we assume the Franchised Business' management. If we assume the Franchised Business' management, you acknowledge that our duty is limited to using our reasonable efforts, and we will not be liable to you or your owners for any debts, losses or obligations the Franchised Business incurs, or to any of your creditors for any supplies or services the Franchised Business purchases. We may assume the Franchised Business' management if you abandon the Franchised Business or if you fail to comply with any provision of this Agreement and did not cure the failure within the time period we specify in our notice to you. You agree to complete and sign a letter of agency, letter of authorization, or equivalent and provide it to us upon our request if we assume the Franchised Business' management so that we may keep the existing telephone, facsimile, alarm, and credit card machine numbers (as applicable) in operation under our phone service provider. You also agree to keep the phone, water, gas, electric service (as applicable) turned on and active for one (1) week after we assume the Franchised Business's management to allow us to switch the services over to us or our affiliate. Our exercise of our management rights under this *Section 14.3* will not affect our right to terminate this Agreement.

14.4 Remedies.

a. Interest, Costs and Damages - If you fail to remit when due any payments required under this Agreement, you agree to pay, in addition to the unpaid amounts, all of our

collection costs and expenses, expert fees, reasonable attorneys' fees, and costs and expenses, including all fees, costs and expenses of court, including all appeals, with interest on the unpaid amounts at the Default Rate or the highest permissible rate. If you fail to cure a default, following notice, within the applicable time period set forth in *Section 14.2*, or if this Agreement is terminated as a result of your default, you shall pay to us all damages of any kind and nature whatsoever and all collection costs and expenses, expert fees, reasonable attorneys' fees, and costs and expenses, including all fees, costs and expenses of court, including all appeals, together with interest at the Default Rate or the highest permissible rate. If you fail to report Gross Sales in accordance with *Sections 5.2* and *5.6*, we may estimate your Royalty Fee and Advertising Fee based on prior reports, and may sue for and obtain judgment for such estimates unless you prove, prior to the entry of any default order or judgment, that your Royalty Fee and Advertising Fee are different than the estimates.

b. Waiver of Punitive Damages - Both we and you waive, to the full extent permitted by law, any right they otherwise may have had to claim, pursue, demand or receive any exemplary or punitive damages arising out of or related in any way to this Agreement and its addenda, amendments, appendices, exhibits and attachments.

c. If you breach any of the terms of this Agreement, including if you are in default of this Agreement, we may enforce our rights by injunction, specific performance, or any other remedy available under this Agreement, at law or in equity, including termination. These remedies are cumulative and not exclusive and we may use all remedies available. In addition, we may elect to terminate this Agreement and all your rights under it as set forth in *Section 14.5*.

d. If you breach any of the terms of this Agreement, including if you are in default of this Agreement, we have the right to have a receiver appointed to take possession, manage and control the assets of the Franchised Business, collect the profits, and pay the net income for the operation of the Franchised Business as ordered by a court of competent jurisdiction. The right to appoint a receiver will be available regardless of whether waste or danger of loss or destruction of the assets exists.

14.5 Effect of Termination or Expiration.

Upon termination or expiration of this Agreement, we can advise all suppliers of *Cold Stone Creamery* proprietary food items and other supplies bearing any of the Proprietary Marks or service marks to cease delivering the items and products to you.

Upon your abandonment of the Franchised Business (whether voluntary or involuntary), any termination of this Agreement (whether pursuant to *Sections 14.1, 14.2, 14.4*, or otherwise), or upon expiration of the Term, you must immediately cease to hold yourself out to the public as a franchise owner of the System, and you must comply with the following:

a. Immediately pay to us or any affiliate of ours all sums owing from you to us or such affiliate, including the Royalty Fee and Advertising Fee, for any period prior to the date of termination, the applicable Early Termination Damages (as defined in *Section 14.9* below), and all amounts owed for services, supplies or other items purchased by you from us or any affiliate of ours, or that were financed by us or any affiliate of ours, or which we or any affiliate of ours loaned to you, together with any interest or late fees accrued thereon, together with all other

sums due us under this Agreement, and all damages of any kind or nature whatsoever that may be allowed by law;

b. Immediately cease to use, in any manner whatsoever, including in all advertising, the Proprietary Marks, any Trade Secrets, any Confidential Information, any benefits of the System or any part thereof, any methods associated with the System, any forms, recipes, Confidential Manual, slogans, signs, sign posts, marks, symbols, or devices used in connection with the operation of the Franchised Business; and you must deliver or destroy all of the above-mentioned materials, including any materials containing or referencing any of the foregoing, to us as directed by us. If we do not recover any such items, such items shall be valued at their then-current replacement cost, for purposes of determining the damages owing by you to us for failure to return such items, if we pursue a damage claim as a result thereof;

c. Immediately discontinue all advertising as a franchisee of the System, and thereafter refrain from any advertising that would indicate that you are or ever were a franchisee or licensee of ours, or otherwise were affiliated with us or the System;

d. Immediately take such steps as may be necessary or appropriate to:

(i) delete your listing in all telephone directories, if applicable, and terminate any other listings that indicate that you are or were a franchisee or licensee of ours, or otherwise were affiliated with us or the System; and

(ii) transfer to our designee or us all telephone numbers used by you in connection with the Franchised Business. You acknowledge that between you and us, we have the sole right and interest in all telephone numbers and directory listings associated with any Proprietary Marks, and you authorize us and appoint us and any officer or agent of ours, as your attorney-in-fact, to direct the telephone company and all listings agencies to accept such direction, or this Agreement, as conclusive evidence of our exclusive rights in such telephone numbers and directory listings and our authority to direct their transfer;

e. Immediately take such action as may be required to cancel all fictitious or assumed names, amend any entity name, or dissolve any entity that contains any Proprietary Mark, in whole or in part, regardless of whether the entity name was authorized by us, and amend or cancel any and all equivalent registrations relating to your use of any Proprietary Mark. You acknowledge that between you and us, we have the sole right and interest in all such fictitious or assumed names, entity name, and equivalent registrations, and you authorize us and appoint us and any officer or agent of ours as your attorney-in-fact, to effect the termination or cancellation of such fictitious or assumed names or equivalent registrations should you fail or refuse to do so, and the appropriate federal, state, and local agencies may accept your direction or this Agreement as conclusive evidence of our exclusive rights in such fictitious or assumed names or equivalent registrations, and our authority to direct their termination or cancellation;

f. Comply with the confidentiality requirements and the covenant against competition in this Agreement for the specified period. You acknowledge that you, or (if an entity) your authorized representative, has carefully reviewed the confidentiality requirements and the covenant against competition in this Agreement; and that you have agreed to be bound by all the requirements and covenants; and

g. Maintain at a place made known to us all books, records and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, to allow us to make a final inspection of your books and records for the purpose of verifying that all amounts owing have been paid.

If you fail to do any of the foregoing, we may pursue any remedy available at law or in equity against: (i) you; (ii) any or all guarantors of your obligations under this Agreement; and (iii) you and any or all guarantors of your obligations under this Agreement.

We have the right, but not the obligation, to purchase from you any assets or property (but not leasehold improvements) used in the operation of the Franchised Business for an amount equal to the Value (as defined below), as of the termination date. If we are required, by law, regulation or court order, to purchase the equipment and other tangible assets used in connection with the Franchised Business, the purchase price will be equal to the Value. For purposes of this Agreement, the term "Value" means, subject to applicable law, an amount equal to your cost for such assets, less depreciation and amortization using a two hundred percent (200%) declining balance method over a five (5) year period. If all, or any portion of, your assets that are being purchased by us or our authorized representative are subject to lien(s), we or our authorized representative may pay, on your behalf, the lienholder(s) that portion of the purchase price for your assets (which may be the entire purchase price) that is necessary to obtain the release of those assets from the lien(s), in lieu of paying you those funds. Further, we may offset any amounts payable to you pursuant to this *Section 14.5*, or otherwise pursuant to this Agreement, against any unpaid amounts payable to us or our affiliates pursuant to this Agreement or any agreement executed in connection with this Agreement.

14.6 Covenant Not to Compete; Conflicting Interests.

a. During the Term and for a period of two (2) years after your abandonment of the Franchised Business, expiration of this Agreement, or termination of this Agreement (whether voluntary or involuntary), you shall not engage in any Competing Business (as defined in *Section 14.6c.*) with any *Cold Stone Creamery* restaurant, nor shall you have any Conflicting Interest (as defined in *Section 14.6d.*) in a Competing Business. The provisions of this Agreement bind you in any capacity, including as a franchisee, sole proprietor, partner, limited partner, member, employer, franchisor, shareholder, officer, director or employee.

b. During the Term, and for a period of two (2) years after your abandonment of the Franchised Business, expiration of this Agreement, or termination of this Agreement (whether voluntary or involuntary), you shall not divert or attempt to divert any business, customers, or potential customers of the *Cold Stone Creamery* System to any Competing Business, by direct or indirect inducement or otherwise. In addition, you shall not at any time do or perform any act, directly or indirectly, which harms the goodwill or reputation of us or the System.

c. For purposes of this *Section 14.6*, "Competing Business" means a business which is primarily engaged in the sale of ice cream, along with cakes, cupcakes, pies, smoothies and other dessert products prepared or served with ice cream or as an ingredient, and all variations thereof, within a geographical area consisting of: (1) during the Term, anywhere else; and (2) after abandonment, expiration or termination of this Agreement, within a ten (10) mile radius from the Location or location of any *Cold Stone Creamery* restaurant of ours, our third-party licensees or our third-party franchisees. The term "*Cold Stone Creamery*

restaurant” includes not only the restaurants now in existence, but also those established at a later date. The term of this covenant will be extended by any time consumed in litigation to enforce it in both trial and appellate courts. If a court of competent jurisdiction determines that the restrictions in this paragraph are excessive in time, geographic scope, or otherwise, the court may reduce the restriction to the level that provides the maximum restriction allowed by law.

d. For purposes of this *Section 14.6*, “Conflicting Interest” means an interest by which you, or your executive officers, directors and shareholders (if you are a corporation), or your partners (if you are a partnership), or your members (if you are a limited liability company), or your designated manager, directly or indirectly, have a controlling interest in, lend money to, consult with or otherwise assist any Competing Business. If any of the persons named above do not sign this Agreement under the heading “Personal Acceptance of *Sections 7.1, 7.2, 14.6 and 14.8*,” then you agree to obtain the execution by such person of a written agreement setting forth the foregoing in a form acceptable to us.

14.7 Continuing Obligations.

All your obligations that expressly survive the expiration or termination of this Agreement, including *Sections 14.5 and 14.6*, or by the implicit nature thereof require performance after the expiration or termination of this Agreement, will continue in full force and effect (subsequent to, and notwithstanding, your abandonment of the Franchised Business (whether voluntary or involuntary) the expiration of the Term, or termination of this Agreement), until they are satisfied in full or by their nature expire. The indemnities and obligations set forth in *Article 8* will continue in full force and effect subsequent to, and notwithstanding, the expiration or termination of this Agreement.

14.8 Remedies.

You acknowledge and agree that the restrictions contained in this Agreement, including in this *Article 14*, are fair and reasonable and necessary for the protection of our legitimate business interests and you intend and agree that such restrictions be enforceable and enforced to their fullest extent. You further understand and agree that, notwithstanding any other provision of this Agreement, your breach of your obligations under this *Article 14*, will cause us irreparable harm for which recovery of monetary damages alone would not be an adequate remedy. Both parties shall be entitled to obtain timely injunctive relief, including a temporary restraining order, preliminary and permanent injunctions, to protect their rights under this Agreement, in addition to and not exclusive of any and all other remedies available to each party.

14.9 Early Termination Damages.

If you discontinue operating your Franchised Business before this Agreement expires, with or without obtaining our prior written consent, or in the event of a termination of this Agreement arising from or related to your default and breach of its provisions, you will become obligated to pay Franchisor early termination damages (“Early Termination Damages”). The Early Termination Damages shall be considered damages and not a penalty, are not in lieu of other damages, and your payment of these damages shall not constitute a release of any other obligation owed to us. Franchisor, Franchisee, each individual signing on behalf of Franchisee, and each guarantor guaranteeing Franchisee’s obligations hereunder, hereby acknowledge and

agree that Franchisor's losses due to Franchisee's unilateral closure of the Franchised Business or termination of this Agreement would be highly difficult or impossible to calculate with reasonable certainty and, therefore, have agreed at the outset of this Agreement that the Early Termination Damages, and the formula for calculating these damages, constitutes a reasonable, good faith forecast of Franchisor's estimated losses and damages due to the premature closure of the Franchised Business or termination of this Agreement.

The amount of the Early Termination Damages is calculated as follows:

- a. Compute the average monthly Royalty Fee and Advertising Fee due for any consecutive twelve (12) month period within the forty-eight (48) months immediately preceding the date we receive notification of the closure, or if you failed to timely notify us of the closure then the date the Franchise Business closed, or, if the Franchised Business has been open for less than twelve (12) months, the average monthly Royalty Fee and Advertising Fee due since the opening of the Franchised Business ("Monthly Average");
- b. Multiply the Monthly Average by the number of months remaining in the Term;
and
- c. Divide the resulting total computed in b. above by two (2).

For example purposes only: If the average monthly Royalty Fee and Advertising Fee were collectively \$1,000 and there were five years (60 months) remaining in the Term, the Early Termination Damages would be \$30,000, calculated as follows: $\$1,000 \times 60 \text{ months} = \$60,000 \div 2 = \$30,000$.

If you unilaterally terminate this Agreement prior to the end of the Term, you must give us ninety (90) days prior notice of the early termination ("Early Termination Notice"). Within ten (10) days after our receipt of your Early Termination Notice, we will calculate the Early Termination Damages, which will be due and payable thirty (30) days prior to the closure of your Franchised Business. In the event of a termination arising from or related to your default under this Agreement, or that you do not: (i) provide us with the Early Termination Notice at least ninety (90) days prior to the early termination of your Franchised Business and this Agreement; (ii) remain open for at least ninety (90) days after providing us with the Early Termination Notice; and (iii) pay the Early Termination Damages in full at least thirty (30) days prior to closing of the Franchised Business, the Early Termination Damages due may, in our sole discretion, be increased as follows: it will be calculated by multiplying the Monthly Average by the number of months remaining in the Term, and will not be divided by two (2).

If you have not paid your Royalty Fee and Advertising Fee for any period(s) within the forty-eight (48) months prior to notifying us of your early termination, or if you have not reported your Gross Sales for any period(s) within the forty-eight (48) months prior to notifying us of your intended early termination, we will estimate the Royalty Fee and Advertising Fee based upon prior reports to calculate the Monthly Average.

ARTICLE 15. NOTICES

Unless otherwise provided in this *Article 15*, all notices specified by this Agreement or required by law must be in writing and given by personal delivery, sent by carrier (i.e., FedEx®, UPS®, etc.), U.S. certified mail, return receipt requested. All notices to us must be given at the

address set forth on page 1 of this Agreement or to such other address as we may designate in writing from time to time in accordance with this *Article 15*. All notices to you may be given at the address set forth on page 1 of this Agreement, at the address of the Franchised Business, at any of your franchised restaurants, at your residence (if an individual), or at the residence of your principal shareholder(s), partner(s), or member(s) (if a business entity). Notices will be conclusively deemed to be given, delivered, and effective when sent pre-paid and actually left in the custody of an adult agent, employee or resident at a place of business or residence if given by personal delivery; or if given by carrier, twenty-four (24) hours after deposited with carrier, or if by U.S. certified mail, three (3) days after deposited with the U.S. Postal Service. You have an obligation to promptly notify us pursuant to this *Article 15* whenever your mailing address, phone number or email address change. Notwithstanding the foregoing, we may give you written notice via email to an email address you provide us regarding all notices specified by this Agreement or required by law, with such email notification to be deemed received by you twenty-four (24) hours after we send it, unless you otherwise earlier acknowledge receipt.

ARTICLE 16. CONSTRUCTION AND ENFORCEMENT; MISCELLANEOUS

16.1 Independent Contractors.

The relationship between you and us is that of independent contractors. You are in no way to be deemed our partner, joint venturer, agent, employee, or servant. You have no authority to bind us to any contractual obligation or incur any liability for or on our behalf. You shall identify yourself as an independent owner of the Franchised Business in all dealings with customers, lessors, contractors, suppliers, public officials, employees, and others.

16.2 Severability and Substitution of Provisions.

Except as provided to the contrary in this Agreement, each article, section, term and provision of this Agreement, and any portion thereof, will be considered severable, and if, for any reason, any such portion of this Agreement is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation, or as a result of a final, non-appealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which we are a party, that regulation or ruling will not impair the operation of, or have any other effect upon, such other portions of this Agreement as may otherwise remain valid, and such other portions will continue to be given full force and effect and bind the parties to this Agreement. If the severed provision is material to this Agreement, we shall promptly provide a substitute provision to replace the invalid severed provision consistent with then-current law and the original intent of the parties.

If any applicable and binding law or rule of any jurisdiction requires a greater prior notice of the termination of, or refusal to renew, this Agreement than is required under this Agreement, or the taking of some other action not required under this Agreement, or if under any applicable law, regulation, or court ruling of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by us is invalid or unenforceable, the prior notice or other action required by such law, regulation, or court ruling will be substituted for the comparable provisions of this Agreement, and we will have the right, in our sole discretion, to modify such invalid or unenforceable provision, specification, standard or operating procedure to the extent required to be valid and enforceable. Such modifications to this Agreement shall be effective only in such jurisdiction, unless we elect to give them greater applicability, and otherwise shall be enforced as originally made and entered into in all other jurisdictions.

16.3 Dispute Resolution.

a. Except as otherwise provided herein, any dispute, claim or controversy arising out of or relating to this Agreement, the breach hereof, the rights and obligations of the parties hereto or the relationship between the parties, or the entry, making, interpretation, or performance of either party under this Agreement (“Dispute”), which cannot be resolved by mediation under *Section 16.3d*. or is not subject to mediation under the terms of this Agreement, shall be settled by arbitration administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules as modified below.

b. Any arbitration shall take place before a sole arbitrator in Maricopa County, Arizona or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration shall take place in the county in which our headquarters are located at the time the arbitration is commenced. You agree that conducting the arbitration where we are located is appropriate due to the multiple locations throughout the United States where our franchisees are located. The parties agree that the arbitrator shall be an attorney licensed to practice law in the United States and must have a minimum of five (5) years of experience in franchise law. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator shall, in the award, allocate all of the costs and expenses of the arbitration, including the fees of the arbitrator and the reasonable attorneys’ fees of the prevailing party, against the party who did not prevail. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any other dispute, arbitration proceeding or litigation, except to the extent such issue may have been specifically determined in another proceeding between the parties. This agreement to arbitrate shall survive any termination or expiration of this Agreement, however effected. The parties agree that any arbitration shall be solely between them (including any affiliates) and shall not include as a party, by consolidation, joinder, or in any other manner, any other person or entity, unless both parties consent in writing. Both parties shall have the absolute right to refuse such consent. Further, the parties expressly waive any right to bring or participate in any class or other consolidated, joined or multi-party arbitration claim or proceeding, whether or not permissible under the AAA Commercial Arbitration Rules, including any claim brought on their behalf by an association of which it, he or she is a member. At the request of any party, the arbitration shall be conducted in a manner that maintains the confidentiality of the proceedings.

c. The arbitrator will issue a reasoned award, with findings of fact and conclusions of law. Actions to enforce an express obligation to pay monies may be brought under the Expedited Procedures of the AAA’s Commercial Arbitration Rules. The Federal Arbitration Act shall govern, excluding all state arbitration laws. Arizona law will govern all other issues. With respect to discovery, the arbitrator shall require each party to make a good cause showing before any discovery exceeding that specifically authorized by the AAA Commercial Arbitration Rules will be granted.

d. Prior to the commencement of an arbitration proceeding, the parties must first submit any Dispute to non-binding mediation. At the request of any party, the mediation will be confidential. The mediation shall be conducted in Maricopa County, Arizona or in the county in which our headquarters are located at the time of mediation, unless the parties shall mutually agree to a different location. The parties to the mediation will share equally in its costs and expenses, except those costs and expenses incurred separately by each party, including counsel fees and expenses. The mediation process will be deemed “Completed” when the parties agree that it has been completed, the mediator declares that any impasse exists, or sixty

(60) days have elapsed since the date of the initiating party's notice to the other party that it is initiating the mediation process, whichever occurs first.

e. Notwithstanding anything contained in this Agreement to the contrary, the provisions of Sections 16.3a., 16.3b., 16.3c. and 16.3d. do not apply to a Dispute where: (i) we bring an action for an express obligation to pay monies, declaratory relief, preliminary or permanent equitable relief, any action at law for damage to our goodwill, the Confidential Information, the Proprietary Marks or for fraudulent conduct by you; or (ii) the delay resulting from the mediation process may endanger or adversely affect the public (for example, unhealthy, unsafe or unsanitary conditions would continue to exist). For such disputes, we may bring an action in any federal or state court having jurisdiction, whether for monetary damages, temporary preliminary and permanent injunctive relief or specific performance in addition to, and not exclusive of, any other remedies available to us. You hereby consent to and waive any objection or defense and agree not to contest venue, forum non conveniens or jurisdiction of such court or arbitration.

f. Disputes concerning the validity or scope of arbitration, including whether the Dispute is subject to arbitration, are beyond the authority of the arbitrator and will be determined by a court of competent jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. §1 et seq., as amended from time to time.

g. Either party may appeal the final award of the arbitrator, if it is over One Hundred Thousand Dollars (\$100,000), to the appropriate U.S. District Court. The Court's review of the arbitrator's findings of fact will be under the clearly erroneous standard, and the Court's review of all legal rulings will be *de novo*. If it should be determined that this provision for federal court review is not enforceable, then either party may appeal the arbitrator's final award, if it is over One Hundred Thousand Dollars (\$100,000), to a panel of three (3) arbitrators chosen under AAA Optional Appellate Arbitration Rules , which will employ the same standards of review stated immediately above.

16.4 Applicable Law and Forum; Waiver of Jury; Statute of Limitations.

a. Except to the extent that the United States Trademark Act of 1946, as amended (15 U.S.C., § 1051 et seq.) or the franchising laws of any state that may be applicable, the laws of the State of Arizona govern all rights and obligations of the parties under this Agreement without regard to conflict of law. The parties agree, subject to the mandatory mediation and arbitration provisions of *Section 16.3*, that any appropriate state or federal court located in Maricopa County, Arizona has exclusive jurisdiction over any Dispute arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy. Notwithstanding the foregoing any action initiated by us may, at our election, be brought in any jurisdiction where you are domiciled or that has jurisdiction over you. The parties hereto irrevocably submit to the jurisdiction of, and venue in, any such court, and hereby waive any objection or defense thereto. THE PARTIES AGREE THAT ALL DISPUTES SUBMITTED TO THE COURT PURSUANT TO THIS SECTION SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

b. Notwithstanding anything contained in this Agreement to the contrary, the parties agree that any claims under, arising out of, or related to, this Agreement must be brought within two (2) years of the date on which the underlying cause of action accrued, and the parties

hereby waive any right to bring any such action after such two (2)-year period, except for the collection of any unpaid Royalty Fee, Advertising Fee, and any other amount due to us or our affiliate.

c. **YOU HEREBY WAIVE THE RIGHT TO SEEK OR COLLECT PUNITIVE, MULTIPLE, CONSEQUENTIAL AND SPECIAL DAMAGES IN ANY FORUM, INCLUDING ARBITRATION. YOU HEREBY FURTHER WAIVE THE RIGHT, IF ANY, OF ANY ASSOCIATION OR MEMBERSHIP GROUP TO ASSERT CLAIMS ON YOUR BEHALF IN ANY ACTION.**

d. **YOU HEREBY WAIVE THE RIGHT TO ANY DAMAGES IN CONNECTION WITH OR RESULTING FROM THE WRONGFUL ISSUANCE OF AN INJUNCTION.**

e. The parties agree that the maximum damages that you may recover in connection with a wrongful termination of your franchise and this Agreement will be an amount equal to the product of:

(i) the annual net profit (as defined below) multiplied by

(ii) the lesser of:

(a) The number of full years existing between the date on which the franchise and this agreement were wrongfully terminated and the date on which the Term would have otherwise expired; or

(b) Three.

For purposes of this Agreement, the term "net profit" means an amount equal to the net profits of your Franchised Business, as reflected on your tax return filed with the Internal Revenue Service prior to such termination; provided, however, that if such tax return reflects the operations of your Franchised Business for a period less than one (1) year, such net profits will be annualized based upon the net profits reflected in such tax return.

16.5 No Guarantee of Franchisee's Success.

You have been informed of and acknowledge the highly competitive nature of the business involved, and agree that the successful operation of your Franchised Business will depend in part, upon your best efforts, capabilities, management, and efficient operation; as well as the general economic trend and other market conditions.

16.6 Existence of Various Forms of Franchise Agreements.

You acknowledge that our present and future franchisees operate under a number of forms of franchise agreements and consequently, our obligations and rights with respect to our various franchisees may differ materially in certain instances. The existence of different forms or versions of the franchise agreement does not entitle you to benefit from any such difference; nor does it operate to alter or amend the agreement of the parties set forth in this Agreement.

16.7 Franchise Owner May Not Withhold Payments.

You agree that you will not, on grounds of alleged or actual nonperformance or breach by us of any of our obligations under this Agreement, withhold payment of any Royalty Fee, Advertising Fee, amounts due to us or any of our affiliates for goods or services purchased by you, or any other amounts due to us or any of our affiliates.

16.8 Remedies Are Cumulative.

The rights and remedies of the parties to this Agreement are cumulative and not exclusive, and no exercise or enforcement by either party of any right or remedy under this Agreement shall preclude the exercise or enforcement by such party of any other right or remedy under this Agreement or otherwise available at law or in equity to such party.

16.9 Interpretation.

All the terms and provisions of this Agreement will be binding upon and inure to the benefit of the successors and assigns of the parties. However, nothing in this *Section 16.9* may be construed as our consent to the Transfer of this Agreement or any rights by you.

16.10 Waiver.

Our failure to insist upon the strict performance of any term, covenant or condition contained in this Agreement will not constitute or be construed as a waiver or relinquishment of our right to enforce thereafter any such term, covenant or condition and such term, covenant or condition will continue in full force and effect. For example, Franchisor's acceptance of any payments made by Franchisee after a breach of this Agreement shall not be, nor be construed as, a waiver by Franchisor of any breach by Franchisee of any term, covenant or condition of this Agreement.

16.11 Litigation Expense.

If an action at law or suit in equity is brought to establish, obtain or enforce any right by either of the parties to this Agreement, the prevailing party in the suit or action, in the trial and appellate courts, will be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs and expenses and disbursements incurred in such suit or action.

16.12 No Third-Party Beneficiaries.

This Agreement is not intended to benefit any other person or entity except the named parties hereto and no other person or entity shall be entitled to any rights hereunder by virtue of so-called "third-party beneficiary rights" or otherwise.

16.13 Binding Effect; Modification.

This Agreement is binding upon the parties to this Agreement and their respective executors, administrators, personal representatives, heirs, permitted assigns and successors in interest. No amendment, change, or modification of this Agreement shall be binding on any party unless executed in writing by you and us.

16.14 Entire Agreement; Nature and Scope; Construction.

This Agreement, all exhibits, attachments, addendums, and amendments, constitute the entire understanding and agreement between the parties, and there are no other oral or written understandings or agreements between us and you relating to the subject matter of this Agreement. If required to be signed, any state specific addendums are incorporated herein by reference. Any representation not specifically contained in this Agreement made prior to entering into this Agreement does not survive subsequent to the execution of this Agreement. We and you have entered into this Agreement for the sole purpose of authorizing you to use the System licensed by this Agreement in the operation of the Franchised Business during the Term in which those specific items designated by us for sale and use in such locations are offered for sale and use in individual, face-to-face transactions with patrons visiting the Franchised Business (and equivalent telephone or mail transactions accepted as a convenience to that customer group). All consideration being furnished by us to you during the course of performance of this Agreement has been determined based on the limited rights and other limitations expressed herein. No other rights have been bargained for or paid for. This provision is intended to define the nature and extent of the parties' mutual contractual intent, there being no mutual intent to enter into contract relations, whether by agreement or by implication, other than as set forth in this Agreement. The parties further acknowledge that these limitations are intended to achieve the highest possible degree of certainty in the definition of the contract being formed, in recognition of the fact that uncertainty creates economic risks for both parties which, if not addressed as provided in this Agreement, would affect the economic terms of this bargain.

Nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the Disclosure Document. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

16.15 Terminology.

In addition to the terms defined elsewhere in this Agreement, the following terms defined below are incorporated in this Agreement by reference and shall be deemed to include all persons who succeed to the interest of the original, where applicable:

The term "affiliate" means any person who, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with any person;

The term "Dollars" means United States Dollars and all amounts due under this Agreement shall be paid in United States currency;

The use of the terms "includes" and "including" in any provision of this Agreement followed by specific examples used shall not be construed to limit application of the provision to only the specific examples used;

The term "person" means any natural person, corporation, partnership, trust, other entity, association or form of organization;

The term "will" and "shall" shall be synonymous, and shall be mandatory and not discretionary, unless otherwise specifically provided herein; and

Any references to articles or sections refer to articles and sections in this Agreement unless specified otherwise.

16.16 Counterparts.

This Agreement may be executed in one (1) or more original counterparts, and all of which, when taken together, shall be deemed to be one (1) original Agreement. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature. A fully-executed copy of this Agreement shall be of the same force and effect as the original.

16.17 Offerings.

If you are a corporation, partnership or other entity, and if you intend to offer securities, partnership interests or other ownership interests in you through any public or private offering, you shall not use any Proprietary Marks in such public or private offering, except to reflect your franchise relationship with us; nor shall you misrepresent your relationship with us by any statement or omission of an essential statement. You shall indemnify and hold us harmless from any liability in connection with such offering. Nothing in the foregoing shall modify the provisions of *Article 12*, and no such offering shall be made without first complying with any applicable provisions of *Article 12*.

16.18 Time.

Time is of the essence of each and every provision of this Agreement.

16.19 Force Majeure.

Neither of the parties will be liable for loss or damage or be deemed to be in breach of this Agreement if the failure to perform the party's obligations results from: (a) transportation shortages, inadequate supply of equipment, merchandise, supplies, labor, material or energy, or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any government or any department or agency thereof, or (b) acts of God, and in each case being unforeseeable forces which Franchisee could not by the exercise of due diligence have avoided; provided however that Franchisee must: (i) immediately upon the start of the above-mentioned act, provide written notice to Franchisor that it expressly enacts its rights granted under this Section, and (ii) use all commercially reasonable efforts to mitigate the effect of the event of Force Majeure upon its performance and to fulfill its obligations under this Agreement. Any delay resulting from any of these causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that no such cause will excuse payments of amounts owed at the time of such occurrence or payment of the Royalty Fee and all other amounts due to us and our affiliates thereafter, or permit Franchisee to permanently close the Franchised Business.

16.20 Plurals and Captions.

Words in the singular number include the plural when the context requires (and vice-versa). The table of contents and the captions are inserted only for convenience and are not a part of this Agreement or a limitation of the scope of the particular article or section to which each refers.

16.21 Joint and Several Liability.

If you consist of two (2) or more individuals, whether in the form of separate individuals or a business entity controlled by the individuals, then each individual will be jointly and severally liable under the provisions of this Agreement.

16.22 Trademark Notice.

All trademarks referenced in this Agreement are those of their respective owners.

16.23 No Accord or Satisfaction.

If you pay, or we otherwise receive, a lesser amount than the full amount provided for under this Agreement for any payment due hereunder, such payment or receipt may, in our sole discretion, be applied against the earliest amount due us. In addition, if interest or late fees are owed, we may, in our sole discretion, apply any amounts paid to the late fees and interest before such amounts are applied to the principal amount owed. We may accept any check or other payment in any amount without prejudice to our right to recover the entire balance of the amount due or to pursue any other right or remedy. No endorsement or statement by you on any check or payment or in any letter accompanying any check or payment or elsewhere shall constitute or be construed as an accord or satisfaction.

ARTICLE 17. ACKNOWLEDGMENTS AND REPRESENTATIONS OF FRANCHISEE

17.1 Certain Representations and Warranties of Franchisee.

You represent and warrant that the following statements are true and complete as of the Effective Date:

a. You do not seek to obtain the Franchised Business for speculative or investment purposes and have no present intention to sell or transfer or attempt to sell or transfer the Franchised Business except as previously approved by Franchisor and subject and conditioned to Article 12 of this Agreement.

b. You understand and acknowledge the value to the System of uniform and ethical standards of quality, appearance and service described in and required by the Confidential Manual and the necessity of operating the Franchised Business under the System Standards. You represent that you have the capabilities, professionally, financially and otherwise, to comply with our System Standards.

c. If you are a corporation, limited liability company, partnership, or other form of entity, you are duly incorporated, organized, or formed and are qualified to do business in the state and any other applicable jurisdiction within which the Franchised Business is located, and you are and shall remain duly organized and in good standing during the Term.

d. You represent and warrant that: (i) if you are an individual, you are; or (ii) if you are an entity, that each of your owners, shareholders, partners, and members are, a United States citizen or a lawful resident alien of the United States.

e. All financial and other information that you have provided to us or otherwise made available to us in connection with your application for this franchise is true, complete, accurate, and not intentionally misleading.

f. The execution of this Agreement by you will not constitute or violate any other agreement or commitment to which you are a party.

g. Any individual executing this Agreement on your behalf is duly authorized to do so and the Agreement shall constitute your valid and binding obligation and, if applicable, all of your partners, members, or shareholders, if you are a partnership, limited liability company, or corporation.

h. You have, or if you are a partnership, corporation or other entity, your partners or principals have, carefully read this Agreement and all other related documents to be executed by you concurrently or in conjunction with the execution hereof; that you have obtained, or had the opportunity to obtain, the advice of counsel in connection with the execution and delivery of this Agreement; that you understand the nature of this Agreement and that you intend to comply with and be bound by this Agreement.

i. You have read and understand the information and disclosures made in the Disclosure Document provided to you as acknowledged in *Section 17.3e*. You understand and acknowledge that: (i) estimates for initial start-up expenses are estimates only and there can be additional start-up expenses; and (ii) your sales may differ substantially from any sales provided in Item 19 of the Disclosure Document, and there is no assurance that your sales will meet or exceed any sales listed in Item 19 of the Disclosure Document. You have had the opportunity to and have consulted or elected not to consult with your attorney, accountant and business advisors before entering into this Agreement.

j. You understand and agree that, while not applicable in every case, our past experience indicates that owner-operated restaurants generally perform better than absentee owners with hired managers. The food business is a personal business and is dependent upon your business skill and judgment. This includes your choice of employees. Your skill in hiring the right people to work in your Franchised Business is very important in determining whether people decide to purchase menu items from your Franchised Business or from another restaurant in the same vicinity.

k. You understand and agree that ownership of a franchise and the Franchised Business carries certain risks. These risks include the loss of your initial investment, other continued financial losses such as rent payments due under lease obligations and other contractual obligations, the loss of your time and energy in starting up and running your Franchised Business, and loss of earnings and investment income from your investment in the Franchised Business. You understand and agree that the Franchised Business may make money and may lose money and are entering this business venture with this express understanding. You are not relying upon anything which is not contained within this Agreement or the Disclosure Document in determining and deciding to become a franchisee.

l. Notwithstanding the foregoing, you understand and agree that the System must not remain static if it is to meet (without limitation) presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, social trends and other market place variables, and if it is to best serve the interests of us, you and all other franchisees. Accordingly, you expressly understand and agree that we may from time to time change the components of the System, including altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition or other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which your Franchised Business is authorized and required to offer, modifying or substituting entirely the equipment, signage, trade dress, décor, color schemes and uniform System Standards and specifications and all other unit constructions, design, appearance and operation attributes which you are required to observe under this Agreement; and, abandoning, changing, improving, modifying or substituting the Proprietary Marks. You expressly agree to comply with any such modifications, changes, additions, deletions, substitutions and alterations. You shall accept, use and effectuate any such changes or modifications to, or substitution of, the System as if they were part of the System at the time that this Agreement was executed. Except as provided herein, we shall not be liable to you for any expenses, losses or damages sustained by you as a result of any of the modifications contemplated hereby.

m. You represent that neither you nor any of your affiliates, officers, directors, managers, members, or partners (as applicable) or funding sources are subject to U.S. Executive Order 13224, identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specially Designated National and Blocked Persons list, or any terrorist list or other blocked persons list. In addition, you represent that you have not received funding from, nor are you owned, controlled, or acting on behalf of the government of any country that is subject to an embargo by the United States, any foreign government official, political party or international organization, and that no foreign government or government official, political party or international organization has any financial interest in the Franchised Business or any monies earned by the Franchised Business.

n. You represent, warrant and agree that you, your officers, directors, managers, members, or partners (as applicable) will each at all times conduct themselves in an ethical manner and avoid any activity that might result in a violation of the U.S. Foreign Corrupt Practices Act, Anti-Terrorism Laws, or any other applicable anti-corruption or bribery laws.

17.2 Additional Information Respecting Franchisee.

a. You have delivered to us or will deliver concurrent herewith, complete and accurate copies of all of your organizational documents, including all partnership agreements, certificates of partnership, articles of organization, operating agreements, articles or certificates of incorporation, by-laws and shareholder agreements, including all amendments, side letters and other items modifying such documents.

b. Reserved.

17.3 Acknowledgements of Franchisee.

a. You acknowledge that you have conducted an independent investigation of the business venture contemplated by this Agreement and recognize that this business venture involves substantial business risks and will largely depend upon your ability. Other than the financial performance representation contained in Item 19 of the Disclosure Document, if any, we expressly disclaim making, and you acknowledge that you have not received or relied on, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the Franchised Business contemplated by this Agreement.

Franchisee Initials ____/____

b. You hereby certify that none of our employees, no other person speaking on our behalf, and no Area Representative, if applicable, have: (i) made any oral, written, visual, or other representation, agreement, commitment, claim, or statement that stated or suggested any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise other than any financial performance representation contained in Item 19 of the Disclosure Document; or (ii) made any oral, written, visual, or other representation, agreement, commitment, claim, or statement from which any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise might be ascertained, related to a *Cold Stone Creamery* franchise, that is different from, contrary to, or not contained in the *Cold Stone Creamery* Disclosure Document; or (iii) made any representation, agreement, commitment, claim or statement to you that is different from, contrary to, or not contained in, the *Cold Stone Creamery* Disclosure Document. You acknowledge and agree that we do not make or endorse, nor do we allow any of our employees or other persons speaking on our behalf to make or endorse, any additional oral, written, visual, or other representation, agreement, commitment, claim, or statement that states or suggests any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise with respect to a *Cold Stone Creamery* franchise other than any financial performance representation contained in Item 19 of the Disclosure Document.

Franchisee Initials ____/____

c. You acknowledge that you have received, read and understand this Agreement and the related exhibits, attachments and agreements and that we have afforded you sufficient time and opportunity to consult with advisors selected by you about the potential benefits and risks of entering into this Agreement.

Franchisee Initials ____/____

d. You understand that this Agreement, including any amendments and exhibits, contains the entire agreement between the parties concerning the Franchised Business, and that any prior oral or written statements that are not set out in this Agreement, including any amendments, exhibits and attachments will not be binding. You acknowledge and agree that we do not permit any representations, agreements, commitments, claims, or statements or approve any changes in this Agreement or any of the amendments, exhibits and attachments to this Agreement, except by means of a written amendment or addendum signed by all parties to this Agreement. You acknowledge that nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the Disclosure Document.

[store #]
[doc #]

Franchisee Initials ____/____

e. You acknowledge receipt of our Disclosure Document fourteen (14) days prior to the execution of this Agreement or your payment of any monies to us or our agent (or sooner if required by applicable state law).

Franchisee Initials ____/____

f. You acknowledge that, other than what was previously disclosed to you in our Disclosure Document to which you acknowledge receipt thereof, you have not: (1) received any financial statements for us or any of our parent or affiliated companies; or (2) relied on the financial condition of us or of any of our parent or affiliated companies when making the decision to purchase the Franchised Business.

Franchisee Initials ____/____

g. You acknowledge, as detailed in *Section 2.3*, that you must, at your own cost and expense, use only our designated and approved Design Architect for the design of your Franchised Business.

Franchisee Initials ____/____

h. You acknowledge that the following is your Area Representative (if applicable):

Franchisee Initials ____/____

i. If an Area Representative is identified in *Section 17.3h.*, you make the following representations with respect to the Area Representative:

(i) You have met or spoken to only _____, the Area Representative;

(ii) Other than any financial performance representation contained in Item 19 of the Disclosure Document, at no time did the Area Representative make any promises or statements, or projections or forecasts, or estimates or warranties or representations or other statement or agreement concerning profits or expenses or costs or actual or projected sales of any kind directly or by implication about *Cold Stone Creamery* restaurants or about the Franchised Business that we desire to develop under this Agreement or about obtaining the confirmed Location or about any other matter other than what is contained in the *Cold Stone Creamery* Disclosure Document or *Cold Stone Creamery* restaurant brochure.

(iii) You acknowledge that you have not received any written materials from us or the Area Representative except for the *Cold Stone Creamery* brochure and Disclosure Document; and

If there are any exceptions to Sections 17.3i.(i) – (iii), identify the item number and list the exception here:

Franchisee Initials ____/____

j. You acknowledge there have been no other inducements made with any person or entity, including the Identified Area Representative, encouraging you to purchase the Franchised Business, such as a “side deal” or other promise or agreement not included in the Agreement.

Franchisee Initials ____/____

k. You acknowledge and understand that Article 6 covers the use of the *Cold Stone Creamery* trademark and prohibition on registration of our Proprietary Marks. You acknowledge the ownership of the Proprietary Marks by us, and you agree that during the Term and after its expiration or termination, you will not, directly or indirectly, apply to register, register or otherwise seek to use or control or in any way use “*Cold Stone Creamery*”, or any other of our proprietary marks, or any confusingly similar form or variation, in any place or jurisdiction either within or outside the United States; nor will you assist any others to do so. You further agree that your corporate, partnership or other entity name will not include any of the Proprietary Marks or phrases similar thereto as a part thereof. Furthermore, you acknowledge and understand that you are prohibited from filing applications for the registration of our trade names used in connection with your Franchised Business.

Franchisee Initials ____/____

l. You acknowledge and understand that in the event you have registered a trade name or entity name containing our trademarks, you will be required to immediately discontinue all further use of the trademark, all Proprietary Marks and any other marks or names confusingly similar thereto in your entity name. Furthermore, you will take such action as may be required to amend your entity name and affirmatively cancel or terminate and dissolve all fictitious or assumed names or other registrations that contain our Proprietary Marks. In the event you do not comply and execute any and all instruments and documents necessary to protect and maintain our interests in the Proprietary Marks, we will then have power of attorney to execute any documents necessary to protect and maintain our interests in the Proprietary Marks.

Franchisee Initials ____/____

ARTICLE 18. SUBMISSION OF AGREEMENT

The submission of this Agreement to you does not constitute an offer and this Agreement shall become effective only upon the execution thereof by the parties. THIS AGREEMENT SHALL NOT BE BINDING ON US UNLESS AND UNTIL IT SHALL HAVE BEEN ACCEPTED AND SIGNED BY FRANCHISOR.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this Agreement as of the Effective Date.

FRANCHISEE: _____, a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

FRANCHISOR: KAHALA FRANCHISING, L.L.C., an
Arizona limited liability company

By: _____
[Name, Title]

PERSONAL ACCEPTANCE OF SECTIONS 7.1, 7.2, 14.6, AND 14.8

Each of the undersigned individually and personally accepts and agrees to be bound by the provisions of Sections 7.1, 7.2, 14.6, and 14.8 of the foregoing Franchise Agreement.

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
individual
(signature) Date: _____

_____, _____, an
(signature) individual
Date: _____

EXHIBIT F-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

Guaranty of Franchise Agreement

GUARANTY OF FRANCHISE AGREEMENT

This GUARANTY OF FRANCHISE AGREEMENT ("Guaranty") is entered into as of _____ by each of the undersigned ([individually and collectively,]"Guarantor") in favor of KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor"). To the extent this Guaranty contains terms and conditions that differ from those contained in the Franchise Agreement (as defined in Recital A below), this Guaranty shall control. All capitalized terms not otherwise defined in this Guaranty will have the same meanings ascribed to such terms in the Franchise Agreement.

Recitals

A. Franchisor and _____, a(n) _____ ("Franchisee") entered into a Franchise Agreement dated _____, 20____[, as amended,] (collectively "Franchise Agreement") for a *Cold Stone Creamery* restaurant located at _____ ("Location").

B. Guarantor is a shareholder, partner, member, or other person or entity interested in effecting the grant or transfer of the Franchise Agreement.

C. Without this Guaranty, Franchisor cannot be assured that there are sufficient assets to operate the franchise or to protect Franchisor in the event of a default by Franchisee.

D. Franchisor is willing to enter into the Franchise Agreement only if Guarantor personally guarantees faithful performance of all the terms of the Franchise Agreement.

E. Guarantor acknowledges Guarantor received and read the Franchise Agreement and agrees to be bound to the obligations in this Guaranty with regard to the Franchise Agreement.

Agreement

1. In consideration of the above recitals, Guarantor personally guarantees, for the benefit of Franchisor, its parent, subsidiaries, affiliates and successors and assigns, the prompt and complete performance of all the covenants and conditions contained in the foregoing Franchise Agreement.

2. This Guaranty is effective until all terms of the Franchise Agreement have been fully and completely performed by Franchisee and shall continue through the entire Term of the Franchise Agreement as may be renewed or extended. No release of Franchisee or discharge of Franchisee under bankruptcy law, or any other law, shall impair or effect the obligations of Guarantor to Franchisor hereunder.

3. Franchisor is not required to proceed first against the Franchisee, but may proceed first against the Guarantor alone or concurrent with proceeding against Franchisee. The obligations of Guarantor hereunder are absolute and unconditional.

4. Franchisee and Franchisor may from time to time alter or modify the Franchise Agreement between themselves, possibly changing or increasing the extent of Guarantor's obligation under this Guaranty. Guarantor consents to any and all modifications or amendments of the Franchise Agreement and the documents and Confidential Manual referred to in the Franchise Agreement, without requiring notice to Guarantor or Guarantor's consent.

5. Guarantor agrees specifically to be bound by the confidentiality requirements and the covenant against competition in the Franchise Agreement.

6. Guarantor waives notice of acceptance of this Guaranty and notice of non-performance or non-payment by Franchisee of any of its obligations or liabilities under the Franchise Agreement.

7. A default by Guarantor under this Guaranty will be deemed a default under all Franchise Agreements guaranteed by the Guarantor.

8. Guarantor agrees to pay all attorneys' fees, costs and expenses (including any and all Royalty Fees and Advertising Fees and associated interest on such amounts, that are determined to be owing to Franchisor due to underreporting by Franchisee) incurred by Franchisor in enforcing this Guaranty, whether or not suit or action is filed, and if suit or action is filed, then through trial and all appeals, and also in any proceedings or matter in Bankruptcy Court; Guarantor assumes all liability for all losses, costs, attorneys' fees, and expenses that Franchisor incurs as a result of a default by Franchisee, including those fees and expenses incurred in a bankruptcy proceeding involving Franchisee.

9. Guarantor hereby agrees that upon notice of default or upon an uncured default of the Franchise Agreement or any other agreement between Guarantor (or a legal entity thereof) and Franchisor or its affiliates, and with no prior notice, Guarantor consents to Franchisor's (or any of its affiliate's or third-party contractor's) acquisition and use of non-business consumer credit reports on Guarantor in order to evaluate as necessary the financial condition of Guarantor as principal, member, manager, franchisee, and/or guarantor in connection with the collection of monetary obligations as contemplated by the Franchise Agreement, this Guaranty, a promissory note, or any other agreements between Guarantor (or a legal entity thereof), and Franchisor or its affiliates. Guarantor as an individual or individuals hereby knowingly consent to the use of such credit reports consistent with the Federal Fair Credit Reporting Act as contained in 15 U.S.C. § 1681 et seq.

10. This Guaranty is personal to Guarantor and the obligations and duties imposed herein may not be delegated or assigned; provided, however, that this Guaranty shall be binding upon the successors, assigns, heirs, estate, trustee(s) and personal representative(s) of Guarantor. This Guaranty shall inure to the benefit of Franchisor, its affiliates, successors and assigns.

11. In the event that any one or more provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Guaranty shall be construed to bind Guarantor to the maximum extent permitted by law that is subsumed within the terms of such provision as though it were separately articulated herein.

12. This Guaranty shall be interpreted and construed under the laws of the State of Arizona, which laws shall prevail in the event of any conflict of law. Any appropriate state or federal court located in Maricopa County, Arizona has exclusive jurisdiction over any case or controversy arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy, and the parties hereto irrevocably submit to the jurisdiction of any such court. THE PARTIES AGREE THAT ALL DISPUTES ADMITTED TO THE COURT PURSUANT TO THIS SECTION 12 SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

13. If Guarantor consists of two (2) or more persons, then each person will be jointly and severally liable under the provisions of this Guaranty.

14. [The undersigned _____ [include name(s) here of each of the undersigned who is not married] each represents that he/she is not married as of the Effective Date.]

15. Guarantor acknowledges that (i) it is a condition to the granting of the Franchise Agreement to Franchisee that Guarantor shall execute and deliver this Guaranty to Franchisor, (ii) that Franchisor has entered into the Franchise Agreement in reliance upon the agreement of Guarantor to do so, and (iii) that, as owner of the Franchisee, Guarantor has received adequate consideration to support its execution of this Guaranty. This Guaranty does not grant or create in Guarantor any interests, rights or privileges in any franchise or Franchise Agreement.

16. This Guaranty may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Guaranty and all of which, when taken together, shall be deemed to constitute one and the same Guaranty.

17. Words in the singular number include the plural when the context requires (and vice-versa), and defined terms include the possessive when the context requires (and vice-versa).

GUARANTOR:

[Name], an individual

[Name], an individual

[Name], an individual

[Name], an individual

EXHIBIT F-2

**TO THE FRANCHISE DISCLOSURE DOCUMENT
Non-Disclosure and Non-Competition Agreement**

NON-DISCLOSURE AND NON-COMPETITION AGREEMENT

This NON-DISCLOSURE AND NON-COMPETITION AGREEMENT ("Agreement") is made and entered into as of _____ ("Effective Date"), by and between KAHALA FRANCHISING, L.L.C., an Arizona limited liability company, having an office located at 9311 East Via De Ventura, Scottsdale, Arizona 85258 ("Franchisor") and the undersigned, an individual, having an address of _____. Franchisor and the undersigned may also be referred to in this Agreement individually as "Party" and collectively as "Parties."

Recitals

A. Franchisor is in the business of licensing franchise systems in the quick service restaurant market and is the owner and/or licensee of certain proprietary, confidential and/or trade secret information related to its business.

B. The undersigned is the spouse of the franchisee or spouse of an employee, officer, director, member, manager, partner or owner of an interest in the equity or voting interests of [Franchisee], the "Franchisee" under and signatory to, that certain "Franchise Agreement" dated _____ entered into with Franchisor granting Franchisee the right to operate one *Cold Stone Creamery* restaurant ("Franchised Business") on the terms and conditions stated therein.

C. The undersigned acknowledges that, in order to induce Franchisor to enter into the Franchise Agreement, Franchisee must cause those persons as listed in Recital B to execute this Agreement for the benefit of Franchisor.

NOW, THEREFORE, in consideration of the foregoing and of the representations, terms, covenants, conditions and agreements set forth in this Agreement and intending to be legally bound, the Parties hereby agree as follows:

Agreement

1. **Definition of Confidential Information.** "Confidential Information" includes, without limitation, knowledge and information which Franchisee knows, or should reasonably know, which Franchisor regards as confidential concerning: (i) formulation, ingredients, raw materials, recipes, and food preparation processes for proprietary products, non-proprietary products, collateral logo merchandise or other items or services that Franchisor permits Franchisee to sell at or from the Franchised Business; (ii) Franchisor's supply relationships, inventory requirements and control procedures; (iii) pricing, sales, profit performance or other results of operations of any and all *Cold Stone Creamery* restaurants, including the Franchised Business; (iv) demographic data for determining sites and territories; (v) the results of customer surveys and promotional programs; and (vi) in general, business methods, trade secrets, specifications, customer data, cost data, procedures, information systems and knowledge about the operation of *Cold Stone Creamery* restaurants or the *Cold Stone Creamery* System, whether it is now known or exists or is acquired or created in the future, and whether or not the information is included in the Confidential Manual or Franchisor expressly designates the information as confidential. Confidential Information does not include information which the undersigned can demonstrate came to his or her attention independent of entering into this Agreement and information that Franchisor agrees is, or has become, generally known in the public domain,

except where public knowledge is the result of the undersigned's wrongful disclosure (whether or not deliberate or inadvertent).

2. **Non-Disclosure of Confidential Information.**

a. The undersigned agrees not to possess, obtain, or seek to obtain, either directly or indirectly, any Confidential Information from any person or other source, unless authorized in writing by Franchisor. In the event that the undersigned does possess, or comes to possess, any Confidential Information, the undersigned shall immediately notify Franchisor of that fact and return the Confidential Information, and all copies and portions thereof, to Franchisor.

b. The undersigned agrees not to disclose, duplicate, sell, reveal, divulge, publish, furnish or communicate, either directly or indirectly, any Confidential Information to any other person, firm or entity, unless authorized in writing by Franchisor.

c. The undersigned agrees not to use any Confidential Information for his or her own personal gain or to further the purposes of others, whether or not the Confidential Information has been conceived, originated, discovered or developed, in whole or in part, by the undersigned or represents the undersigned's work product. To the extent the undersigned has assisted in the preparation of any information that Franchisor considers Confidential Information or has prepared or created such information by himself or herself, the undersigned hereby assigns any rights that he or she may have in such information as creator to Franchisor, including all ideas made or conceived by the undersigned.

d. The undersigned acknowledges that the use, publication or duplication of the Confidential Information for any purpose not authorized by this Agreement constitutes an unfair method of competition by the undersigned.

e. The provisions of this Section 2 shall apply forever, surviving the expiration or termination of all contracts between Franchisor and Franchisee.

f. The provisions concerning non-disclosure of Confidential Information shall not apply if disclosure of Confidential Information is legally compelled in a judicial or administrative proceeding, provided the undersigned shall have used his or her best efforts, and shall have afforded Franchisor the opportunity, to obtain an appropriate protective order or other assurance satisfactory to Franchisor of confidential treatment for the information required to be disclosed. If the undersigned is required to disclose Confidential Information, whether in whole or in part, to any third party pursuant to a subpoena or a court or agency order, the undersigned agrees to only disclose the minimum amount of Confidential Information required to be disclosed.

3. **Agreements Regarding Competition.**

a. For as long as Franchisee is a party to any franchise agreement with Franchisor, the undersigned agrees that he or she shall not, directly or indirectly, own (neither beneficially nor of record), engage in or render services to, whether as an investor, partner, lender, director, officer, manager, employee, consultant, representative or agent, any Competing Business (as defined in *Section 3.f* below); provided, however, the restrictions stated in this paragraph shall not apply to the undersigned after two (2) years from the date that the undersigned ceases to be a spouse of the Franchisee or spouse of an employee, officer, director, member, manager, partner or owner of an interest in the equity or voting interests of Franchisee or otherwise associated in any capacity with Franchisee.

b. For a period of two (2) years after expiration or termination of the last franchise agreement between Franchisee and Franchisor, it shall be a breach of this Agreement for the undersigned to directly or indirectly, own, engage in or render services to, whether as an investor, partner, lender, director, officer, manager, employee, consultant, representative or agent, any Competitive Business; provided, however, the restrictions stated in this paragraph shall not apply to the undersigned after two (2) years from the date that the undersigned ceases to be a spouse of the Franchisee or spouse of an employee, officer, director, member, manager, partner or owner of an interest in the equity or voting interests of Franchisee or otherwise associated in any capacity with Franchisee.

c. The undersigned may engage in any activities not expressly prohibited by this Agreement. However, in connection with permitted activities, the undersigned shall not (i) use the Confidential Information or any of *Cold Stone Creamery* intellectual property including without limitation, any and all rights currently existing or that may come into being which Franchisor or Franchisor's affiliates now own or later acquire in *Cold Stone Creamery* trademarks, proprietary products and/or Confidential Information arising under any patent, trade secret, copyright, trade dress, design protection, database protection, trademark, or similar laws of the United States or any other country in which Franchisor or its affiliates operate (collectively "Cold Stone Creamery Intellectual Property"); (ii) engage in any conduct or activity which suggests or implies that Franchisor endorses, or authorizes, the undersigned's activities; or (iii) induce any person to engage in conduct prohibited by this Agreement.

d. The undersigned acknowledges that the covenants regarding competition are independent of the other covenants and provisions of this Agreement. If any provision regarding competition is void or unenforceable under any applicable law, but would be enforceable as written or as modified under the laws of the state in which the Franchised Business is located (the "Local Laws"), the parties agree that the Local Laws shall govern any dispute concerning or involving the construction, interpretation, validity or enforcement of the provisions regarding competition. Franchisee expressly authorizes Franchisor to conform the scope of any void or unenforceable covenant in order to conform it to the Local Laws.

e. For purposes of this *Section 3*, "Cold Stone Creamery System" means, collectively, all of the distinctive business methods, proprietary products, Confidential Information and *Cold Stone Creamery* Intellectual Property which Franchisor now or in the future authorizes or requires Franchisee to use as a condition of the Franchise Agreement, as Franchisor may modify in its sole discretion at any time.

f. For purposes of this *Section 3*, "Competing Business" means a business which is primarily engaged in the sale of ice cream and/or frozen yogurt, along with cakes, cupcakes, pies, smoothies and other dessert products prepared or served with ice cream or frozen yogurt as an ingredient, and all variations thereof within a geographical area consisting of: (1) for as long as Franchisee is a party to any Franchise Agreement with Franchisor, anywhere including the location of the Franchised Business; and (2) after expiration or termination of the last franchise agreement between Franchisee and Franchisor, within a ten (10) mile radius from the location of the Franchised Business or location of any *Cold Stone Creamery* restaurant of Franchisor, Franchisor's third-party licensees or Franchisor's third-party franchisees. The term "*Cold Stone Creamery* restaurant" includes not only the restaurants now in existence, but also those established at a later date. The term of this covenant will be extended by any time consumed in litigation to enforce it in both trial and appellate courts. If a court of competent jurisdiction determines that the restrictions in this paragraph are excessive in time, geographic

scope, or otherwise, the court may reduce the restriction to the level that provides the maximum restriction allowed by law.

g. For purposes of this *Section 3*, "Confidential Manual" refers collectively to all of the confidential operations manuals, recipe manuals, operations guides and other instructions loaned or delivered to the Franchisee during the term of the Franchise Agreement, which may be memorialized in written or electronic format, now existing and hereinafter developed, and which may be modified periodically to reflect changes in the *Cold Stone Creamery System*.

4. **Interference.**

The undersigned agrees not to, directly or indirectly, for himself or herself or on behalf of any other person: divert, or attempt to divert, any business or customer of any *Cold Stone Creamery* restaurant to any competitor by direct or indirect inducement or perform any act which directly or indirectly could, or may, injure or prejudice the goodwill and reputation of *Cold Stone Creamery Intellectual Property* or *Cold Stone Creamery System*.

5. **Irreparable Harm to Franchisor.**

The undersigned understands and agrees that if the undersigned breaches or threatens to breach any of his or her obligations under this Agreement, Franchisor will be irreparably harmed and an award of monetary damages alone would be inadequate. Therefore, the undersigned agrees that Franchisor shall be entitled to seek equitable relief, including, without limitation, temporary, preliminary and permanent injunctive relief and specific performance for any actual or threatened breach by the undersigned, his or her affiliates or their respective officers, directors, shareholders, employees or agents. The remedies provided under this *Section 5* shall be in addition to and not exclusive of any other right or remedy available to Franchisor under this Agreement or otherwise, including, without limitation, an award of attorneys' fees, expert witness fees and costs incurred by Franchisor or its affiliates in connection with any dispute arising from or related to this Agreement.

6. **Validity; Conformity With Applicable Law.**

Wherever possible, each provision of this Agreement shall be interpreted in a manner as to be valid under applicable law, but if any provision of this Agreement shall be invalid or prohibited thereunder, the provision shall be ineffective only to the extent of the prohibition or invalidity without invalidating the remainder of this Agreement.

7. **Miscellaneous.**

a. *Waiver.* Any waiver granted to the undersigned by Franchisor excusing or reducing any obligation or restriction imposed under this Agreement shall be evidenced by a writing executed by Franchisor in order to be effective and shall only be effective to the extent specifically allowed in such writing. No waiver granted by Franchisor shall constitute a continuing waiver. Any waiver granted by Franchisor shall be without prejudice to any other rights Franchisor may have. The rights and remedies granted to Franchisor are cumulative. No delay on the part of Franchisor in exercising any right or remedy shall preclude Franchisor from fully exercising such right or remedy or any other right or remedy.

b. *Entire Agreement; Amendment.* This Agreement sets forth the entire agreement made by the undersigned pertaining to the subject matter hereof, fully superseding any and all prior

agreements or understandings that may exist between the undersigned and the Franchisor pertaining to such subject matter. No amendment, change, modification or variance to or from the terms and conditions set forth in this Agreement shall be binding on the undersigned unless it is set forth in writing and duly executed by the undersigned and Franchisor.

c. This Agreement shall be binding on the undersigned's heirs, executors, successors and assigns as though originally executed by such persons.

d. *Notices.* All notices permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery, courier, such as FedEx® or UPS®, or by U.S. Mail, sent certified or registered mail, return receipt requested, to the address set forth in the first paragraph of this Agreement, with a courtesy copy sent via email or facsimile (to the address set forth on the signature page below) for the respective Party to be noticed, which address may be amended from time to time pursuant to the terms of this *Section 7.d*. Notices provided under this *Section 7.d* shall be deemed received upon personal delivery or delivery by courier and within five (5) days after deposit in the U.S. Mail.

e. *Governing Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona without reference to conflict of laws principles. Except for actions seeking injunctive relief (which may be brought in any appropriate jurisdiction) suit under this Agreement shall only be brought in the state or federal courts located in Maricopa County, Arizona. This choice of jurisdiction and venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than as specified in this *Section 7.e*. Each Party waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to the jurisdiction and venue with respect to any proceeding brought in accordance with this *Section 7.e*.

f. *No Assignment.* The undersigned shall not assign or transfer any rights or obligations under this Agreement without Franchisor's prior written consent, which may be withheld in Franchisor's sole discretion. Any assignment made in violation of this *Section 7.f* shall be void.

g. *Counterparts; Facsimile Signatures.* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original document as against the Party whose signature appears thereon, and all of which shall together constitute one and the same Agreement. The signatures required for execution may be transmitted to the other Party via facsimile or email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other Party, may be admitted in evidence and shall fully bind the Party and person making such signature.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives with full rights, power and authority to enter into and bind the respective Party and to perform all obligations under this Agreement.

[NAME]

By: _____
[Name], an individual

Date: _____

Address: [Street Address]
[City, State Zip]

Phone: (xxx) xxx-xxxx

Email: xxxxxxxx@xxxx.xxx

EXHIBIT G

TO THE FRANCHISE DISCLOSURE DOCUMENT

Collateral Assignment and Irrevocable Special Power of Attorney

**COLLATERAL ASSIGNMENT AND
IRREVOCABLE SPECIAL POWER OF ATTORNEY**

This COLLATERAL ASSIGNMENT AND IRREVOCABLE SPECIAL POWER OF ATTORNEY ("Assignment") is entered into on _____ ("Effective Date") in accordance with the terms of that certain Franchise Agreement dated _____ [, as amended] ("Franchise Agreement") by and between _____, a(n) _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor"), executed concurrently with this Assignment and under which Franchisor granted Franchisee the right to own and operate a *Cold Stone Creamery* restaurant located at _____ ("Restaurant").

FOR VALUE RECEIVED, Franchisee hereby assigns to Franchisor, its affiliates, subsidiaries, successors and assigns, all of Franchisee's right, title and interest in and to: (i) the "Telephone Numbers and Listings" which include those certain telephone numbers and regular, yellow-pages, special, classified or other telephone directory listings used at any time in connection with the operation of the Restaurant; (ii) any website page or social media addresses and accounts, including, but not limited to, a Facebook® page or Twitter® account that contains any term or any mark confusingly similar to a trademark or other intellectual property owned or licensed by Franchisor; and (iii) any corporation, limited liability company, partnership, or other entity name or trade name filed or formed by Franchisee that contains any trademark or other intellectual property owned or licensed by Franchisor (each an "Entity Name"). This Assignment is for collateral purposes only, and except as specified herein, Franchisor shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment unless Franchisor shall notify the (i) telephone company and/or the listing agencies with which Franchisee has placed telephone directory listings (all such entities are collectively referred to herein as the "Telephone Company"); (ii) webmaster/webhost for the website or social media account; and (iii) Secretary of State, Corporation Commission or other state government agency that handles the filing of entity formation documents, to effectuate the assignment pursuant to the terms hereof.

Franchisee hereby appoints Franchisor as his/her/its attorney-of-fact and grants Franchisor an irrevocable Special Power of Attorney, coupled with an interest, with full power and authority for the purpose of executing documents or taking such action as necessary or appropriate as Franchisee might or could do if personally present, hereby ratifying all that Franchisor, as Franchisee's attorney-in-fact, shall lawfully do or cause to be done by virtue of this Special Power of Attorney to obtain, protect, maintain or enforce Franchisor's intellectual property rights if Franchisor is, for any reason, unable to obtain Franchisee's cooperation or assistance. The Special Power of Attorney granted by this Assignment, shall survive the dissolution, death, incompetence or disability of Franchisee and the termination or expiration of the Franchise Agreement or this Assignment.

Upon (i) termination of the Franchise Agreement for any reason, or (ii) expiration of the Franchise Agreement without renewal or extension, Franchisor shall have the right and is hereby empowered to effectuate the assignment of the Telephone Numbers and Listings, website and/or social media account, and Entity Name. In such event Franchisee shall have no further right, title or interest in the Telephone Numbers and Listings or the website and/or social media account, and shall remain liable to the Telephone Company for all past due fees and charges owing to the Telephone Company on or before the effective date of the assignment hereunder.

Franchisee agrees and acknowledges that as between Franchisor and Franchisee, Franchisor shall have the sole right to and interest in the Telephone Numbers and Listings,

website and/or social media accounts and Entity Name upon termination or expiration of the Franchise Agreement. Franchisee appoints Franchisor as Franchisee's true and lawful attorney-in-fact to direct the Telephone Company, webmaster/webhost, and state government agency to assign same to Franchisor and execute such documents and take such actions as may be necessary to effectuate the assignment. Upon such event Franchisee shall immediately instruct the (i) Telephone Company to assign the Telephone Numbers and Listings to Franchisor; the webmaster/webhost to assign the website and/or social media account to Franchisor; and (iii) state government agency to allow Franchisor to file the necessary documents to change the Entity Name. If Franchisee fails to promptly direct the (i) Telephone Company to assign the Telephone Numbers and Listings to Franchisor; (ii) webmaster/webhost to assign the website or social media account(s) to Franchisor; and/or (iii) file the necessary documents with the appropriate state government agency to remove Franchisor's trademarks or other intellectual property from the Franchisee's Entity Name, Franchisor shall direct the appropriate parties to effectuate the assignment contemplated hereunder to Franchisor.

The parties agree that the Telephone Company, webmaster/webhost, and appropriate state government agency may accept Franchisor's written direction, the Franchise Agreement or this Assignment as conclusive proof of Franchisor's exclusive rights in and to the Telephone Numbers and Listings, website and/or social media accounts, and Franchisor's authority to file the necessary documents to remove Franchisor's trademark or other intellectual property from the Entity Name and that such assignment shall be made automatically and effective immediately upon Telephone Company's, webmaster's/webhost's or state government agency's receipt of such notice from Franchisor or Franchisee. The parties further agree that if the Telephone Company, webmaster/webhost, or state government agency requires that the parties execute an assignment form or other documentation at the time of termination or expiration of the Franchise Agreement Franchisor's execution of such forms or documentation on behalf of Franchisee shall effectuate Franchisee's consent and agreement to the assignment. The parties agree that at any time after the date hereof they will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the assignment described herein upon termination or expiration of the Franchise Agreement.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party, without further consent or approval of any kind, has duly executed and delivered this Assignment as of the Effective Date.

ASSIGNOR (Franchisee):

_____, a(n) _____

By: _____
[Name, Title]

State of _____
County of _____

On _____ before me, personally appeared _____ known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her/their authorized

capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

(Seal)

Acknowledged by:

ASSIGNEE (Franchisor):

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

EXHIBIT H

TO THE FRANCHISE DISCLOSURE DOCUMENT

Amendment to Franchise Agreement

(for non-traditional locations excluding those co-branded with another affiliated brand)

[FIRST] AMENDMENT TO FRANCHISE AGREEMENT

[for non-traditional locations excluding those co-branded with another affiliated brand]

This [FIRST] AMENDMENT TO FRANCHISE AGREEMENT (“[First] Amendment”) dated _____, 20__ (“[First] Amendment Effective Date”), to the Franchise Agreement dated _____, 20__ (collectively the “Agreement”) for the non-traditional *Cold Stone Creamery* location at _____ (“Location”) by and between KAHALA FRANCHISING, L.L.C., an Arizona limited liability company (“Franchisor”) and _____ (“Franchisee”), is entered into by such parties to amend the Agreement as set forth in this [First] Amendment. To the extent this [First] Amendment contains terms and conditions that differ from those contained in the Agreement, this [First] Amendment shall control. The parties agree that a concept or principle covered in this [First] Amendment shall apply and be incorporated into all other provisions of the Agreement in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this [First] Amendment will have the same meanings ascribed to such terms in the Agreement.

1. The last sentence of the second unnumbered paragraph in Section **1.2**, “**Location of the Franchised Business; No Exclusive Territory or Other Rights**,” is hereby deleted and replaced with the following: “This Agreement is limited to the operation of one non-traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.”

2. Section **4.1**, “**Training Program**,” is hereby amended to add the following after the last sentence in Section 4.1: “Notwithstanding the foregoing, for non-traditional locations, the total number of days of In-Store training will be three (3) days.”

3. The first sentence in Section **5.1**, “**Initial Franchise Fee**,” is hereby deleted and replaced with the following: “The initial franchise fee is _____ Thousand Dollars (\$_____) (“Initial Franchise Fee”).”

4. Paragraph b. of Section **5.13**, “**Transfer Franchise Fee**,” is hereby deleted and replaced with the following:

b. A Potential Transferee (as defined in *Section 12.1c.*) receiving this Agreement, as may be amended, in connection with a Full Transfer (as defined in *Section 12.1a.1.*), must pay to us a transfer franchise fee of Five Thousand Dollars (\$5,000) (“Transfer Franchise Fee”).

5. The first sentence in Section **5.24**, “**Grand Opening Marketing**,” is hereby deleted and replaced with the following:

Five Thousand Dollars (\$5,000) (“Grand Opening Marketing”) is payable to us on the earlier of: (i) prior to you executing a lease for the premises where the Franchised Business will be located; or (ii) prior to construction commencing at the premises where the Franchised Business will be located.

6. Except as set forth in this [First] Amendment, the terms and provisions of the Agreement shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this [First] Amendment as of the [First] Amendment Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

FRANCHISEE:

_____, a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

EXHIBIT H-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

**Rocky Mountain Chocolate Factory Addendum to Franchise Disclosure Document
and Amendment to Franchise Agreement**

ROCKY MOUNTAIN CHOCOLATE FACTORY ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

The following modifications are to the Cold Stone Creamery Franchise Disclosure Document and may supplement certain portions of the Franchise Disclosure Document and the Franchise Agreement.

ITEM 1: THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

Kahala Franchise Corp. entered into a Master License Agreement dated August 17, 2009 (“Master License Agreement”) with Rocky Mountain Chocolate Factory, Inc. (“RMCF”) under which selected franchised and company-owned Cold Stone Creamery stores are allowed to sell RMCF’s products in addition to the Cold Stone Creamery product offering (“Co-Branded Stores”). The Master License Agreement was assigned to Kahala Franchising effective August 2010. Under the Master License Agreement, RMCF has permitted us to grant to certain of our franchisees or company or affiliate-owned Cold Stone Creamery stores the right to use the RMCF Marks and the RMCF Methods (as defined below) in connection with the sale of selected RMCF Products within the premises of existing Cold Stone Creamery stores and in new Co-Branded Stores.

As of November 30, 2022, there were 101 *Cold Stone Creamery* franchises that sold RMCF Products.

RMCF has developed proprietary methods (“RMCF Methods”) for the sale of gourmet chocolate and other premium confectionary products, featuring Rocky Mountain Chocolate Factory brand candy that you purchase from RMCF’s factory in Durango, Colorado (“Factory Candy”) and confectionary items that you may make in your *Cold Stone Creamery* store, such as caramel apples (“Store Candy”) (collectively, the “RMCF Products”) under the Rocky Mountain Chocolate Factory name and associated trademarks and service marks (the “RMCF Marks”). You may choose to sell the traditional line or the full line of RMCF Products in your store. All stores must be developed and operated to our specifications and standards, and sell only those products that we authorize. A *Cold Stone Creamery* store that is authorized to sell the RMCF Products is also referred to as the “Franchised Business” or the “Co-Branded Stores.”

In order to sell the RMCF Products and use the RMCF Methods at your store, certain of the terms and conditions of your Franchise Agreement with us must be modified. You will be required to sign an Amendment to Cold Stone Creamery Franchise Agreement for Co-Branded Store in the form attached as Exhibit H-1 (“Amendment”).

RMCF is an unaffiliated third party. We have no ownership rights or interests in the RMCF Marks, the RMCF Methods or the RMCF Products. We have negotiated the Master License Agreement to, among other things, permit us to sublicense to our franchisees the rights to use the RMCF Marks and the RMCF Methods and to sell the RMCF Products in their Cold Stone Creamery stores. Nonetheless, those rights and our ability to sublicense them to you remain subject at all times to the Master License Agreement remaining in full force and effect. If for any reason the Master License Agreement is terminated prior to the expiration of the term of your Amendment, your rights to use the RMCF Marks and the RMCF Methods and to sell the RMCF Products will immediately cease.

ITEM 5: INITIAL FEES

There are two types of RMCF Product lines; one is the full line of RMCF Products and the other is the traditional line of RMCF Products. The traditional line of RMCF Products offers a limited version of the full line of RMCF Products.

The initial franchise fee to sell the full line of RMCF Products in your Cold Stone Creamery store is \$24,500 for the RMCF portion of your Co-Branded Store. This fee is payable in full to us when you sign the Amendment to Franchise Agreement to sell RMCF Products. This fee is in addition to the Initial Franchise Fee you are required to pay for a Cold Stone Creamery store.

The initial franchise fee to sell the traditional line of RMCF Products in your Cold Stone Creamery store is \$6,000 for the RMCF portion of your Co-Branded Store. This fee is in addition to the Initial Franchise Fee you are required to pay for a Cold Stone Creamery store.

The initial franchise fees to sell RMCF Products in your Cold Stone Creamery store are non-refundable and there are no discounts for Eligible Military or 501(c)(3) organizations.

ITEM 6: OTHER FEES

| Column 1 Type of Fee | Column 2 Amount | Column 3 Due Date | Column 4 Remarks |
|---|--|--|---|
| Royalty Fee and Surcharge from the RMCF portion of your Co-Branded Store (Note 1) | 9% of Gross Sales plus a maximum Surcharge of \$10 per week (Note 2) | Withdrawn electronically from your designated bank account weekly (Note 3) | "RMCF Gross Sales" include all revenue earned from the sale of RMCF Products in your Co-Branded Store excluding sales tax and authorized refunds, credits and allowances. |
| Transfer Fee for the Rocky Mountain Chocolate Factory portion of a Co-Branded Store | \$2,500 | Upon closing of the transfer | Note 1 |

Notes:

(1) The sale of RMCF Products is included in the definition of Gross Sales as set forth in your Franchise Agreement for which you will pay us royalties. We, in turn, are responsible for any payments to RMCF attributable to your sale of RMCF Products. These fees are collected by us, are payable to us, and are non-refundable. The fees are uniformly imposed by us; however, we may, in our sole discretion, reduce or waive an ongoing fee for a defined period of time.

ITEM 7: ESTIMATED INITIAL INVESTMENT

YOUR ESTIMATED INITIAL INVESTMENT

Sale of RMCF Products within Existing Cold Stone Creamery Store

| Column 1 Type of Expenditure | Column 2 Amount | Column 3 Method of Payment | Column 4 When Due | Column 5 To Whom Payment is to be Made |
|---|----------------------|-------------------------------|----------------------------|---|
| Initial Franchise Fee (Note 1) | \$ 6,000 to \$24,500 | Lump Sum | Upon signing the Amendment | Us |
| Travel and Living Expenses While Training | \$1,000 to \$1,500 | As incurred | As incurred | Airlines, hotels & restaurants |

| Column 1 Type of Expenditure | Column 2 Amount | Column 3 Method of Payment | Column 4 When Due | Column 5 To Whom Payment is to be Made |
|---|----------------------------|--|---|---|
| Architectural Fee | \$1,700 to \$5,000 | Lump sum | Before opening RMCF portion of Co-Branded Store | Third party vendor |
| Leasehold Improvements ⁵ | \$5,000 to \$45,000 | Lump sum | Before opening RMCF portion of Co-Branded Store | Contractor |
| Exterior and Interior Signage | \$4,500 to \$18,200 | Lump sum | Before opening RMCF portion of Co-Branded Store | Third party vendor or us |
| Equipment and Fixtures | \$16,000 to \$62,000 | Lump sum | Before opening RMCF portion of Co-Branded Store | Third party vendor or us |
| POS System | \$0 to \$2,000 | Lump sum | Before opening RMCF portion of Co-Branded Store | Third party vendor |
| Initial Inventory | \$3,500 to \$12,500 | Lump sum | Before opening RMCF portion of Co-Branded Store | RMCF |
| Employee Uniforms | \$0 to \$1,000 | Lump sum | Before opening RMCF portion of Co-Branded Store | Third party vendor |
| Grand Opening Advertising | \$0 to \$1,500 | Lump sum | Before opening RMCF portion of Co-Branded Store | Third party vendor |
| Permits and Licenses | \$0 to \$500 | Lump sum | Before opening RMCF portion of Co-Branded Store | Governmental entities |
| Total | \$ 37,700 to \$173,700 | For existing Cold Stone Creamery stores, there are typically no additional real property expenses, security deposits, or utility deposits to convert to a Co-Branded Store, unless required by the landlord. | | |

Note:

These estimates are based on constructing the required leasehold improvements within an approximately 200 square foot area within your existing store, and assume the availability of electrical requirements of 200 amps 3-phase, and HVAC of one ton per 150 square feet. You may, but are not required to, at your own cost and expense, use our designated and approved third party architect and project management firm for the design and construction oversight of your Co-Branded Stores.

ITEM 8: RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Except as stated below, you have no obligation to purchase or lease goods, services, supplies, fixtures, equipment, inventory or computer hardware relating to the establishment or operation of your Co-Branded Store from us or from any of our designees, and you have the right to purchase them from any approved supplier or, for those products for which no approved supplier

exists, from any supplier whose products meet the minimum standards established by us or RMCF.

We will require you to use RMCF's designated and approved vendors for your purchases of RMCF Products and other items associated with the sale of RMCF Products in your Cold Stone Creamery store. RMCF is the designated supplier of 'Factory Candy' which includes chocolates and other candy manufactured by RMCF and some cooking supplies for making Store Candy. Apart from the Factory Candy sold by RMCF described above, neither we, nor RMCF, nor our respective officers or directors own an equity interest in the companies that are vendors or suppliers of the goods and services relating to the sale of RMCF Products.

RMCF reserves the right to receive rebates or allowances from designated or approved suppliers based on purchases made by RMCF's franchisees, and RMCF also reserves the right to receive rebates or allowances based on purchases made by you. These rebates may range from 1% to 5%. Any rebates and allowances will be included in RMCF's general revenue, and may be used by RMCF to benefit the RMCF system, in its sole and absolute discretion. We do not receive rebates or allowances from suppliers on your purchase of RMCF Products or supplies.

RMCF derives revenue from the sale of Factory Candy, Store Candy ingredients, packaging materials, other items and certain services to you. In the fiscal year ended February 28, 2021, RMCF's revenue from purchases by franchisees was \$18,587,900 or 57% of its total revenues of \$32,342,600.

RMCF is not affiliated with any approved or designated suppliers. Except as described above, it does not derive income based on any required purchases or leases, except that in an effort to make sources or supplies available to its franchisees and to you and to monitor and maintain consistency throughout the system, it may negotiate with approved vendors from whom you can purchase items which meet our specifications. RMCF may collect a fee from approved vendors on the items its franchisees and you purchase from approved vendors. These vendors may sell you various items, raw materials for the preparation of Store Candy, such as fudge, brittles and caramel, packaging items such as bags and tins, and other items. We estimate that any purchases by you for which RMCF collects a fee will constitute less than 3% of your total cost of operating your Cold Stone Creamery store. Except as described above, RMCF does not negotiate purchase arrangements with suppliers for the benefit of its franchisees or for your benefit, although it reserves the right to do so in the future. RMCF has no purchasing or distribution cooperatives. RMCF does not give its franchisees or you any material benefits based on use of designated or approved sources or suppliers.

In addition, your Co-Branded Store must be consistent in color, design and style with the standards and specifications adopted and approved by us and RMCF, and we and RMCF may modify those standards periodically. You must maintain the appearance and atmosphere of your Co-Branded Store, and the equipment and premises used in connection with your Co-Branded Store, in accordance with the standards we and RMCF may adopt from time to time. Any variations in color, design, style, appearance or atmosphere must be approved in writing by us. RMCF's current standards and specifications are included in the RMCF Operating Manual, which will be provided to you.

You must purchase all of the Factory Candy and ingredients for Store Candy that you sell from RMCF or a source we designate. If you would like to purchase or lease any food, supplies, equipment, signage, decor and other goods that will be used to sell RMCF Products from a vendor or supplier that is not on our or RMCF's then-current list of approved vendors and suppliers, you must follow the approval process for suppliers described in Item 8 of this franchise disclosure document.

ITEM 9: FRANCHISEE'S OBLIGATIONS

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

| Obligation | Section in RMCF Amendment | Disclosure Document Item |
|---|---------------------------------|-----------------------------|
| a. Site selection and acquisition/lease | Not Applicable | 7 and 11 |
| b. Pre-opening purchases and leases | 2 | 5, 7, 8 and 11 |
| c. Site development and other pre-opening requirements | 2 | 7, 8 and 11 |
| d. Initial and ongoing training | 3 | 11 |
| e. Opening | 2, 4, 8 | 7 and 11 |
| f. Fees | 5 | 5, 6, 7 and 11 |
| g. Compliance with standards and policies/Confidential Operations Manuals | 2, 4 | 8, 11, 14 and 16 |
| h. Trademarks and proprietary information | 6 | 13 and 14 |
| i. Restrictions on products/ services offered | 2, 4 | 8 and 16 |
| j. Warranty and customer service requirements | Not applicable | Not applicable |
| k. Territorial development and sales quotas | Not applicable | 11 |
| l. Ongoing product/service purchases | Not applicable | 8 |
| m. Maintenance, appearance and remodeling requirements | Not applicable | 7 and 11 |
| n. Insurance | 8 | 7 |
| o. Advertising | 5 | 6, 7 and 11 |
| p. Indemnification | 8 | 13 and 14 |
| q. Owner's participation/ management/staffing | Not applicable | 11 and 15 |
| r. Records and reports | Not applicable | 6 and 11 |
| s. Inspections and audits | Not applicable | 6 and 11 |
| t. Transfer | Not applicable | 6, 16 and 17 |
| u. Renewal | Not applicable | 6, 16 and 17 |
| v. Post-termination obligations | 7 | 17 |
| w. Non-competition covenants | 8 | 15 and 17 |

| Obligation | Section in RMCF Amendment | Disclosure Document Item |
|-----------------------|---------------------------|--------------------------|
| x. Dispute resolution | Not applicable | 17 |

ITEM 10: FINANCING

We do not, directly or indirectly, offer you financing or guarantee any of your obligations.

We do not require any security interests to be given by you as we do not offer any financing arrangement. In addition, we do not have any financing arrangement with the franchisee and therefore, we do not intend to sell, assign or discount to a third party any financing arrangement. Because there is no financing arrangement between us and the franchisee, there are no waiver of defenses or other legal rights executed by the franchisee. We do not arrange financing from other sources; therefore, we do not receive direct or indirect payments from placing financing.

No part of your initial investment to develop or convert to a Co-Branded Store will be financed by us. RMCF may or may not offer financing for a portion of your initial investment if you are converting an existing Cold Stone Creamery store to a Co-Branded Store and if you meet RMCF's conditions for eligibility. If RMCF offers financing, the terms of any such financing would be between you and RMCF. We receive no benefit from RMCF if they provide financing to you.

ITEM 11: FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

Except as disclosed below, Kahala Franchising is not required to provide you with any assistance.

RMCF Training

Before you open your Co-Branded Store, one of RMCF's designated trainers will train you and, at your option, your General Manager, or one other person to operate the Co-Branded Store using RMCF's Methods ("RMCF Training Program"). The designated trainers include certain qualified employees, Area Representatives and RMCF Field Consultants. The RMCF Training Program will consist of the topics outlined below. However, certain portions of the RMCF Training Program may be altered or eliminated, and/or the number of hours may be adjusted, depending upon your background and your ability to comprehend the information.

RMCF CO-BRAND TRAINING PROGRAM

| Column 1 Subject | Column 2 Hours of Classroom Training | Column 3 Hours of on-the-job training | Column 4 Location |
|--|---|--|---|
| Introduction to Rocky Mountain Chocolate Factory | 2 | 0 | Durango, Colorado (or another specified location) |
| Product Knowledge/Candy Identification | 3 | 0 | Durango, Colorado (or another specified location) |

| Column 1 Subject | Column 2 Hours of Classroom Training | Column 3 Hours of on-the-job training | Column 4 Location |
|--|---|--|---|
| RMCF Factory Tour | 0 | 1 | Durango, Colorado (or another specified location) |
| RMCF Customer Service Department – Ordering and Shipping | 1 | 0 | Durango, Colorado (or another specified location) |
| Inventory Control/Daily Record Keeping/Vendor Sheet | 1.75 | 0 | Durango, Colorado (or another specified location) |
| Cooking | 0 | 17 | Durango, Colorado (or another specified location) |
| Introduction to Retail (Customer Service) | 1 | 0 | Durango, Colorado (or another specified location) |
| RMCF Accounting Policies | .25 | 0 | Durango, Colorado (or another specified location) |
| Survey | .25 | 0 | Durango, Colorado (or another specified location) |
| Online Tools | .50 | 0 | Durango, Colorado (or another specified location) |
| Merchandising and Marketing Techniques | 4 | 1 | Durango, Colorado (or another specified location) |
| | | 0 | Durango, Colorado (or another specified location) |
| Employees – Hiring, Firing and Maintaining | 1 | 0 | Durango, Colorado (or another specified location) |
| TOTAL | 14.75 | 19 | |

RMCF and other designated trainers hold training classes for Cold Stone franchisees opening a Co-Branded Store on an as needed basis. You must attend training after you sign the Amendment and before you begin selling RMCF Products in your Co-Branded Store. If you attend training at RMCF’s headquarters in Durango, Colorado, the primary instructors are Donna Coupe, RMCF’s Vice President of Franchise Support since June 2008; Fred Sabatini, our Director of Franchise Support and Operations since June 2015;;Mairead McGuire, Manager of Retail Operations since July 2020/Heather Demacopoulos, RMCF’s Franchise Field Consultant since September 2013; ;Katie Johnson, Franchise Field Consultant since March 2021. Wendy Smith, our Franchise Field Consultant since March 2019; Laura Trujillo, RMCF’s Franchise Field Consultant since September 2006; Erika Lightburne, RMCF’s Co-brand Liason since April 2011, and Lisa Taylor, RMCF’s Director of Franchise Support since August 2006. The training material consists of written, video and audiotape instruction. The initial training program includes hands-on training in a mock retail store in RMCF’s training center if you attend training in Durango, Colorado. If you attend training elsewhere, the on-the-job training will be conducted at a Co-Branded Store in your store’s market area on a schedule agreed upon in advance. We will try to assign you to a training store that is geographically convenient to you.

Attendees must satisfactorily complete the RMCF Training Program, in our and RMCF’s discretion. The training classes are held daily for four consecutive days.

The consequence of your failure to successfully complete the RMCF Training Program to our, and RMCF's satisfaction is that you will not be permitted to convert your Cold Stone Creamery store to a Co-Branded Store.

Neither you nor anyone else attending the RMCF Training Program will be deemed to be RMCF's franchisee or employee for any purpose.

Attendance at the entire training program is mandatory for you and either your General Manager, or at your option, one other person. All of your attendees must complete, to our and RMCF's satisfaction, the RMCF Training Program. All managers, officers and employees will be subject to a covenant not to compete and confidentiality and other obligations, in the form attached as Attachment 2 to Exhibit H-1. We and RMCF may require you to attend additional training or bear the costs associated with sending a trainer to your Cold Stone Creamery store for additional training if you have not satisfactorily completed the training program.

We do not charge a fee for two individuals to attend the RMCF Training Program. All training program attendees bear their own travel, lodging and meal expenditures in connection with attending the training program.

Additional training programs and refresher courses may be required from time to time. You will be required to bear your own travel, lodging and meal expenditures in connection with attendance. In addition, you must attend, at your expense, all annual and other meetings and conference calls that we determine are mandatory for all Co-Branded Stores, or Co-Branded Stores located within a particular geographic region. We may impose a charge for your failure to attend those programs, courses, meetings and conference calls.

RMCF Operating Manual

Before you open your Co-Branded Store, we or RMCF will loan to you a copy of RMCF's operating manual ("RMCF Operating Manual"), which contains standards of operations, the equipment and fixtures required to operate the franchise, operating procedures and policies. The RMCF Operating Manual for Co-Branded Stores contains 163 pages. The table of contents of the RMCF Operating Manual is contained in Attachment 1 of Exhibit H-1 to this Franchise Disclosure Document.

You must operate your Co-Branded Store strictly in accordance with the operating procedures and policies, as contained in the RMCF Operating Manual, as it may be amended from time to time. The RMCF Operating Manual is strictly confidential and must be returned promptly to us or RMCF upon your Store ceasing to be a Co-Branded Store.

ITEM 12: TERRITORY

You will not receive an exclusive territory. You may face competition from (i) RMCF franchisees or RMCF company-owned outlets, (ii) other Cold Stone Creamery Stores that will also sell RMCF Products, and (iii) other channels of distribution that RMCF controls. We (and/or our affiliates) may establish other franchised or company-owned Co-Branded Stores that may compete with your location, including across the street from your location or in the same venue as your location. One or more future Co-Branded Stores may have an adverse effect on the revenues and profitability of existing Co-Branded Stores, including your Co-Branded Store.

We will endeavor to resolve any conflicts which arise from the operation of your Co-Branded Store concerning our distribution activities, or involving territory, customer or support. If you have a conflict, you should contact the legal department, for their independent review and decision. Conflict cases will be addressed on a case-by-case basis.

The Amendment does not provide you with any options, rights of first refusal, or similar rights to acquire additional Co-Branded Stores.

There are no restrictions on the customers to whom you may sell the RMCF Products, but all sales must be made at your Co-Branded Store premises. You may not sell any RMCF Products from or to any location other than your Co-Branded Store premises.

ITEM 13: TRADEMARKS

Co-Branded Stores will have the right to use the following RMCF Marks that are owned by RMCF and registered on the Principal Register of the USPTO:

| Trademark | Registration Number | Registration Date |
|---|---------------------|--------------------|
| Rocky Mountain Chocolate Factory | 1552146 | August 15, 1989 |
| Rocky Mountain Chocolate Factory and Design | 1718498 | September 22, 1992 |

RMCF has filed all required affidavits and renewals for these Marks. There are no agreements currently in effect which limit our right to use or license the use of the RMCF Marks which are in any manner material to you.

There are no currently effective determinations of the Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, or any pending opposition or cancellation proceeding, or any pending material litigation, involving the RMCF Marks which is relevant to their use by you.

We have entered into the Master License Agreement with RMCF. This Master License Agreement gives us the right to use, and to license our franchisees to use, the RMCF Marks listed above solely in connection with the sale of RMCF Products at Co-Branded Stores. Either party may terminate the Master License Agreement upon the occurrence of a material breach of the agreement or upon certain other events. In the event of termination both we and our franchisees must immediately discontinue any further use of the RMCF Marks.

There are no superior prior rights or infringing uses of the principal RMCF Marks actually known to RMCF, which rights or uses could materially affect your use of the principal RMCF Marks in any state. There are no agreements currently in effect that significantly limit RMCF's rights to use or license the use of the principal RMCF Marks. You must promptly notify us of any suspected unauthorized use of, or challenge to the validity of, the RMCF Marks or any challenge to RMCF's ownership of, or right to use or license others to use, the RMCF Marks. RMCF will have the right to direct and control any administrative proceeding or litigation involving the RMCF Marks, including any settlement thereof. RMCF has the right, but not the obligation, to take action against uses by others that may constitute infringement of the RMCF Marks. We, or RMCF, will defend you against any third-party claim, suit, or demand arising out of your use of the RMCF Marks. If we, in our sole discretion, determine that you have used the RMCF Marks in a manner authorized by the Amendment, the cost of such defense, including the cost of any judgment or settlement, will be borne by us. If we, in our sole discretion, determine that you have not used the RMCF Marks in a manner authorized by the Amendment, the cost of such defense, including the cost of any judgment or settlement, will be borne by you. In the event of any litigation relating to your use of the

RMCF Marks, you must execute any and all documents and do such acts as may, in our opinion, be necessary to carry out such defense or prosecution, including, but not limited to, becoming a nominal party in any legal action. Except to the extent that such litigation is the result of your use of the RMCF Marks in a manner inconsistent with the terms of the Amendment, we will reimburse you for your out-of-pocket litigation costs in doing such acts.

We, or RMCF, may require you to use different trademarks for use in identifying the RMCF Products if the RMCF Marks can no longer be used, or if RMCF, in its sole discretion, determines that substitution of different proprietary marks will be beneficial to the RMCF system. In such circumstances, the use of the substituted trademarks will be governed by the terms of the Amendment.

ITEM 14: PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

RMCF claims all statutory copyrights that attach to all, or part of, any original materials used in the RMCF system, including their RMCF Operating Manual, advertising and promotional materials, and all other written materials we provide you.

To date, RMCF has not registered any items for copyright protection. However, their copyright protection will extend for 100 years from the date of each item's creation or 75 years from the date of each item's publication, whichever is shorter.

The RMCF Operating Manual is an integral part of the RMCF system licensed to you under the terms of the Amendment. All of the disclosures appearing in Item 14 of this franchise disclosure document also apply with respect to a) the RMCF Operating Manual and b) any confidential information you may receive about RMCF or the manner in which it conducts business.

You and your General Manager, principals, officers, managers and employees of your Co-Branded Store also must sign RMCF's Confidentiality and Non-Competition Agreement in the form appearing as Exhibit B to the Amendment.

ITEM 16: RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must offer and sell at your Co-Branded Store the RMCF Products in a manner consistent with RMCF's comprehensive standards and requirements as applied by us to Co-Branded Stores. In addition, we may incorporate new products and services that we believe will be successful.

You will be obligated to offer and sell those new RMCF Products and to participate in any RMCF local, regional and promotional programs, initiatives and campaigns adopted by us in which we require you to participate.

You may not offer or sell any products or services specified by us in any configuration, form or manner (including items for resale) other than that specifically approved by us. You may not market your Co-Branded Store or use the RMCF Marks on the Internet or in any other form of electronic communication.

ITEM 17: RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

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

This table lists certain important provisions of the Amendment. You should read these provisions in the Amendment attached to this disclosure document.

| Provision | Section in Amendment to Franchise Agreement | Summary |
|--|--|---|
| a. Length of the term | Opening paragraph | Remaining term of your franchise agreement. |
| b. Renewal or extension of the term | Opening paragraph | Renewal terms of your franchise agreement. |
| c. Requirements for you to renew or extend | Not Applicable | Not Applicable |
| d. Termination by you | Not Applicable | Not Applicable |
| e. Termination by us without Cause | 19.3c | Immediately upon termination of the Master License Agreement |
| f. Termination by us with Cause | 19.3a and 19.3b | See (g) and (h) |
| g. "Cause" defined—curable defaults | 19.3a and 19.3b | Failure to maintain standards; unauthorized business or sale of unauthorized products; failure to obtain consent as required by Amendment; failure to comply with the RMCF Operating Manual; breach of related agreements; failure to pay RMCF for Factory Candy. |
| h. "Cause" defined—non-curable defaults | 19.3 | Abandonment of the sale of RMCF Products, misuse of the RMCF Marks; unauthorized disclosure of confidential information; unauthorized transfer of your Co-Branded Stores; termination of the Franchise Agreement; transfer of your Store without transfer of the RMCF rights. |
| i. Your obligations on termination /non-renewal | 19.3e | Cease to identify as a Co-Branded Stores return RMCF Operating Manual; cease using any RMCF's proprietary information and the trade dress; Pay all amounts outstanding to us and our affiliates within 10 days. |
| j. Assignment of the contract by us | Not Applicable | Not Applicable |
| k. "Transfer" by you-definition | Not Applicable | Not Applicable |
| l. Our approval of transfer by you | Not Applicable | Not Applicable |
| m. Conditions for our approval of transfer | Not Applicable | Not Applicable |
| n. Our right of first refusal to acquire your business | Not Applicable | Not Applicable |
| o. Our option to purchase your business | Not Applicable | Not Applicable |

| Provision | Section in Amendment to Franchise Agreement | Summary |
|---|--|---|
| p. Your death or disability | Not Applicable | Not Applicable |
| q. Non-competition covenants during the term of the franchise | 19.6 | You and your principals (and their immediate family members) may not own, operate, or have any relationship with, any business that is the same or similar, or offers products or services which are the same or similar, to a Cold Stone Creamery or a Rocky Mountain Chocolate Factory Store (collectively "Similar Business"), nor employ or seek to employ persons already employed by us or by any of our franchisees. |
| r. Non-competition covenants after the franchise is terminated or expires | 19.6 | You and your principals may not for a period of 1 year following the Amendment, own, operate, or have any relationship with, a Similar Business which is located (i) at the Co-Branded Stores premises; (ii) within a 10 mile radius of the Co-Branded Store premises; or (iii) within a 10 mile radius of any other store operated by us, RMCF, or any of our respective franchisees or affiliates at the time you signed the Franchise Agreement. |
| s. Modification of the agreement | Not Applicable | Not Applicable |
| t. Integration /merger clause | Not Applicable | Not Applicable |
| u. Dispute resolution by arbitration or mediation | Not applicable | Not Applicable |
| v. Choice of forum | Not Applicable | Not Applicable |
| w. Choice of law | Not Applicable | Not Applicable |

Note: Section references are to the Amendment to Cold Stone Creamery Franchise Agreement for Co-Branded Store unless stated otherwise. This table must be read in conjunction with the table relating to the Franchise Agreement in this item. The Franchise Agreement provisions also are applicable and will apply to the sale of RMCF Products at your Co-Branded Store.

ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If

you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting John Wuycheck, Kahala Franchising, L.L.C., 9311 E. Via De Ventura, Scottsdale, Arizona 85258; (480) 362-4800, the Federal Trade Commission, and the appropriate state regulatory agencies.

ITEM 20: OUTLETS AND FRANCHISEE INFORMATION

Table No. 1

**Systemwide Outlet Summary
For years 2020 to 2022
(United States)**

| Column 1 Outlet Type | Column 2 Year | Column 3 Outlets at the Start of the Year | Column 4 Outlets at the End of the Year | Column 5 Net Change |
|-------------------------|------------------|---|--|------------------------|
| Franchised | 2020 | 88 | 97 | 9 |
| | 2021 | 97 | 96 | -1 |
| | 2022 | 96 | 96 | 0 |
| Company- Owned | 2020 | 0 | 0 | 0 |
| | 2021 | 0 | 0 | 0 |
| | 2022 | 0 | 0 | 0 |
| Total Outlets | 2020 | 88 | 97 | 9 |
| | 2021 | 97 | 96 | -1 |
| | 2022 | 96 | 96 | 0 |

Table No. 2

**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)
For years 2020 to 2022**

| Column 1 | Column 2 | Column 3 |
|----------------|----------|---------------------|
| State | Year | Number of Transfers |
| Arizona | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 0 |
| California | 2020 | 0 |
| | 2021 | 2 |
| | 2022 | 0 |
| Colorado | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 1 |
| Florida | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 0 |
| Indiana | 2020 | 1 |
| | 2021 | 1 |
| | 2022 | 2 |
| Maryland | 2020 | 0 |
| | 2021 | 2 |
| | 2022 | 0 |
| New Jersey | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 1 |
| New York | 2020 | 2 |
| | 2021 | 0 |
| | 2022 | 1 |
| North Carolina | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 0 |
| Ohio | 2020 | 0 |
| | 2021 | 4 |
| | 2022 | 0 |
| Tennessee | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 0 |
| Utah | 2020 | 0 |
| | 2021 | 0 |
| | 2022 | 3 |
| Virginia | 2020 | 0 |

| | | |
|------------|------|----|
| | 2021 | 0 |
| | 2022 | 0 |
| W Virginia | 2020 | 0 |
| | 2021 | 1 |
| | 2022 | 0 |
| Wisconsin | 2020 | 1 |
| | 2021 | 0 |
| | 2022 | 0 |
| Total | 2020 | 7 |
| | 2021 | 12 |
| | 2022 | 8 |

Table No. 3

**Status of Franchised Outlets
For years 2020 to 2022**

| Col. 1 | Col.2 | Col.3 | Col.4 | Col. 5 | Col. 6 | Col. 7 | Col. 8 | Col. 9 |
|------------|-------|--------------------------|----------------|--------------|--------------|--------------------------|-----------------------------------|----------------------------|
| State | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-renewals | Reacquired by Franchisor | Ceased Operations – Other Reasons | Outlets at End of the Year |
| Arizona | 2020 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2021 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2022 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| California | 2020 | 9 | 1 | 0 | 0 | 0 | 0 | 10 |
| | 2021 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| | 2022 | 10 | 0 | 0 | 0 | 0 | 0 | 10 |
| Colorado | 2020 | 5 | 1 | 0 | 0 | 0 | 0 | 6 |
| | 2021 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| | 2022 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| Florida | 2020 | 4 | 1 | 0 | 0 | 0 | 0 | 5 |
| | 2021 | 5 | 0 | 0 | 1 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 1 | 3 |
| Idaho | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| Iowa | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Illinois | 2020 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2021 | 3 | 1 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| Indiana | 2020 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |

| | | | | | | | | |
|----------------|------|----|---|---|---|---|---|----|
| | 2021 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| | 2022 | 5 | 0 | 0 | 0 | 0 | 0 | 5 |
| Kansas | 2020 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| | 2021 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| Kentucky | 2020 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 1 | 3 |
| | 2022 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| Maryland | 2020 | 3 | 1 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| Michigan | 2020 | 3 | 1 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| Missouri | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2021 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2022 | 2 | 1 | 0 | 0 | 0 | 0 | 3 |
| Nebraska | 2020 | 2 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| New Jersey | 2020 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2021 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| | 2022 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| New York | 2020 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| North Carolina | 2020 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2021 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| | 2022 | 4 | 0 | 0 | 0 | 0 | 1 | 3 |
| Ohio | 2020 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| | 2021 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| | 2022 | 6 | 0 | 0 | 0 | 0 | 0 | 6 |
| Oregon | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| TN | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Texas | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 1 | 0 | 0 | 0 | 0 | 2 |
| Utah | 2020 | 14 | 0 | 0 | 0 | 0 | 0 | 14 |
| | 2021 | 14 | 0 | 0 | 0 | 0 | 0 | 14 |
| | 2022 | 14 | 0 | 0 | 0 | 0 | 0 | 14 |
| Virginia | 2020 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| West Virginia | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |

| | | | | | | | | |
|-----------|------|----|---|---|---|---|---|----|
| Wisconsin | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 11 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Wyoming | 2020 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2021 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2022 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Total | 2020 | 89 | 8 | 0 | 0 | 0 | 0 | 97 |
| | 2021 | 97 | 1 | 0 | 1 | 0 | 1 | 96 |
| | 2022 | 96 | 2 | 0 | 0 | 0 | 2 | 96 |

Table No. 4

**Status of Company Owned Outlets
For years 2020 to 2022**

| Col. 1 | Col.2 | Col.3 | Col.4 | Col. 5 | Col. 6 | Col. 7 | Col. 8 |
|------------|-------|--------------------------|----------------|------------------------------------|----------------|----------------------------|----------------------------|
| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
| All States | 2020 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2021 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |
| Totals | 2020 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2021 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |

Table No. 5

Projected Openings As Of November 30, 2022

| Column 1 | Column 2 | Column 3 | Column 4 |
|----------|---|--|---|
| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets in the Next Fiscal Year |
| AZ | 1 | 1 | 0 |
| IL | 1 | 1 | 0 |
| MO | 1 | 1 | 0 |
| TX | 5 | 3 | 0 |

| | | | |
|-------|----|---|---|
| UT | 1 | 1 | 0 |
| WA | 1 | 0 | 0 |
| Total | 10 | 7 | 0 |

We had two Franchisees who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreements during the year ending November 30, 2022.

Franchisees who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business during the year ending November 30, 2022:

| Company Name | Franchisee Name | City | State | Telephone Number or Email Address |
|--------------|--------------------------------|--------|-------|-----------------------------------|
| GOBOGH, Inc. | DeWayne Glazier, Jared Glazier | Draper | UT | 801-673-4404 |

Franchisees who had an outlet transfer during the year ending November 30, 2022

| Prior Company Name | Prior Franchisee Names | Prior Franchisee City | Prior Franchisee State | Prior Franchisee Phone |
|--|---|---|------------------------|--|
| Martin, Corey and Hari Demissie-Martin | Corey Martin, Hari Demissie-Martin | Escondido | CA | 760.743.3238, 760-234-9794 |
| KHUSMEHR INC. | Prabhdeep Mann, Ramneek Singh | Stockton | CA | 209-956-3345 |
| Demissie-Martin, Hari | Hari Demissie-Martin | Escondido | CA | 760-234-9794 |
| Total Accounting and Consulting LLC | Ahmad Shaheen, Sarah Najjar | Delaware, Lewis Center | OH | 614-285-1389, 614-589-8497 |
| Dolce Gusto, LLC | Roberto Coppolecchia | Cortlandt Manor | NY | 9146210201 |
| C-Stone Properties, L.L.C. | Chris Kesler, Darcy Wride, Kevin Kesler, Paul Norman | North Ogden, Ogden, Paradise, Pleasant View | UT | 435-245-3904, 801-391-1155, 801-737-0467, 801-782-9494 |
| AB Holdings Group, LLC | Allan Bevans | Huntington | WV | 513-919-9705 |
| Jai Shree Laxmi Inc. | Pravin Patel | Mt. Sterling | KY | 617-645-6837 |
| Ohana Enterprises Inc. | Allison Henderson (Wadsworth), Jeff Wadsworth, Julie Kirkland | Centennial, Englewood | CO | (303) 789-2506, 303-721-6400 |

| | | | | |
|-------------------|---------------------------------|--------|----|--------------|
| Radha Krishna LLC | Harsh Patel,Trushna Patel | Peoria | AZ | 575-815-9162 |
|-------------------|---------------------------------|--------|----|--------------|

We have not had any franchisees who have not communicated with us for the 10-week period before the date of this Disclosure Document. We had two franchisees who had their Franchise Agreements terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreements during the year ending November 30, 2022 for a store that never opened, and we had no franchisees that transferred their Franchise Agreements during the year ending November 30, 2022 for a store that was not yet open.

Franchisees who had their Franchise Agreements terminated during the year ending November 30, 2022 for a store that never opened during the year ending
November 30, 2022

None

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. Some of our franchisees have signed confidentiality clauses during the last three fiscal years. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the *Cold Stone Creamery* franchise system and the sale of RMCF Products in their stores. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

**COLD STONE CREAMERY FRANCHISEES WHO SOLD RMCF PRODUCTS IN THEIR STORES
FRANCHISEE LIST - AS OF November 30, 2022**

The name of the franchisee, store address and store telephone number of the open stores are listed below

| Franchise Company | Owners | Address | City | State | Zip | Phone |
|---|---|-------------------------|----------------|--------------|------------|--------------|
| Hamedullah, Omedullah and Ahmadi, Mariyam | Mariyam Ahmadi, Omedullah Hamedullah | 4705 Clairemont Dr | San Diego | CA | 92117 | 8582705552 |
| RAYN DRZR Corporation | Dilawar Khan, Rabia Khan | 4920 Dublin Blvd | Dublin | CA | 94568 | 9258751333 |
| Gill Stone Inc | Jaskaran Singh, Navdip Kaur | 1859 West 11th St | Tracy | CA | 95376 | 2098327461 |
| Osborne Ventures LLC | Jeff Osborne, Pamela Osborne | 9918 W Happy Valley Rd | Peoria | AZ | 85383 | 6235661400 |
| Cooler South Enterprises, LLC | Chad Eads | 30 Town Square Blvd. | Asheville | NC | 28803 | 8286503013 |
| Oospecka LLC | Jeremy Yarbrough, Larry Yarbrough | 215 South Sligo Street | Cortez | CO | 81321 | 9705652725 |
| Rock and Ricky LLC | Ricky Garcia | 11088 US Highway 15/501 | Aberdeen | NC | 28315 | 9106929440 |
| Nice Creams, Inc. | Yolanda Castro | 2049 N Imperial Ave | El Centro | CA | 92243 | 7603533633 |
| CSC Webster LLC | Allan (Lanny) Auchter | 1028 Ridge Road | Webster | NY | 14580 | 5856456445 |
| Silver Scoop Chocolate LLC | Nishantha Vithana, Shermila Vithana | 1930 State Route 57 | Hacketts town | NJ | 07840 | 9088509901 |
| Murali Ramanathan | Murali Ramanathan, Murali Ramanathan | 6105 Sunrise Blvd | Citrus Heights | CA | 95610 | 9165369555 |
| Ahluwalia, Ranjit | Ranjit Ahluwalia | 3401 Dale Rd | Modesto | CA | 95356 | 2095791097 |
| The Sweet Place LLC | Bart Place, Jolyn Place, Chase Place, Audra Place, Dalton Place | 936 North Main Street | Layton | UT | 84041 | 8014440701 |
| Red Emerald Equity LLC | Donald Webb, Tamara Webb, Mark. Hatch, Errolyn. Hatch | 456 E State Rd | American Fork | UT | 84003 | 8017637540 |
| Riffle Legendairy Creameries, LLC | Adam Riffle, Jessica Riffle, Andrew Riffle, Kalie Sanders | 3700 Rigby Road | Miamisburg | OH | 45342 | 9372475658 |

| | | | | | | |
|----------------------------|--|-----------------------------|-----------------|----|-------------|------------|
| Zileli LLC | Feridun Zilelioglu | 64 Washington Ave | Pleasant ville | NY | 10570 | 9144094959 |
| Twin Scoop, L.L.C. | Rick Cruz,Rob Cruz | 2227 NW 185th Ave | Hillsboro | OR | 97124 | 5036458959 |
| Jolly Group Valpo, LLC | Russell Dewes,Michael Jorden,Candace Jorden | 71 Silhavy Rd | Valparai so | IN | 46383 | 2194763430 |
| ILEC LLC | Ebru Savas Mustafa | 708 Center Dr | San Marcos | CA | 92069 | 7607474385 |
| Scott, Omer Buddy | Omer Scott | 610 Wildwood Drive | Jefferso n City | MO | 65109 | 5736362653 |
| Our Creamery Inc | Dilafroz Ahmed,Waliul Chowdhury,Zahir Mahmud,Arshad Khwaja | 84 Main St | Gaithers burg | MD | 20878 | 3015900009 |
| Chicago Scoops, LLC | Jonathan Shulkin,Tim Watkins,Antonio Gracias,Kyle Welch | 2100 Troy Rd | Edwards ville | IL | 62025 | 6186551480 |
| GOBOGH, Inc. | Jared Glazier,DeWayne Glazier | 3781 West Center Park Drive | West Jordan | UT | 84084 | 8016734404 |
| Marsella LLC | James Markino,Michael Biasella | 48 Park Lane | Hudson | OH | 44236 | 3306552990 |
| D&P Ice Cream, L.L.C. | Paul Deininger,Debbie Deininger | 17503 La Cantera Pkwy | San Antonio | TX | 78257 | 2105612776 |
| Chicago Scoops, LLC | Antonio Gracias,Jonathan Shulkin,Kyle Welch,Tim Watkins | 1005 Pearson Drive | Hudson | WI | 54016 | 7153819899 |
| KPOG, Inc | Kelli Turner,Jeremy (Petey) Helm | 1087 South Hover Street | Longmo nt | CO | 80501 | 3036825680 |
| KAT ENTERPRISES, LLC | Kathryn Harr,Andrea Watros | 1718 Hill Road North | Pickerin gton | OH | 43147 -8880 | 6148689801 |
| Foods In The Ville, L.L.C. | Alan Rizza,Robert Hayes | 1225 Moro St. | Manhatt an | KS | 66502 | 7855395336 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cindy Williams | 3220 Farnam St | Omaha | NE | 68131 | 4023591719 |
| Mission Investment Company | Allan Emerly | 647 Massachusetts St | Lawrenc e | KS | 66044 | 7858430990 |
| TRACKS Investments, LLC | Rodney Shoaf,Sheryl | 1626 Highwoods Blvd | Greensb oro | NC | 27410 | 3362920321 |

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|-------------------------------------|--|----------------------|----------------|----|-------|------------|
| | Shoaf | | | | | |
| Sonny & Boua Baccam, Inc. | Santhiphone Sonny Baccam, Boua Baccam | 14941 W. 119th St. | Olathe | KS | 66062 | 9137824815 |
| Stone Cold Confections-Logan, LC | Josh Christensen, Eldon Haacke | 1400 N 505 E | Logan | UT | 84341 | 4357533339 |
| Jolly Group, LLC | Russell Dewes, Michael Jorden, Candace Jorden | 11 West 112th Ave | Crown Point | IN | 46307 | 2196639010 |
| Chicago Scoops, LLC | Tim Watkins, Antonio Gracias, Kyle Welch, Jonathan Shulkin | 1197 N Main St | Tooele | UT | 84074 | 4352280120 |
| Niagara Investments Company, L.L.C. | Mike Fitzgerald, Tim Fitzgerald, Jeraldine Fitzgerald | 8441 S Yosemite St | Lone Tree | CO | 80124 | 3037088771 |
| Marsella LLC | James Markino, Michael Biasella | 4966 Portage St NW | North Canton | OH | 44720 | 3304943600 |
| Kulwant 21408 LLC | Kulwant Benipal | 338 State St | West Lafayette | IN | 47906 | 7658382210 |
| Fun Rockaway, Inc. | Gayan Ondaatjie | 321 Mount Hope Ave | Rockaway | NJ | 07866 | 9735378200 |
| T.L.C. Creamery LLC | David Medlock, Jill Medlock | 939 E 2nd St | Casper | WY | 82601 | 3072373960 |
| RBC Ice Cream, LLC | Robin Christensen, Becky Christensen | 1191 E Main St | Price | UT | 84501 | 4356132653 |
| MAC Mo LLC | Maclaime Morris | 6401 E Lloyd Expy | Evansville | IN | 47715 | 8124372653 |
| Magic Stone Creamery, LLC | Kent Lee, Nancy Lee | 799 Cheney Dr | Twin Falls | ID | 83301 | 2087364656 |
| Scoops & Apples, Inc. | Faizi Haque, Narmeen Haque | 31961 Gratiot Avenue | Roseville | MI | 48066 | 5862942013 |
| ALK Guild, LLC | Chad Price | 7038 Hospital Drive | Dublin | OH | 43016 | 6147180333 |
| Temple Group, Inc. | Jeremiah Temple, Kassie Temple | 2019 South 25th E | Ammon | ID | 83406 | 2085223347 |
| QUICK PICK, INC | Nageeb Alhaj | 2019 Central Ave | Dodge City | KS | 67801 | 6203717223 |
| Chicago Scoops, LLC | Kyle Welch, Jonathan Shulkin, Tim | 320 N Main St | Spanish Fork | UT | 84660 | 3126831900 |

| | | | | | | |
|-------------------------------|---|---------------------------|------------------|----|-------|------------|
| | Watkins, Antonio Gracias | | | | | |
| Price, Lane & Jana Jenson | Lane A. Price, Jana Jenson-Price | 273 W 500 S | Bountiful | UT | 84010 | 8019162220 |
| Wessco Enterprises, Inc | Douglas Wessley, Rhonda Wessley | 2441 N Maize Rd | Wichita | KS | 67205 | 3167294245 |
| Khalid and Sons Ltd. | Syed Khalid Rizvi, Syed Yawar Khalid | 80 Route 6 | Somers | NY | 10505 | 9146210201 |
| Benevedes, Inc. | Annette Benevedes | 186 N 12th Ave | Hanford | CA | 93230 | 5595839000 |
| Kamilia, LLC | Kami Tan, Eric Tan | 2015 S. Hurstbourne Pkwy. | Louisville | KY | 40220 | 5024997750 |
| DEV KUSH, INC | Raman Patel | 7080 Mannheim Rd | Rosemont | IL | 60018 | 8478246670 |
| Dattani Creamery Inc. | Vijay. Dattani | 8145 International Dr | Orlando | FL | 32819 | 4074921880 |
| OM II Management Inc | Alok Sarwal, Anjali Sarwal | 6300 E Hampden Ave | Denver | CO | 80222 | 3037595454 |
| HamburgLex CSC LLC | Bhavesh Patel | 2337 Sir Barton Way | Lexington | KY | 40509 | 8592430694 |
| WEBB GROUP I, LLC | Tamara Webb, Donald Webb | 1376 North Redwood Rd | Saratoga Springs | UT | 84045 | 8013418470 |
| MACAG Flemington Partners LLC | Richard Agnolet, Scott MacMillan | 325 US Highway 202 | Flemington | NJ | 08822 | 9087880770 |
| FAMA Enterprises, LLC | Fabio DeMelo | 10493 S Redwood Rd | South Jordan | UT | 84095 | 8014461095 |
| M&N's Joy LLC | Jianliang Yu, Jing Yu | 14550 Clay Terrace Blvd | Carmel | IN | 46032 | 3175697170 |
| MMM786 Creamery Corp | Mohammed Ali Razai, Akm Masud Hasan, Mustaque Ahmed | 1475 Western Ave | Albany | NY | 12203 | 5185424316 |
| Wessco Enterprises, Inc | Rhonda Wessley, Douglas Wessley | 7325 W Taft St | Wichita | KS | 67209 | 3168691823 |
| The Sweet Place LLC | Audra Place, Bart Place, Jolyn Place, Chase Place, Dalton Place | 175 25th St | Ogden | UT | 84401 | 3853334731 |
| Beasley Enterprises LLC | Daniel Beasley, Nathaniel Beasley | 10 Pullman Square | Huntington | WV | 25701 | 6812045945 |
| Marsella LLC | James Markino, Michael | 3900 Medina Rd | Fairlawn | OH | 44333 | 3306654466 |

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|---|---|---|------------------|----|-------|--------------|
| | Biasella | | | | | |
| G.W. Sweis Investments, LLC | Gassab Sweis | 510 Monroe St | Detroit | MI | 48226 | 3139642715 |
| Jai Shree Laxmi Inc. | Jalpa Patel,Hitesh Patel | 3801 Mall Rd | Lexington | KY | 40503 | 8592802264 |
| We All Scream, LLC | Jeremy (Petey) Helm,Kelli Turner | 14239 W Colfax Ave | Lakewood | CO | 80401 | 3032159364 |
| The Sweet Place LLC | Bart Place,Jolyn Place,Chase Place,Audra Place,Dalton Place | 1917 W 1800 N | Clinton | UT | 84015 | 3853937071 |
| PS & MS VENTURES LLC | Sambasivarao Bellam,Srinadh Chowdary.Kandru | 10101 Twin Rivers Rd. | Columbia | MD | 21044 | 513-375-8557 |
| Garrett, Elizabeth | Elizabeth Garrett | 12418 Olive Blvd | Creve Coeur | MO | 63141 | 3145763945 |
| Glazier, Jared & DeWayne | Jared Glazier,DeWayne Glazier | 5287 South State Street | Murray | UT | 84107 | 8012700801 |
| Glendale Desserts LLC | Bailey Murphy,Jennifer Murphy | 20022 N 67th Ave | Glendale | AZ | 85308 | 6235669400 |
| A.V. Ice Creamery, Inc. | Lory Axtman,Lacey Bilbruck | 1201 West Rancho Vista Blvd | Palmdale | CA | 93551 | 6612742650 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cynthia Williams | 12746 Westport Parkway | La Vista | NE | 68138 | 4029052897 |
| Sweet Dreams, LLC | Rita McCay | 100 Chestnut Street | Chattanooga | TN | 37402 | 4232670888 |
| HLR Scoopers, LLC | James Melliush | 6800 South Westnedge Avenue | Portage | MI | 49002 | 2693274674 |
| Cold Creations LLC | Conrad Hauca | 10710 State Road 54 | New Port Richey | FL | 34655 | 813-383-8510 |
| S&J Foods LLC | Jennifer Leon | 1877 East Williams Field Rd., Suite 105 | Gilbert | AZ | 85295 | 480-307-6990 |
| Dastani Enterprises, Inc. | Keikhosrow Dastani | 2700 Campus Way North | Lanham | MD | 20706 | 3013243888 |
| CALIFORNIA DESERT BUSINESS INVESTMENTS, LLC | Sarah.Aziz,Arshad Abid,Usman Aziz | 6485 Adobe Road | Twentynine Palms | CA | 92277 | 7603617777 |
| RKPearson Enterprises LLC | Russell Pearson,Karilynne Pearson | 1820 West Highway 40 | Vernal | UT | 84078 | 4357816349 |

| | | | | | | |
|--|--|------------------------------------|------------------|----|----------------|--------------|
| Tasty Treats, LLC | Andrew.Martin,D awn.Martin | 1631 SW Main Street, Suite 102 | Ankeny | IA | 50023 | 0000000000 |
| Syed Shah & Numaan Shah, Individuals | Syed Saif UI Islam Shah,Numaan Shah | 44980 St. Andrews Church Rd. | Californi a | MD | 20619 | 2402378296 |
| Kold Kreation LLP | Udayan Dave Shah,Bela Shah | 5 Woodfield Mall | Schaum burg | IL | 60173 | 8476190799 |
| W.G. Sweis Investments, LLC | Gassab Sweis,William Sweis | 16823 Kercheval Ave | Grosse Pointe | MI | 48230 | 3138864020 |
| DHC Ventures, LLC | Joshua Davis,Amber Davis | 20 Homegrown Way | Yulee | FL | 32097 | 9045486193 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cindy Williams | 17304 Davenport St | Omaha | NE | 68118 | 4025054192 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cynthia. Williams | 2110 S 67th St | Omaha | NE | 68106 | 5314667619 |
| OM III Management, Inc. | Anjali Sarwal,Alok Sarwal | 4906 N Tower Rd | Denver | CO | 80249 | 7204751403 |
| Shah Ventures LLC | Numaan Shah,Syed Saif UI Islam Shah | 9982 Brook Rd | Glen Allen | VA | 23059 -6501 | 8042625490 |
| Martha Robbins and David De La Paz | Martha.Robbins, David.De-La-Paz | 620 US Hwy 287 N Frontage Rd | Mansfiel d | TX | 76063 | 972-921-1122 |
| Scoops N Sweets LLC | Lawrena Colombo,David Smith | 20330 N Deer Park Blvd | Deer Park | IL | 60010 | |
| MJM Enterprise Company LLC | Satyan Bakhai,Satyan Bakhai | 9300 NE 83rd Terrace | Kansas City | MO | 64158 | 8167364015 |
| Acharya, Daxesh & Swati | Swati Acharya,Daxesh. Acharya | 1750 N Loop 1604 E | San Antonio | TX | 78232 | 2104449801 |
| Alaqmar, Inc. | Ahmed Zakiuddin,Yusuf Vajihuddin | 1153 Brookforest Avenue | Shorewo od | IL | 60413 | 8156091893 |
| CPS ENTERPRISE LLC | Sunil.Annapured dy,Praveen.Pati, Chandan.Samire ddy | 1949 W Ray Rd | Chandler | AZ | 85224 | 4804861909 |
| MJM Enterprise Company LLC | Satyan Bakhai | 8600 Ward Parkway | Kansas City | MO | 64114 | 8168771849 |
| V&L Creamery, LLC | Victor Vidaurri,Lorena Vidaurri | 2333 South Georgia Street | Amarillo | TX | 79109 | 8063318032 |

Cold Stone Creamery Franchisees who have signed Franchise Agreements
and the Amendment to sell RMCF Products in their store
but whose stores were not yet open as of November 30, 2022

| Franchise Company | Owners | Address | City | State | Zip | Phone and/or Owner Emails |
|-------------------------------|---|----------------------|------------|-------|-------|--|
| Kamlesh Modi and Jagruti Modi | Kamlesh Hiralal Modi, Jagruti Kamlesh Modi | TBD | Plano | TX | | 972-276-0008 anki_5226@hotmail.com |
| V&L Creamery, LLC | Lorena Vidaurri, Victor Vidaurri | 7406 SW 34th Ave | Amarillo | TX | 79121 | 951-326-5477 1stophic@gmail.com |
| Husted, Daniel & Marlena | Daniel Husted, Marlena Husted | 211 Town Center Ave | Big Sky | MT | 59716 | 7722339680 dshusted@hotmail.com, marlenahusted@gmail.com |
| Mehta, Ankita et. al. | Lalitaben Mody, Ankita Mehta, Dharmesh Mehta, Hetal Bhatt, Ridham Bhatt, Kamlesh Hiralal Modi, Jagruti Kamlesh Modi, Ratna Kar Mody | | The Colony | TX | | coldstone2108@gmail.com, anki_5226@hotmail.com, sarjoo1976@hotmail.com, hkmodi85@gmail.com, bhatridham@gmail.com |
| Shri Modheshwari-Allen, Inc. | Ratnakar Mody, Kamlesh Hiralal Modi, Ankita Mehta | 190 E Stacy Road | Allen | TX | 75002 | Sarjoo1976@hotmail.com, anki_5226@hotmail.com |
| Yousef, Muhammad | Muhammad Masood Yousef | 6911 Fayetteville Rd | Durham | NC | 27713 | 919-949-1574 masoodusaf@icloud.com |
| Aslma, K. & Kashif Q. | Kashif Aslam, Qurat Kashif | | Sugar Land | TX | | kashifaslam44@yahoo.com, ashokashill@yahoo.com |
| Leon Creamery LLC | Adriana Leon, Luis Leon | | Maricopa | AZ | | aleon5614@outlook.com, luisleoncpa@outlook.com |
| Saint Charles, Chavelt | Chavelt Saint Charles | | Westbury | NY | | chavelt1@gmail.com |
| WILLIAMS A LA MODE, | Shawn Williams, Cy | 21209 Nebraska | Gretna | NE | 68028 | 402-616-3934 williams888@cox.net |

| | | | | | | |
|---------------------|---------------------------|----------------------|--------|----|-------|--------------------------------------|
| INC. | nthia.Williams | Crossing Dr | | | | |
| OM Management, Inc. | Anjali Sarwal,Alok Sarwal | 14132 E Cedar Avenue | Aurora | CO | 80012 | microfredo@msn.com, a_sarwal@msn.com |

* Note: Where no store city, state, or phone number was available, the Franchisee's city, state, and office telephone number (or home telephone number if no office telephone number is available) or email address is listed above.

**ATTACHMENT 1
TO EXHIBIT H-1 OF FRANCHISE DISCLOSURE DOCUMENT**

**Rocky Mountain Chocolate Factory / CSC
Operations Manual**

**ROCKY MOUNTAIN CHOCOLATE FACTORY / CSC
OPERATIONS MANUAL**

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ATTACHMENT 2
TO EXHIBIT H-1 OF FRANCHISE DISCLOSURE DOCUMENT
Amendment to Cold Stone Creamery Franchise Agreement

[FIRST] AMENDMENT TO FRANCHISE AGREEMENT
[to add Rocky Mountain Chocolate Factory products]

This [FIRST] AMENDMENT TO FRANCHISE AGREEMENT (“[First] Amendment”) dated _____, 20____ (“[First] Amendment Effective Date”), to the Franchise Agreement dated _____, 20____ (collectively the “Agreement”), for the *Cold Stone Creamery*® location at _____ (“Location”) by and between Kahala Franchising, L.L.C., an Arizona limited liability company (“Franchisor”) and _____ (“Franchisee”), is entered into by such parties to amend the Agreement as set forth in this [First] Amendment. To the extent this [First] Amendment contains terms and conditions that differ from those contained in the Agreement, this [First] Amendment shall control. The parties agree that a concept or principle covered in this [First] Amendment shall apply and be incorporated into all other provisions of the Agreement in which the concept or principle is also applicable, notwithstanding the absence of any specific cross reference thereto. All capitalized terms not otherwise defined in this [First] Amendment will have the same meanings ascribed to such terms in the Agreement.

1. The following **Article 19, “Rocky Mountain Chocolate Factory® License: Terms and Conditions,”** is hereby added to the Agreement immediately following the end of **Article 18, “Submission of Agreement”**:

**ARTICLE 19. ROCKY MOUNTAIN CHOCOLATE FACTORY®
LICENSE; TERMS AND CONDITIONS**

19.1 Right to Offer and Sell Rocky Mountain Chocolate Factory Products.

a. Grant of RMCF Rights. We hereby authorize you to offer and sell the approved *Rocky Mountain Chocolate Factory* (“RMCF”) gourmet chocolates and confections (individually and collectively, “RMCF Products”), as provided in writing from time to time during the Term by us or Rocky Mountain Chocolate Factory, Inc. (“RMCF Inc.”), the franchisor of the *RMCF* brand. The *RMCF* Products shall only be offered and sold in compliance with the trademarks and methods of *RMCF Inc.* (collectively, “RMCF System”). All rights hereby granted to you under this *Article 19* and in connection with your right to use the *RMCF* System shall hereinafter be referred to as the “RMCF Rights.”

b. RMCF Trademarks. The *RMCF* trademarks, service marks, trade names, and trade dress approved for your use under this Agreement, as may be amended from time to time by *RMCF Inc.*, are listed in Attachment “A,” attached hereto and incorporated herein by reference (individually and collectively, “RMCF Trademarks”). All *RMCF* Trademarks used in connection with the *RMCF* Products and *RMCF* System are and shall remain the sole property of *RMCF Inc.* and any and all goodwill associated with and identified by your use of the *RMCF* Trademarks will inure directly and exclusively to the benefit of *RMCF Inc.* We hereby grant you a non-exclusive, non-transferable sublicense to use the *RMCF* Trademarks solely as authorized by this Agreement and in compliance with the terms of the Master License Agreement entered into by our affiliate, as ultimately assigned to us, and *RMCF Inc.*, dated August 17, 2009, as amended

(“RMCF Master License Agreement”). You hereby assign all proprietary rights, including copyrights, in works created by you or on your behalf or any of your owners, officers, employees, contractors or agents in connection with the use of the *RMCF System* to RMCF Inc. without additional consideration. You hereby assign and will execute such additional assignments or documentation to effectuate the assignment of all intellectual property, inventions, copyrights and trade secrets developed, in whole or in part, in relation to the *RMCF System* during the Term, as we or RMCF Inc. may deem necessary, to enable RMCF Inc., at its expense, to apply for, prosecute and obtain copyrights, patents or other proprietary rights in the United States and in foreign countries or to transfer to RMCF Inc. all right, title, and interest in said property. You will promptly disclose to us and RMCF Inc. all inventions, discoveries, improvements, recipes, creations, patents, copyrights, trademarks and confidential information relating to the *RMCF System* which you or any of your owners, officers, employees, contractors or agents have made or may make solely, jointly or commonly with others, and will promptly create a written record of the same. In addition to the foregoing, you acknowledge and agree that any improvements or modifications, whether copyrightable, directly related to the sale of *RMCF Products* will be deemed to be a part of the *RMCF System* and will inure to the benefit of RMCF Inc.

c. RMCF Operations. You acknowledge the layout, design, decoration, color scheme, signage, and equipment associated with the *RMCF System* is an integral part thereof. Accordingly:

1. You will convert, design and decorate a portion of the Location as specified by us for use in the sale of *RMCF Products* and in accordance with the plans and specifications which are contained in the confidential *RMCF* operating manual provided to you by either us or RMCF Inc., which also contains standards, specifications, policies and other directives and information relevant to the *RMCF System*, as may be amended by from time to time by RMCF Inc. (“RMCF Operating Manual”). Prior to any implementation or construction of such *RMCF* designs, you must receive our and our third party approved architect’s approval of the *RMCF* design plans. You may, in our sole discretion, be charged a fee of One Thousand Seven Hundred Dollars (\$1,700) for such review and approval, in addition to any fee charged for the review of the Plans for the Franchised Business. You acknowledge that such approval is solely for complying with the *RMCF System*, and not for determining compliance with codes, ordinances or other legal requirements. You are solely responsible for ensuring that the Location, including the *RMCF* design plans, conform to all codes, ordinances and other legal requirements, including the ADA. Upon completion of all approvals, a copy of the final approved store design plans shall be attached to and incorporated in this Agreement as Attachment “B.”

2. You must acquire for use at the Location all signage and other items that display the *RMCF* Trademarks and ensure compliance with the *RMCF* standards and specifications that are contained in the *RMCF* Operating Manual. It is your sole responsibility to ensure that any signs used at the Location also comply with applicable local ordinances, building

codes and zoning regulations. Any modifications to the standards and specifications for *RMCF* signs that must be made due to local ordinances, codes or regulations must be submitted to us for submission to *RMCF* Inc. for prior written approval. You acknowledge the *RMCF* Trademarks, or any other name, symbol or identifying marks on any signs associated with the *RMCF* System, may only be used in accordance with standards and specifications set forth in this Agreement and only with the prior written approval of *RMCF* Inc.

3. You must acquire for use at the Location the equipment of a type and in an amount which complies with the *RMCF* System. You acknowledge that the type, quality, configuration, capability and performance of the equipment are all standards and specifications which are a part of the *RMCF* System and therefore such equipment must be purchased, leased, or otherwise obtained in accordance with *RMCF* Inc.'s standards and specifications and only from suppliers or other sources approved by *RMCF* Inc.

4. We will determine the initial inventory of *RMCF* Products and *RMCF* equipment that you will purchase from *RMCF* Inc. or its designated or approved suppliers to be used, offered and sold in connection with the Franchised Business. You agree to offer such *RMCF* Products as we shall designate and you shall not offer any products or services under the *RMCF* Trademarks not previously approved by us in writing. Depending on several factors, which include the size and configuration of your Location, we may permit you to manufacture certain confections, *RMCF* Products, and cooking supplies on-site at your Location using *RMCF* Inc.'s proprietary recipes (individually and collectively, "Store Candy") and we may require that you purchase certain confections, *RMCF* Products, and cooking supplies manufactured by *RMCF* Inc. in its factory (individually and collectively, "Factory Candy"). A franchised business permitted by us to manufacture a full line of Store Candy, including dipping caramel, is referred to as a "Full *RMCF* Store." A franchised business which is permitted by us to manufacture a more limited amount of Store Candy is referred to as "Traditional *RMCF* Stores."

5. *RMCF* Inc. reserves the right to change the price for Factory Candy and related products from time to time as may be set forth in the most recent price bulletin sent to all franchisees or the then-current *RMCF* Operating Manual. With respect to the offer and sale of all *RMCF* menu items, *RMCF* Products and *RMCF* services, you are free to set your own resale prices, provided that we may, where allowed by applicable law, establish maximum resale prices that may be charged based on an analysis of the market and to facilitate advertising and competitive strategies.

6. You shall obtain all permits and certifications as may be required to lawfully sell *RMCF* Products, together with all certifications from government authorities having jurisdiction over the Location. You must certify to us before commencing the sale of *RMCF* Products that all requirements for construction and operation have been met, including zoning, access, sign, health, safety requirements, building and other

required construction permits, licenses to do business and fictitious name registrations, sales tax permits, health and sanitation permits and ratings and fire clearances.

7. You shall be responsible for the cost of obtaining all governmental construction permits, certifications, and licenses necessary to lawfully sell *RMCF* Products, and must, at your expense, comply with all laws, zoning ordinances, rules and regulations of any governmental agencies that may govern the construction of or modifications to the Location for the sale of *RMCF* Products. You agree to allow our authorized representatives, at any and all times while construction is in progress, to meet with the licensed architect and general contractor and enter the Location for this purpose. If we determine in good faith that the provisions of this *Section 19.1c7* are not being observed, you will, at your expense, immediately take all necessary corrective action.

d. Your *RMCF* Representations and Warranties. You represent and warrant that the following statements are true and complete in regards to your *RMCF* operations:

1. You do not seek to obtain the *RMCF* Rights for speculative or investment purposes and have no present intention to sell or transfer, or attempt to sell or transfer, its *RMCF* Rights.

2. You understand and acknowledge the value to the *RMCF* brand of uniform and ethical standards of quality, appearance and service described in and required by the *RMCF* Operating Manual and the necessity of operating the Location under the standards set forth in the *RMCF* Operating Manual. You represent that you have the capabilities, professionally, financially and otherwise, to comply with our standards and the standards of *RMCF* Inc.

3. You have read and understand the information and disclosures made in the *RMCF* Disclosure Document provided to you by us or *RMCF* Inc. You understand and acknowledge that estimates for initial startup expenses are estimates only. You understand that there can be and likely will be additional start-up expenses. You have had the opportunity to and have consulted or elected not to consult with your attorney and accountant and business advisors before entering into this Agreement.

4. You understand and acknowledge that you may make money and may lose money and are entering this *RMCF* business venture with this express understanding. You are not relying upon anything which is not contained within this Agreement or any related Disclosure Document in determining and deciding to sell *RMCF* Products.

5. Notwithstanding the foregoing, you understand and agree that the *RMCF* System must not remain static if it is to meet (without limitation) presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, social trends and other market place variables, and if it is to best serve the interests of

the *RMCF* brand, you and all other *RMCF* franchisees. Accordingly, you expressly understand and agree that *RMCF* Inc. may from time to time change the components of the *RMCF* System, including altering the products, programs, services, methods, standards, forms, policies and procedures of that *RMCF* System; abandoning the *RMCF* System altogether in favor of another system in connection with a merger, acquisition or other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which under *Article 19* you are authorized or required to offer, modifying or substituting entirely the *RMCF* System, including the *RMCF* equipment, signage, trade dress, décor, color schemes, and other specifications and all other unit constructions, design, appearance and operation attributes which you are required to observe under this Agreement; and, abandoning, changing, improving, modifying or substituting the *RMCF* Trademarks. You expressly agree to comply with any such modifications, changes, additions, deletions, substitutions and alterations. You shall accept, use and effectuate any such changes or modifications to, or substitution of, the *RMCF* System as if they were part of the *RMCF* System at the time that this Agreement was executed. Except as provided herein, neither we nor *RMCF* Inc. shall be liable to you for any expenses, losses or damages sustained by you as a result of any of the modifications contemplated hereby.

6. You represent that neither you nor any of your affiliates, officers, directors, managers, members, or partners (as applicable) or funding sources are subject to U.S. Executive Order 13224, identified on the U.S. Department of the Treasury's Office of Foreign Assets Control Specially Designated National and Blocked Persons list, or any terrorist list or other blocked persons list. In addition, you represent that you have not received funding from nor are you owned, controlled, or acting on behalf of the government of any country that is subject to an embargo by the United States, any foreign government official, political party or international organization, and that no foreign government or government official, political party or international organization has any financial interest in your *RMCF* Rights or any monies earned by your exercise of the *RMCF* Rights.

7. You, or any member of your immediate family in the case of an individual, are not currently and will not at any time in the future be engaged in, or participate as an owner, officer, partner, director, agent, employee, shareholder, member, manager, or otherwise in any other *RMCF* Competitive Business without having first obtained *RMCF* Inc.'s written consent. For the purposes of this *Article 19*, "*RMCF* Competitive Business" means any business operating, or granting franchises or licenses to others to operate, a retail, wholesale, distribution or manufacturing business with either of the following attributes: (i) a business deriving a total of ten percent (10%) or more of its gross receipts from the sale, processing or manufacturing of one or a combination of any of the following: boxed chocolate candies, products which are the same as or substantially similar to candy made by you at the Location, or products made with recipes, or processes, included in the *RMCF* Operating Manual; or (ii) a business devoting a total of ten percent (10%) or more of its retail display space to one or a combination of the following: boxed chocolate candies, products

which are the same as or substantially similar to candy made by you at the Location, or products made with recipes, or processes, included in the *RMCF Operating Manual*.

e. *RMCF Training*. You, or if you are an entity then the natural person designated by you to assume primary responsibility for the management of the Franchised Business ("General Manager"), are required to attend and successfully complete an initial training program for the sale of *RMCF Products* as offered by *RMCF Inc.*, or by authorized employees or representatives of ours who have been approved to conduct *RMCF Product training* ("*RMCF Initial Training*"). The *RMCF Initial Training* will consist of classroom and on-the-job training, lasting approximately thirty (30) hours (plus an additional seven (7) days if you transition to a Full *RMCF Store*), and will be held in Durango, Colorado, or such other location as designated by us or *RMCF Inc.* You may, at your option, send one (1) additional person to the *RMCF Initial Training*. The *RMCF Initial Training* program will be provided without charge of a tuition or fee; however, you will be responsible for any and all travel and living expenses incurred in connection with attendance at the *RMCF Initial Training*. You must successfully complete the *RMCF Initial Training* before you will be permitted to sell *RMCF Products* or to exercise any of its other *RMCF Rights*. You acknowledge that adequate knowledge regarding the *RMCF* brand is essential to the promotion of the *RMCF System*. Based upon your prior experience in the food service industry and subject to *RMCF Inc.*'s approval, your requirement to attend the *RMCF Initial Training* may be waived by us or *RMCF Inc.*

f. *RMCF Non-Disparagement*. You will not take any action or make any statements to any third parties that would constitute a criticism, denigration or disparagement of *RMCF Inc.* or us, of either of our employees, representatives or agents, or the *RMCF System*, or that would tend to be injurious to the reputation or goodwill of *RMCF Inc.* or us, or either of our respective employees, representatives or agents, or the *RMCF System*, or which may interfere in any manner with our or *RMCF Inc.*'s business affairs or business relations, or either of our respective employees, representatives or agents.

g. *Reservation of Rights*. You acknowledge that the *RMCF Rights* granted herein are non-exclusive and that, pursuant to the *RMCF Master License Agreement*, *RMCF Inc.* retains the rights, among others: (1) to use, and to license others to use, the *RMCF System* for the operation of *RMCF stores*, kiosk stores, satellite stores, temporary stores and other co-branded stores, at any location other than at the Location; (2) to use the *RMCF System* to identify services and products, promotional and marketing efforts or related items, and to identify products and services similar to or the same as those which you will sell, but made available through alternative channels of distribution other than through traditional *RMCF stores*, at any location other than at the Location, including through satellite stores, temporary stores, kiosk stores, other co-branded stores, by way of mail order, (including electronic mail order), the Internet, catalog, telemarketing, other direct marketing methods, television, retail store display or through the wholesale sale of its products to unrelated retail

outlets or to candy distributors or outlets located in stadiums, arenas, airports, turnpike rest stops or supermarkets; and (3) to use and license the use of other proprietary marks or methods in connection with the sale of products and services similar to those which you will sell or in connection with the operation of retail stores selling chocolate and other products, at any location other than at the Location, which stores are the same as, or similar to, or different from a traditional *RMCF* store or a satellite store, a temporary store, a co-branded store or a kiosk store, on any terms and conditions as *RMCF* Inc. deems advisable, and without granting you any rights therein.

19.2 Rocky Mountain Chocolate Factory Fees.

a. Initial *RMCF* License Fee. You shall pay to us an Initial *RMCF* License Fee in the amount of Six Thousand Dollars (\$6,000) [IF GRANTED THE RIGHTS TO A TRADITIONAL *RMCF* STORE; OR "Twenty Four Thousand Five Hundred Dollars ("\$24,500)" IF GRANTED THE RIGHTS TO A FULL *RMCF* STORE] ("*RMCF* License Fee"). The *RMCF* License Fee is in addition to the Initial Franchise Fee for the Franchised Business as set forth in *Section 5.1*, and will be due and payable by you to us by cashier's check, wire transfer or other form of immediately available funds acceptable to us, upon your execution of the First Amendment to Franchise Agreement, subjection to *Section 19.2a1*. You and we agree that our grant of the *RMCF* Rights and your payment of the *RMCF* License Fee does not give you any rights with respect to other franchises or licenses, if any, as we in our sole discretion may elect to make available in the future. The *RMCF* License Fee will be fully earned by us upon the [First] Amendment Effective Date and will be nonrefundable.

1. If you are initially granted the rights to a Traditional *RMCF* Store and are later granted the rights to a Full *RMCF* Store, the remaining balance amount of the *RMCF* License Fee due pursuant to *Section 19.2a*, raising the total *RMCF* License Fee due to Twenty-Four Thousand Five Hundred Dollars (\$24,500), will be payable by you to us upon your execution of an amendment granting you the additional rights to become a Full *RMCF* Store.

b. *RMCF* Royalties. For the period of time commencing on the later of the date that you sign the [First] Amendment to Franchise Agreement or the date you begin to sell *RMCF* Product to the public, and for the duration of the Term, you must pay to us a weekly royalty fee equal to nine percent (9%) of total *RMCF* Gross Sales (as defined below) ("*RMCF* Royalty Fee"). This *RMCF* Royalty Fee is in addition to the Royalty Fee set forth in *Section 5.2*. During a temporary closure of your Franchised Business, if any, and as set forth in *Section 5.2*, you are not required to pay the *RMCF* Royalty Fee.

c. *RMCF* Transfer Fee. A transfer fee of Two Thousand Five Hundred Dollars (\$2,500) ("*RMCF* Transfer Fee") is payable to us when you sell the rights granted you under this *Article 19*. This *RMCF* Transfer Fee is in addition to the Transfer Fee set forth in *Section 5.13*.

d. RMCF Gross Sales. For the purpose of this *Article 19*, "RMCF Gross Sales" means all sales, money or things of value, received or receivable, directly or indirectly, by you on account of the sale of *RMCF* Products, less applicable sales taxes and any documented refunds, credits and allowances given by you to customers in accordance with the *RMCF* Operating Manual, but without deducting any of your costs and expenses. All sales made from catering services of *RMCF* Product must be included in *RMCF* Gross Sales.

e. RMCF Reporting. You are required to report *RMCF* Gross Sales to our designated accounting office via the Internet at <http://franchisee.kahalamgmt.com>, as set forth by us, by the close of business on each Tuesday for the week ending the preceding Tuesday, commencing on the [First] Amendment Effective Date and continuing through the Term. The *RMCF* Gross Sales reports shall detail the *RMCF* Gross Sales derived from the sale of *RMCF* Products separately from the Gross Sales as set forth in *Section 5.2*. You acknowledge and agree that we may share all *RMCF* Gross Sales reports with *RMCF* Inc.

f. RMCF Payment Terms. Payment of *RMCF* Royalty Fees and all other fees due to us under this *Article 19* shall be made in the same manner as payments required under *Article 5*. This includes:

1. Your requirement to make payments via electronic transfer of funds;

2. Our right to debit your Depository Account at any time upon notice to you for any amounts owed by you or your affiliates under any agreement by and between you or any of your affiliates and us or any of our affiliates;

3. Our right to charge you interest accruing on late payments (from the date payment is due until the date it is paid) at an interest rate of eighteen percent (18%) per annum, which amount, plus a late charge of five percent (5%) of the unpaid amount or One Hundred Dollars (\$100), whichever is greater, shall be added to each late payment; and

4. Our right to inspect and audit, or cause to be inspected and audited, the business records, cash control devices, bookkeeping and accounting records, sales and income tax records and returns and other records of the Franchised Business and your entity's books and records as they relate to the *RMCF* System.

19.3 Rocky Mountain Chocolate Factory Default; Termination.

a. Termination by Us - Effective upon Notice. We have the right, in our sole discretion, to terminate any and all of your *RMCF* Rights without affording you any opportunity to cure (subject only to any termination prerequisites in any state franchise law whose applicability, as a matter of law supersedes the choice-of-law provision set forth in this Agreement), and such termination will be effective upon your receipt of written notice upon

the occurrence of any of the following events:

1. Abandonment. If you cease to sell *RMCF* Products for a period of five (5) consecutive days, or any shorter period that indicates an intent by you to discontinue sale of the *RMCF* Products, unless and only to the extent that full operation of the Franchised Business is suspended or terminated due to fire, flood, earthquake or other similar causes beyond your control and not related to the availability of funds to you;

2. Misuse of *RMCF* Trademarks. If, within ten (10) days after notification from us, you fail, with respect to the *RMCF* Trademarks, either to correct any misuse, or to follow our or *RMCF* Inc.'s directions and guidelines concerning proper use;

3. Unauthorized Disclosure. If you intentionally or negligently disclose to any unauthorized person the contents of or any part of the *RMCF* Operating Manual or any other trade secrets or confidential information related to the *RMCF* System;

4. Unauthorized Transfer. If you sell, transfer or otherwise assign the *RMCF* Rights, or attempt to transfer *RMCF* Rights in any manner not in full compliance with the transfer provisions set forth in this Agreement, and such transfer is not part of the simultaneous transfer of this Agreement. You specifically understand and agree that this *Article 19* is indivisible from this Agreement, and may not be transferred, except as part of an approved transfer of this Agreement.

5. Failure to Pay. If you fail to pay *RMCF* Inc. for purchases of *RMCF* Products and other items on a timely basis, and that failure has not been cured within thirty (30) days after we or *RMCF* Inc. have provided notice of such failure to you.

b. Termination by Us - Effective upon Thirty (30) Days' Notice. We have the right to terminate your *RMCF* Rights (subject only to any termination pre-requisites in any state franchise law whose applicability, as a matter of law supersedes the choice-of-law provision set forth in this Agreement), effective upon thirty (30) days' written notice to you, if you breach any provision of this *Article 19* other than those listed in *Section 19.3a* and fail to cure the default during such thirty (30) day period. In that event, your *RMCF* Rights will terminate without further notice to you, effective upon expiration of the thirty (30) day period. Defaults include the following:

1. Failure to Maintain Standards. You fail to maintain the then-current operating procedures and adhere to the specifications and standards established by the *RMCF* Operating Manual or otherwise communicated to you;

2. Deceptive Practices. You engage in any unauthorized business or practice or sell any unauthorized product or service under the *RMCF* Trademarks or under a name or mark which is confusingly similar to the *RMCF* Trademarks;

3. Failure to Obtain Consent. You fail, refuse or neglect to obtain our or RMCF Inc.'s prior written approval or consent as required; or

4. Failure to Comply with the *RMCF* Operating Manual. You fail or refuse to comply with the then-current requirements of the *RMCF* Operating Manual.

Notwithstanding the foregoing, if the breach is curable, but is of a nature which cannot be reasonably cured within such thirty (30) day period and you have commenced and are continuing to make good faith efforts to cure the breach during such thirty (30) day period, as determined in our sole discretion, then you may be given an additional reasonable period of time to cure the same, and the *RMCF* Rights will not automatically terminate without written notice from us.

c. Termination of *RMCF* Master License Agreement. You acknowledge that the *RMCF* Rights are granted pursuant to, and remain conditional upon, the continued existence of the *RMCF* Master License Agreement. The *RMCF* Rights will automatically terminate upon the expiration or termination of the *RMCF* Master License Agreement, regardless of the cause of such termination and neither we nor RMCF Inc. shall have any further liability or obligation to you arising from or in connection with the termination or this *Article 19*. Upon termination of the *RMCF* Rights, you may, at your own expense, be required to return the Location to the condition reasonably similar to those prior to the renovations made pursuant to *Section 19.1*.

d. Scope of *RMCF* Rights Termination. At your option, a termination of the *RMCF* Rights may relate *solely* to your rights and obligations with respect to the *RMCF* System and shall not affect the validity or ongoing enforceability of the remainder of this Agreement, including your rights in connection with the *Cold Stone Creamery* brand. Termination of the *RMCF* Rights for any reason does not release you or us from the respective obligations under any other section of this Agreement or any other agreement, including any lease or promissory note, between the parties.

e. Your Obligations upon Termination of the *RMCF* Rights. You are obligated upon termination of your *RMCF* Rights to immediately:

1. Cease use of and remove all *RMCF* Trademarks, including signs, symbols, devices, trade names, trademarks or other materials;

2. Renovate, paint or otherwise change the interior and exterior of the Location to remove any trade dress or other leasehold improvements, equipment, fixtures, candy cases and other items that identify with the *RMCF* System;

3. Deliver to us, or our designee, all items of inventory that bear *RMCF* Trademarks, including packaged chocolates, confections, signs, sign-faces, advertising materials, forms and other materials;

4. Deliver to us, or our designee, the *RMCF* Operating Manual and all other information, documents and copies thereof associated with the *RMCF* System;

5. Promptly take such action as may be required to cancel all fictitious or assumed names or equivalent registrations relating to your use of any *RMCF* Trademarks which are under the exclusive control of RMCF Inc. or, at the option of RMCF Inc., assign the same to the RMCF Inc.;

6. If applicable, notify all telephone directory publishers of the termination or expiration of your right to use any regular, classified or other telephone directory listings associated with any *RMCF* Trademarks and to authorize transfer thereof to RMCF Inc., or its designee. You acknowledge that, as between you and us, we have the sole rights to and interest in all directory listings associated with any *RMCF* Trademark. You authorize us, and hereby appoint us and any of our officers, as your attorney-in-fact, to direct the telephone directory publishers to transfer to us or our designee or cancel any directory listings relating to the Location. Should you fail or refuse to do so, you understand and agree that the telephone directory publishers may accept a copy of this *Article 19* as conclusive evidence of our exclusive rights in such directory listings and our authority to direct their transfer or cancellation;

7. Sign a general release, in a form satisfactory to us, of any and all claims against us, RMCF Inc., and each of our affiliates and each respective officer, director, employee and agent; and

8. If applicable, take such action as may be required to remove from the Internet all sites referring to your former association with the *RMCF* System and to cancel or assign to us or our designee, in our sole discretion, all rights to any domain names for any sites on the Internet that refer to any such association.

19.4 Rocky Mountain Chocolate Factory Indemnification.

a. Indemnification of RMCF Inc. and Us. You agree to indemnify, defend, and hold RMCF Inc., us and each of our respective affiliates (including parent and subsidiary companies), and its stockholders, directors, officers, members, managers, partners, joint venturers, attorneys, employees, contractors, agents, guarantors, successors and assignees (collectively, "*RMCF* Indemnified Parties") harmless for, from and against any and all claims, liabilities, causes of action, demands, obligations, costs and expenses, damages, liabilities, judgments, proceedings, of every kind and nature, including reasonable attorneys' fees, (individually and collectively, "*RMCF* Claims") suffered or incurred by any of the *RMCF* Indemnified Parties arising out of or relating to your *RMCF* Rights, including your failure to comply with PCI DSS or any law, statute, regulation, order, rule, or ordinance, or management of the Franchised Business and the *RMCF* System, except for *RMCF* Claims held to have resulted solely from our or RMCF Inc.'s gross negligence or willful misconduct. Notwithstanding the foregoing, RMCF Inc. will have the right, at its option, to defend any *RMCF* Claim, but you must reimburse RMCF Inc. upon demand for the

costs of such defense.

b. RMCF Inc. Indemnification of You. RMCF Inc. agrees to indemnify, defend, and hold you and your affiliates, and their stockholders, directors, officers, members, managers, partners, employees, agents, successors and assignees harmless for, from and against any and all *RMCF* Claims, liabilities, causes of action, demands, obligations, costs and expenses, including reasonable attorneys' fees, arising out of any alleged infringement or unfair competition in connection with your authorized use of the *RMCF* Trademarks and *RMCF* confidential information, provided that such use is in accordance with the provisions of this Agreement. However, if RMCF Inc. requires you to modify or discontinue use of its proprietary information or use other information or rights in its place at any time other than upon renewal of this Agreement, and that requirement is a direct result of proceedings or litigation that determined that its and its sublicensees' use of the proprietary information infringed upon a third party's rights, RMCF Inc. will bear the cost of those modifications or discontinuances.

19.5 Rocky Mountain Chocolate Factory Insurance.

You shall obtain insurance coverage applicable to RMCF Inc. in accordance and in addition to its insurance obligations under *Section 9.5*, including adding RMCF Inc. and its affiliates and each of their respective directors, shareholders, employees and agents as additional insureds, with primary non-contributory coverage, on all insurance policies that you are obligated to maintain pursuant to this Agreement, as well as any additional insurance coverage, policy amounts, or other obligations that may be contained in the *RMCF* Operating Manual.

19.6 Rocky Mountain Chocolate Factory Non-Competition.

You acknowledge and agree that the provisions of *Section 14.6* shall apply equally to a business operating, or granting franchises or licenses to others to operate, a retail, wholesale, distribution or manufacturing business with either of the following attributes: (i) a business deriving a total of ten percent (10%) or more of its gross receipts from the sale, processing or manufacturing of one or a combination of any of the following: boxed chocolate candies; or products which are the same as or substantially similar to Store Candy; or products made with recipes, or processes, included in the *RMCF* Operating Manual; or (ii) a business devoting a total of ten percent (10%) or more of its retail display space to one or a combination of the following: boxed chocolate candies; or products which are the same as or substantially similar to Store Candy; or products made with recipes, or processes, included in the *RMCF* Operating Manual. For purposes of enforcing *Section 14.6*, all references to us shall also include RMCF Inc.

19.7 Rocky Mountain Chocolate Factory Confidentiality Agreement.

You agree to treat the *RMCF* Operating Manual in the same confidential manner as our confidential Operations Manual. At our request, each individual referenced in *Section 14.6d* will sign the *RMCF* Confidentiality

and Non-Competition Agreement set forth in Attachment "C," attached hereto and incorporated herein by reference.

19.8 Rocky Mountain Chocolate Factory Acknowledgements of Franchisee.

In addition to the acknowledgements of Franchisee set forth in *Section 17.3* of this Agreement:

a. Franchisee recognizes that the success of the *RMCF* Product offering involves substantial business risks. Franchisor expressly disclaims making, and Franchisee acknowledges that it has not received or relied on any warranty or guarantee, express or implied, as to the potential volume, profits or success of such offering contemplated by this Agreement.

Franchisee Initials _____/_____

b. Franchisee acknowledges that the *RMCF* Rights granted in this Agreement are contingent upon the ongoing relationship between Franchisor and *RMCF* Inc. and will immediately terminate in the event of a termination or expiration of the *RMCF* Master License Agreement.

Franchisee Initials _____/_____

c. Franchisee acknowledges that its financial obligations under any promissory note it may have signed in connection with the *RMCF* Rights will continue regardless of the success that Franchisee has in connection with such *RMCF* Rights.

Franchisee Initials _____/_____

d. Franchisee acknowledges that it will be required to meet the operating standards of Franchisor and *RMCF* Inc., and any additional operating standards established by Franchisor and/or *RMCF* Inc. with respect to the *RMCF* Rights, including, but not limited to, manager and staff uniforms, hours of operation, and pricing of products.

Franchisee Initials _____/_____

e. Franchisee acknowledges that it will be required to fully execute the national marketing calendar provided to it by Franchisor that incorporates marketing for *RMCF* Products.

Franchisee Initials _____/_____

f. Franchisee acknowledges receipt of Franchisor and *RMCF*'s Disclosure Document at least 14 days prior to the execution of this [First] Amendment or payment of any monies to Franchisor or Franchisor's agent.

Franchisee Initials _____/_____

19.9 Construction.

You and we agree that the purpose of this *Article 19* is not to change or alter the terms of this Agreement except as necessary to accomplish the objective of this *Article 19*. Therefore, in respect to the *RMCF* System, if the terms listed in this Agreement outside of this *Article 19* conflict with this *Article 19*, the language shall be construed, to the maximum extent possible, to avoid any direct conflict and, if such construction is unavoidable, then the terms of this *Article 19* shall govern.

2. Attachments "A," "B" and "C" hereto are hereby added to and incorporated in the Agreement by this reference.

3. Except as set forth in this [First] Amendment, the terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by and through their respective authorized representatives, who each have full rights, power and authority to enter into and bind his or her respective party to the obligations set forth in this [First] Amendment without further consent or approval of any kind, have duly executed and delivered this [First] Amendment as of the [First] Amendment Effective Date.

FRANCHISOR: KAHALA FRANCHISING, L.L.C., an Arizona limited liability company

By: _____
[Name, Title]

FRANCHISEE: _____, a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

ATTACHMENT "A"

RMCF Trademarks

The term "*RMCF Trademarks*" includes the following:

1. "Rocky Mountain Chocolate Factory" (word mark);
2. "Rocky Mountain Chocolate Factory" and design; and
3. All other trademarks and service marks that are included in the *RMCF Operating Manual* from time to time that are authorized for use in the Franchised Business with products offered under the "Cold Stone Creamery" Proprietary Marks.

ATTACHMENT "B"

Location Floor Plan

ATTACHMENT "C"

Confidentiality and Non-Competition Agreement

[See *attached*]

CONFIDENTIALITY AND NONCOMPETITION AGREEMENT

This *CONFIDENTIALITY AND NONCOMPETITION AGREEMENT* ("**Agreement**"), dated _____, 20__, by and between ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. ("**RMCF**") and [INDIVIDUALS], of [FRANCHISEE ENTITY], a [TYPE OF FRANCHISEE ENTITY] (collectively, "**Franchisee**"). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Franchise Agreement, defined below.

Kahala Franchising, L.L.C. has granted to Franchisee, pursuant to that certain Franchise Agreement dated _____, 20__, ("**Franchise Agreement**") and amendment thereto granting Franchisee rights to use the RMCF System, as defined in the First Amendment to Franchise Agreement dated _____, 20__ ("**Amendment**"), the right to offer Cold Stone Creamery® products and Rocky Mountain Chocolate Factory® products in the same store ("**Store**"). The undersigned, in consideration of the receipt and/or use of the Operating Manual and other information proprietary to RMCF, including but not limited to methods, strategies and techniques developed by RMCF relating to operations, marketing, training, advertising, trade secrets, recipes and other confidential data (collectively referred to as "**Proprietary Information**"), agrees with RMCF as follows:

(1) The undersigned acknowledges that the Operating Manual and other Proprietary Information now or hereafter provided to Franchisee by or on behalf of RMCF is proprietary to RMCF and must be held in the utmost and strictest confidence.

(2) The undersigned represents and agrees that the undersigned will not, without the prior written consent of RMCF, either:

(i) Duplicate or otherwise reproduce the Operating Manual or other Proprietary Information;

(ii) Deliver or make available the Operating Manual or other Proprietary Information to any person other than an authorized representative of RMCF;

(iii) Discuss or otherwise disclose the contents of the Operating Manual or other Proprietary Information to any person other than an authorized representative of RMCF; or

(iv) Use the Operating Manual or other Proprietary Information to his, her or its commercial advantage other than in connection with the operation of the franchise created and granted by the Franchise Agreement.

(3) While the Franchise Agreement and the Amendment are in effect, neither the undersigned, nor any member of his or her immediate family, shall engage in, or participate as an owner, officer, partner, director, agent, employee, shareholder, member, manager, or otherwise in any other Competitive Business without having first obtained RMCF's written consent. For the purposes of this Agreement, "**Competitive Business**" shall mean any business operating, or granting franchises or licenses to others to operate, a retail, wholesale, distribution or manufacturing business with either of the following attributes: (i) a business deriving a total of 10% or more of its gross receipts from the sale, processing or manufacturing of one or a combination of any of the following: boxed chocolate candies; or products which are the same as or substantially similar to Store Candy; or products made with recipes, or processes, included in the Operating Manual; or (ii) a business devoting a total of 10% or more of its retail display space to one or a

combination of the following: boxed chocolate candies; or products which are the same as or substantially similar to Store Candy; or products made with recipes, or processes, included in the Operating Manual.

(4) The undersigned has acquired from RMCF, or its authorized representative, confidential information regarding RMCF's trade secrets and franchised methods which, in the event of a termination of the Franchise Agreement and Amendment, could be used to injure RMCF. As a result, neither the undersigned, nor any member of his or her immediate family, shall, for a period of 1 year from the date of termination, transfer or expiration of the Franchise Agreement and Amendment, without having first obtained RMCF's written consent, engage in or participate as an owner, officer, partner, director, agent, employee, shareholder, member, manager, or otherwise in any Competitive Business which is located or operating, as of the date of such termination, transfer or expiration, within a 10-mile radius of the Franchisee's former Location as defined in the Franchise Agreement, or within a 10-mile radius of any other franchised or company-owned or co-branded *Rocky Mountain Chocolate Factory* store, unless such right is granted pursuant to a separate agreement with RMCF.

(5) The undersigned agrees that during the term of the Franchise Agreement, and for a period of 1 year thereafter, it shall in no way divert or attempt to divert the business of customers, or interfere with the business relationship established with customers of the Store or of any Competitive Business.

(6) The undersigned agrees that all copyrightable works created by the undersigned, the Franchisee or any of its owners, officers or employees in connection with the Proprietary Information shall be the sole property of RMCF. The Franchisee has assigned all proprietary rights, including copyrights, in these works to RMCF without additional consideration. The undersigned and the Franchisee hereby assign and will execute such additional assignments or documentation to effectuate the assignment of all intellectual property, inventions, copyrights and trade secrets developed in part or in whole in relation to the Store, during the term of the Agreement, as RMCF may deem necessary in order to enable it, at its expense, to apply for, prosecute and obtain copyrights, patents or other proprietary rights in the United States and in foreign countries or in order to transfer to RMCF all right, title and interest in said property. The undersigned and the Franchisee shall promptly disclose to RMCF all inventions, discoveries, improvements, recipes, creations, patents, copyrights, trademarks and confidential information relating to the Store which it or any of its owners, officers or employees has made or may make solely, jointly or commonly with others and shall promptly create a written record of the same. In addition to the foregoing, the undersigned and the Franchisee acknowledge and agree that any improvements or modifications, whether or not copyrightable, directly or indirectly related to the Store, shall be deemed to be a part of the RMCF System and shall inure to the benefit of RMCF.

(7) The undersigned agrees that it shall not take any action or make any statements to any third parties that would constitute a criticism, denigration or disparagement of RMCF or the RMCF System or would tend to be injurious to the reputation or goodwill of RMCF or its Marks, or which in any manner may interfere with the business affairs or business relations of RMCF.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned as of the date set forth above.

AGREED TO BY:

[NAME], a [ENTITY TYPE]

By: _____
[NAME, TITLE]

By: _____
[NAME, TITLE]

**ROCKY MOUNTAIN CHOCOLATE
FACTORY, INC.**

By: _____
Title: _____

EXHIBIT I

TO THE FRANCHISE DISCLOSURE DOCUMENT

**Amendment to Franchise Agreement
(for co-branded non-traditional locations)**

[FIRST] AMENDMENT TO FRANCHISE AGREEMENT

[for non-traditional locations co-branded with an affiliated brand]

This [FIRST] AMENDMENT TO FRANCHISE AGREEMENT (“[First] Amendment”) dated _____ (“[First] Amendment Effective Date”), to the Franchise Agreement dated _____, 20____ (“Agreement”) for the non-traditional *Cold Stone Creamery* restaurant being co-branded in the [*name of original brand*] restaurant located at _____ by and between KAHALA FRANCHISING, L.L.C., an Arizona limited liability company (“Franchisor”) and _____ (“Franchisee”), is entered into by such parties to amend the Agreement as set forth in this [First] Amendment. To the extent this [First] Amendment contains terms and conditions that differ from those contained in the Agreement, this [First] Amendment shall control. The parties agree that a concept or principle covered in this [First] Amendment shall apply and be incorporated into all other provisions of the Agreement in which the concept or principle is also applicable, notwithstanding the absence of any specific cross reference thereto. All capitalized terms not otherwise defined in this [First] Amendment will have the same meanings ascribed to such terms in the Agreement.

1. Franchisee agrees that Franchisee shall enter into this Agreement under the same Franchisee name as the _____ [*name of original brand*] franchise agreement.

2. Franchisee hereby represents that it has reviewed the underlying lease agreement for the Location to ensure the lease agreement does not contain any provisions that prevent or restrict Franchisee from serving super-premium fresh made ice cream, frozen yogurt, cakes, pies, smoothies, shakes, specialty beverages, soft drinks, other frozen dessert products and other *Cold Stone Creamery* menu items at the Location. Franchisee shall be responsible for all costs and expenses, fees, penalties, attorneys’ fees, claims, demands and damages incurred relating to Franchisee offering *Cold Stone Creamery* menu items at the Location.

3. Franchisee agrees that the Agreement may only be transferred in conjunction with a transfer of the [*name of original brand*] franchise agreement.

4. The last sentence of the second unnumbered paragraph in Section **1.2, “Location of the Franchised Business; No Exclusive Territory or Other Rights,”** is hereby deleted and replaced with the following: “This Agreement is limited to the operation of one non-traditional restaurant, unless otherwise amended, and does not grant you the right to buy, own or operate additional restaurants.”

5. Section **1.3, “Term of Agreement,”** is hereby deleted in its entirety and replaced with the following:

1.3 Term of Agreement.

The term of this Agreement will commence on the Effective Date and expire concurrently with the term of the franchise agreement of the traditional brand in which this store is co-branded, unless terminated earlier in accordance with *Article 14* or any other provisions of this Agreement, renewed in accordance with *Article 13*, or transferred in accordance with *Article 12* (“Term”).

6. Section **4.1, “Training Program,”** is hereby amended to add the following after

the last sentence in Section 4.1: “Notwithstanding the foregoing, for non-traditional, co-branded restaurants, the total number of days of In-Store training will be five (5) days.”

7. Section **4.6, “Computer Systems; Debit and Credit Card Processing,”** is hereby deleted in its entirety and replaced with the following:

4.6 Computer Systems; Debit and Credit Card Processing.

You hereby agree to use the same POS System for the Franchised Business under the same terms and conditions as provided in the [name of original brand] franchise agreement.

8. The first sentence of Section **5.1 “Initial Franchise Fee,”** is hereby deleted and replaced with the following: “The initial franchise fee for this non-traditional, co-brand location is _____ Thousand Dollars (\$ _____) (“Initial Franchise Fee”).”

9. Franchisee agrees that the Gross Sales for this *Cold Stone Creamery* restaurant shall be reported separately from the gross sales reported under the [name of original brand] franchise agreement. Franchisee further agrees that the Royalty Fee and Advertising Fee for this *Cold Stone Creamery* restaurant shall be paid separately from the royalty fee and advertising fee payable under the [name of original brand] franchise agreement.

10. Section **5.6, “Depository Account; Payment Procedures,”** is hereby deleted in its entirety and replaced with the following:

5.6 Depository Account; Payment Procedures.

You hereby agree to use the same Depository Account for the Franchised Business under the same terms and conditions as provided in the [name of original brand] franchise agreement.

11. Section **5.7, “Lease Review Fee,”** is hereby deleted in its entirety and replaced with the following: “**5.7 Not Applicable.**”

12. Section **5.8, “Lease Guarantee Fee,”** is hereby deleted in its entirety and replaced with the following: “**5.8 Not Applicable .**”

13. Section **5.13 “Transfer Franchise Fee,”** is hereby deleted in its entirety and replaced with the following:

5.13 Transfer Franchise Fee.

A Potential Transferee (as defined in *Section 12.1c.*) receiving this Agreement, as may be amended, in connection with a Full Transfer (as defined in *Section 12.1a.1.*), must pay us a transfer franchise fee of Five Thousand Dollars (\$5,000) (“Transfer Franchise Fee”).

14. Section **5.16, “Annual Meeting Registration Fee,”** is hereby deleted in its entirety and replaced with the following: “**5.16 Not Applicable.**”

15. Section 5.19, "Data Fees," is hereby deleted in its entirety and replaced with the following: "5.19 Not Applicable."

16. Section 5.20, "POS Help Desk Phone Support Maintenance Service Fee," is hereby deleted in its entirety and replaced with the following: "5.20 Not Applicable."

17. The first sentence in Section 5.24, "Grand Opening Marketing," is hereby deleted and replaced with the following:

Five Thousand Dollars (\$5,000) ("Grand Opening Marketing") is payable to us on the earlier of: (i) prior to you executing a lease for the premises where the Franchised Business will be located; or (ii) prior to construction commencing at the premises where the Franchised Business will be located.

18. Except as set forth in this [First] Amendment, the terms and provisions of the Agreement shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this [First] Amendment as of the [First] Amendment Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona limited liability company

By: _____
[Name, Title]

FRANCHISEE:

_____, a(n) _____

By: _____
[Name, Title]

By: _____
[Name, Title]

EXHIBIT J

TO THE FRANCHISE DISCLOSURE DOCUMENT

In-Store Training Release and Waiver of Liability Agreement

In-Store Training Release and Waiver of Liability

READ THIS INSTRUMENT FULLY AND CAREFULLY PRIOR TO SIGNING. THIS IS A LEGALLY VALID AND BINDING OBLIGATION TO RELEASE A PARTY FROM ALL KNOWN AND UNKNOWN OBLIGATIONS. THIS DOCUMENT MUST BE SIGNED BEFORE TRAINING CAN BEGIN.

This In-Store Training Release and Waiver of Liability ("Release") executed on this _____ day of _____, 20__ ("Effective Date") by _____ ("Trainee") is in favor of _____, a corporation, a Limited Liability company, or as individual(s), and their respective directors, officers, members, partners, managers, employees, agents, insurers, successors, assigns, representatives, executors and heirs (individually and collectively the "Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company, and its affiliates and each of their respective parents, subsidiaries, directors, officers, members, managers, employees, agents, successors, assigns and insurers (individually and collectively the "Franchisor"). Franchisor and Franchisee shall collectively be referred to herein as the "Hosts."

The Trainee desires to participate in a training program provided by the Hosts, which program involves engaging in activities related to being a restaurant worker ("Activities"), for the purpose of learning to operate a similar business. The Trainee understands that the Activities may take place at various restaurant facilities owned, operated or managed by Franchisor and/or Franchisee, and may include various restaurant activities, including, but not limited to, cooking, cleaning, lifting and climbing, all of which may take place in a facility where there is increased risk of bodily harm or personal injury, including but not limited to, slips, falls, burns, lacerations, exposure to hazardous materials, as well as many other risks. Trainee understands and agrees that no compensation shall be earned by or paid to Trainee in connection with Trainee's participation in the training program. In consideration of the training being provided to Trainee, in the Hosts' location, Trainee agrees that such training constitutes good and valuable consideration and hereby freely, voluntarily, and without duress executes this Release under the following terms:

Release and Waiver. Trainee does hereby release and forever discharge and hold harmless and promise to indemnify and not sue Hosts, both jointly and severally, from any and all liability, claims, actions, damages, judgments, obligations, expenses, including, without limitation, attorneys' fees, expert witness fees and costs, and demands of whatever kind or nature, either in law or in equity, which arise or may hereafter arise, in whole or in part, from Trainee's Activities with Hosts. Trainee understands that this Release discharges Hosts from any liability or claim that the Trainee may have against Hosts with respect to any bodily injury, personal injury, illness, death, or property damage that may result from Trainee's Activities with Hosts, whether caused by the negligence of Trainee or Hosts. Trainee also understands and hereby agrees that it is NOT an employee of Hosts and that Hosts do not assume any responsibility for or obligation to provide financial assistance or other assistance, including, but not limited to, medical, life, health, or disability, or workers' compensation insurance in the event of injury or illness.

Medical Treatment. Trainee does hereby release and forever discharge Hosts from any claim whatsoever which arises or may hereafter arise on account of any first aid, treatment, or service rendered in connection with the Trainee's Activities with Hosts.

Insurance. Trainee understands that, except as otherwise agreed to by Hosts in writing, Hosts do not carry or maintain health, medical, life, workers' compensation, or disability insurance coverage for any Trainee. Each Trainee is expected and encouraged to obtain his or her own medical, health, life, disability and workers' compensation insurance for his or her protection while conducting any Activities with Hosts.

Photographic Release. In consideration of the training provided to Trainee and without further compensation or royalties, Trainee hereby authorizes Hosts to capture and use in any form, format or media, whether now known or later developed for marketing, advertising and other business purposes, Trainee's name, image, likeness, voice and other personal information and hereby grants and conveys unto Hosts all right, title and interest in any and all photographic images and video or audio recordings captured or made by Hosts during the Trainee's Activities with Hosts, including but not limited to, any claims, damages, royalties, proceeds, or other benefits derived from such photographs or recordings.

Prohibition on Hiring. Trainee understands and agrees that during its Activities with Hosts, it will be afforded an opportunity to meet and work with experienced employees of Hosts, who could be of value to Trainee should they be employed by Trainee. Trainee hereby agrees that for a period of two (2) years following the Effective Date of this Release, Trainee shall NOT, directly or indirectly, recruit, solicit, offer, hire, or otherwise entice any employee or agent of Hosts to become a Trainee employee or to otherwise sever his or her employment with Hosts.

Other. Trainee expressly agrees that this Release is intended to be as broad and inclusive as permitted by the laws of the State of Arizona, and that this Release shall be governed by and interpreted in accordance with the laws of the State of Arizona. Trainee agrees for himself/herself and his or her heirs, executors and representatives, that the representations in this Release are contractually binding, and are not mere recitals, and that should Trainee or his/her heirs, executors or representatives assert a claim contrary to what Trainee has agreed to in this Release, the claiming party shall be liable for the expenses (including, without limitation attorneys' fees and costs) incurred by Hosts in defending the claims. This Release may not be modified orally, and a waiver or modification of any provision shall not be construed as a waiver or modification of any other provision herein or as consent to any subsequent waiver or modification. Trainee consents to the release by any third party to Hosts and their insurance carriers of Trainee's name and medical information that may relate solely to any injury or death he or she may suffer arising from the Activities. Trainee agrees that in the event that any clause or provision of this Release shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not otherwise affect the remaining provisions of this Release which shall continue to be enforceable and Hosts and Trainee agree to promptly negotiate the terms of a substitute clause or provision to replace the severed or unenforceable clause or provision, consistent with the parties' original intent and then-current law.

IN WITNESS WHEREOF, I certify that I am 18 years of age or older. I have carefully read, understand and have freely executed this Release as of the Effective Date.

Trainee Signature _____

Printed Name _____

Address _____

street

city

state

zip

Home Phone _____

Work Phone _____

Witness Signature (must be 18 years of age or older) _____

Printed Name _____

EXHIBIT K

TO THE FRANCHISE DISCLOSURE DOCUMENT

Addendum to the Franchise Agreement for SBA Loans

INSTRUCTIONS FOR USE OF SBA FORM 2462 ADDENDUM TO FRANCHISE AGREEMENT

SBA has issued a revised version of the Addendum to Franchise Agreement (SBA Form 2462) which became effective January 1, 2018. SBA’s Standard Operating Procedure (SOP) 50 10 5(J) explains updates made to the franchise review process for the 7(a) and 504 loan programs. By executing this Addendum, the franchisor agrees that any terms in its franchise agreement or any other document the franchisor requires the franchisee to sign that are related to control by the franchisor or its franchisees (resulting in a determination by SBA of affiliation between the Franchisor and its franchisees, as defined in 13 CFR part 121 and SBA’s Standard Operating Procedure 50 10) will not be enforced against the franchisee during the life of the SBA-guaranteed loan.

SBA Form 2462 has **three** locations with drop down menu options at the beginning of the form (see example below). Once a drop down option is chosen (i.e. #1 “Franchise” #2 “Franchisor” and #3 “Franchisee”), the user must hit the “tab” key to automatically populate the appropriate term in all fields.

Example of Drop-Down Options

The image shows a portion of the SBA Form 2462. On the left is the SBA logo. The main text reads: "ADDENDUM TO Franchise AGREEMENT". Below this is a dropdown menu with options: Franchise, License, Distributor, Membership, and Other. A red box labeled '1' points to this menu. Below the menu is the text: "THIS ADDENDUM ("Addendum") is made _____, 20____, by and between _____ ("Franchisor _____"), located at _____, and _____ ("Franchisee _____"), located at _____". Red boxes labeled '2' and '3' point to the dropdown menus for "Franchisor" and "Franchisee" respectively.

Once the drop down options have populated in all three locations, the remaining fillable fields must be completed manually (see example below). These fields will either be blank or contain the language “(Enter type of)” or “(type of agreement).” In each of these fields, enter the type of agreement, e.g., franchise, license, dealer, membership, etc. When completing SBA Form 2462, the text may not be altered except to insert the information required to complete the form.

Example of Fillable Fields to be Completed Manually

FORCED SALE OF ASSETS

- If Franchisor _____ has the option to purchase the business personal assets upon default or termination of the Franchise _____ Agreement and the parties are unable to agree on the value of the assets, the value will be determined by an appraiser chosen by both parties. If the Franchisee _____ owns the real estate where the franchisee _____ location is operating, Franchisee _____ will not be required to sell the real estate upon default or termination, but Franchisee _____ may be required to lease the real estate for the remainder of the (enter type of) _____ term (excluding additional renewals) for fair market value.

Note to Parties: This Addendum only addresses “affiliation” between the Franchisor _____ and Franchisee _____. Additionally, the applicant Franchisee _____ and the (type of agreement) _____ system must meet all SBA eligibility requirements.



ADDENDUM TO FRANCHISE

¹ AGREEMENT

THIS ADDENDUM (“Addendum”) is made and entered into on _____, 20____, by and between _____ (“Licensor”), located at _____, and _____ (“Licensee”), located at _____.

_____Franchisor_____ and _____Licensee_____ entered into a _____Franchise_____ Agreement on _____, 20____, (such Agreement, together with any amendments, the “Franchise Agreement”). _____Licensee_____ is applying for financing(s) from a lender in which funding is provided with the assistance of the U. S. Small Business Administration (“SBA”). SBA requires the execution of this Addendum as a condition for obtaining SBA-assisted financing.

In consideration of the mutual promises below and for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge the parties agree that notwithstanding any other terms in the _____Franchise_____ Agreement or any other document _____Franchisor_____ requires _____Licensee_____ to sign:

CHANGE OF OWNERSHIP

- If _____Licensee_____ is proposing to transfer a partial interest in _____Licensee_____ and _____Franchisor_____ has an option to purchase or a right of first refusal with respect to that partial interest, _____Franchisor_____ may exercise such option or right only if the proposed transferee is not a current owner or family member of a current owner of _____Licensee_____. If the _____Franchisor_____’s consent is required for any transfer (full or partial), _____Franchisor_____ will not unreasonably withhold such consent. In the event of an approved transfer of the _____(Enter type of)_____ interest or any portion thereof, the transferor will not be liable for the actions of the transferee _____Licensee_____.

FORCED SALE OF ASSETS

- If _____Franchisor_____ has the option to purchase the business personal assets upon default or termination of the _____Franchise_____ Agreement and the parties are unable to agree on the value of the assets, the value will be determined by an appraiser chosen by both parties. If the _____Licensee_____ owns the real estate where the _____licensee_____ location is operating, _____Licensee_____ will not be required to sell the real estate upon default or termination, but _____Licensee_____ may be required to lease the real estate for the remainder of the _____(enter type of)_____ term (excluding additional renewals) for fair market value.

¹ While relationships established under license, jobber, dealer and similar agreements are not generally described as “franchise” relationships, if such relationships meet the Federal Trade Commission’s (FTC’s) definition of a franchise (see 16 CFR § 436), they are treated by SBA as franchise relationships for franchise affiliation determinations per 13 CFR § 121.301(f)(5).

COVENANTS

- If the Licensee owns the real estate where the licensee location is operating, Franchisor has not and will not during the term of the Franchise Agreement record against the real estate any restrictions on the use of the property, including any restrictive covenants, branding covenants or environmental use restrictions. If any such restrictions are currently recorded against the Licensee's real estate, they must be removed in order for the Licensee to obtain SBA-assisted financing.

EMPLOYMENT

- Franchisor will not directly control (hire, fire or schedule) Licensee's employees. For temporary personnel franchises, the temporary employees will be employed by the Licensee not the Franchisor.

As to the referenced Franchise Agreement, this Addendum automatically terminates when SBA no longer has any interest in any SBA-assisted financing provided to the Licensee.

Except as amended by this Addendum, the Franchise Agreement remains in full force and effect according to its terms.

Franchisor and Licensee acknowledge that submission of false information to SBA, or the withholding of material information from SBA, can result in criminal prosecution under 18 U.S.C. 1001 and other provisions, including liability for treble damages under the False Claims Act, 31 U.S.C. §§ 3729 - 3733.

Authorized Representative of FRANCHISOR:

By: _____

Print Name: _____

Title: _____

Authorized Representative of LICENSEE:

By: _____

Print Name: _____

Title: _____

Note to Parties: This Addendum only addresses "affiliation" between the Franchisor and Licensee. Additionally, the applicant Licensee and the (type of agreement) system must meet all SBA eligibility requirements.

EXHIBIT L

TO THE FRANCHISE DISCLOSURE DOCUMENT

**Required Lease Terms
(Lease Addendum to Lease Agreement)**

REQUIRED LEASE TERMS

The Terms and Conditions in the attached Lease Addendum to Lease Agreement (“Lease Addendum”) must be included in the Franchisee’s Lease for the location of the Franchised Business via execution of the attached Lease Addendum or through modifications to the actual Lease

LEASE ADDENDUM TO LEASE AGREEMENT

(“Lease Addendum”)

Dated: _____, 20__

between

_____ and _____
(Landlord Name) (Tenant Name)

(Address of “Premises”)

1. Use of Premises.

During the term of the Lease, the Premises may be used only for the operation of a quick service restaurant under the *Cold Stone Creamery* system, trademarks, trade names, and logos, which specialize in the sale of super-premium fresh made ice cream, cakes, pies, smoothies, shakes, specialty beverages, soft drinks and other frozen dessert products and any other items sold under the *Cold Stone Creamery* system. Landlord consents to Tenant’s use of such trademarks, trade names, logos, tag lines, signs, décor items, color schemes, and related components of the *Cold Stone Creamery* franchise system as Kahala Franchising, L.L.C., franchisor of the *Cold Stone Creamery* brand (“Franchisor”), or any of its affiliates, may prescribe for *Cold Stone Creamery* franchisees and which may be altered or changed by Franchisor from time to time.

2. Assignment and Notices.

a. Notwithstanding anything to the contrary in the Lease, Tenant shall have the right to assign the Lease and all amendments thereto, as applicable, including this Lease Addendum (collectively, “Lease”), and all rights hereunder to Franchisor or any of its affiliates, or to a third-party *Cold Stone Creamery* franchisee approved by Franchisor upon the expiration or termination of the current franchise agreement by and between Franchisor and Tenant (“Franchise Agreement”), without obtaining Landlord’s consent and without the imposition of any assignment fee or similar charge. Landlord shall not accelerate the rent owed hereunder in connection with such assignment(s), so long as Franchisor, its affiliate(s) or its third-party franchisee(s) assumes in writing the obligations of Tenant under the Lease. Nothing in this Section 2.a shall serve to extend the term of the Lease or provide Franchisor any occupancy rights, options to renew or other rights not expressly set forth to Tenant in the Lease.

b. Landlord agrees to furnish Franchisor with copies of any and all letters and notices to Tenant pertaining to the Lease and the Premises at the same time that such letters and notices are sent to Tenant. Landlord further agrees that, if it intends to terminate the Lease, the Landlord will give Franchisor the same advance written notice of such intent as provided to Tenant, specifying in such notice all defaults that are the cause of the proposed termination. Franchisor shall have the right to cure, at its sole option, any such default within the time periods granted to Tenant under the Lease. If neither Tenant nor Franchisor cures all such defaults within said time periods (or such longer cure periods as may be specifically permitted by the Lease), then the Landlord may terminate the Lease, re-enter the Premises and/or exercise all other rights as set forth in the Lease.

c. Prior to the expiration or termination of the Lease, Franchisor shall have the right to enter the Premises to make any reasonable modifications or reasonable alterations necessary to protect Franchisor's interest in the *Cold Stone Creamery* brand and its trademarks, trade names, logos, tag lines, signs, décor items, color schemes, and related components of the *Cold Stone Creamery* franchise system, or to cure any default under the Lease, and Landlord and Tenant agree that Franchisor shall not be liable for trespass or any other crimes or tort.

3. Notices.

All notices and demands required to be given hereunder shall be in writing and shall be sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, email or facsimile (provided that the sender confirm the facsimile by sending an original confirmation copy by certified transmission), to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other parties.

If directed to Tenant, the notice shall be addressed to:

Attn: _____
Facsimile: _____
Email: _____

If directed to Landlord, the notice shall be addressed to:

Attn: _____
Facsimile: _____
Email: _____

If directed to Franchisor, the notice shall be addressed to:

Kahala Franchising, L.L.C.
9311 E. Via De Ventura
Scottsdale, AZ 85258
Attn: Real Estate Department
Facsimile: (480) 362-4792
Email: leases@kahalamgmt.com

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by email or facsimile shall be deemed given on the business day of transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) business days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days' written notice of such change to the other parties.

4. **Amendments.**

Landlord and Tenant will not amend, renew, extend or otherwise modify the Lease in any manner which would materially affect any of the provisions in this Lease Addendum without Franchisor's prior written consent.

5. **Right of First Refusal.**

Landlord and Tenant agree that should Landlord and Tenant desire to terminate the Lease prior to the scheduled expiration date, Landlord will notify Franchisor of the proposed termination not less than thirty (30) days in advance of the proposed termination date. Franchisor shall have a right of first refusal to assume the Lease whereby Tenant will assign the Lease to Franchisor and Franchisor will assume all rights and obligations of Tenant under the Lease.

6. **Miscellaneous.**

The terms and conditions of this Lease Addendum will supersede any conflicting terms of the Lease. Any capitalized term not specifically defined in this Lease Addendum shall have the meaning ascribed to such term in the Lease.

IN WITNESS WHEREOF, the parties hereto, by and through their respective representatives authorized to enter into and bind each respective party without further consent or authorization, have duly executed and delivered this Lease Addendum in duplicate as of the date set forth above.

LANDLORD:

_____, a(n) _____

By: _____

Name: _____

Title: _____

TENANT:

_____, a(n) _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT L-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

**RMCF Required Lease Terms
(Lease Addendum to Lease Agreement)**

REQUIRED LEASE TERMS

The Terms and Conditions in the attached Lease Addendum to Lease Agreement (“Lease Addendum”) must be included in the Franchisee’s Lease for the location of the Franchised Business via execution of the attached Lease Addendum or through modifications to the actual Lease

LEASE ADDENDUM TO LEASE AGREEMENT

(“Lease Addendum”)

Dated _____, 20__

between

and

(Landlord Name) (Tenant Name)

(Address of “Premises”)

1. Use of Premises.

During the term of the Lease, the Premises may be used only for the operation of a quick service restaurant under the *Cold Stone Creamery* system, trademarks, trade names and logos, which specialize in the sale of super-premium fresh made ice cream, cakes, pies, smoothies, shakes, specialty beverages, soft drinks, other frozen dessert products, any other items sold under the *Cold Stone Creamery* system, and chocolate products including hand dipped chocolates, assorted chocolates and candies and chocolate food products such as logoeed packaged cocoas and chocolate sauces; fresh, dried and frozen fruit dipped in chocolate; cookies and brownies made from Rocky Mountain Chocolate Factory® packaged mixes; fudges, caramel apples, nut brittles and popcorn candy; as well as chocolate-related non-food items such as molds, cookbooks, cards, mugs and tins; as well as the incidental sale at retail of logo imprinted promotional aprons, shirts, hats and visors; Ty plush toys; soft drinks (excluding daiquiris), hot cocoa, frozen bananas, frozen cheesecake; the incidental sale of non-gourmet, non-brand-identified brewed coffee; the incidental sale of bulk/hard candy; the incidental sale of soft drinks, and for no other purpose, provided that Tenant may sell at retail such additional products that may from time to time be commonly sold in other Rocky Mountain Chocolate Factory® stores. Landlord consents to Tenant’s use of such trademarks, trade names, logos, tag lines, signs, décor items, color schemes, and related components of the *Cold Stone Creamery* franchise system with an authorized Rocky Mountain Chocolate Factory® product offering as Kahala Franchising, L.L.C., franchisor of the *Cold Stone Creamery* brand (“Franchisor”), or any of its affiliates, may prescribe for *Cold Stone Creamery* franchisees with an authorized Rocky Mountain Chocolate Factory® product offering and which may be altered or changed by Franchisor from time to time.

2. Assignment and Notices.

a. Notwithstanding anything to the contrary in the Lease, Tenant shall have the right to assign the Lease and all amendments thereto, as applicable, including this Lease Addendum (collectively, “Lease”), and all rights hereunder to Franchisor, or any of its affiliates, or to a third-party *Cold Stone Creamery* franchisee approved by Franchisor upon the expiration or termination of the current franchise agreement by and between Franchisor and Tenant (“Franchise Agreement”), without obtaining Landlord’s consent and without the imposition of any assignment fee or similar charge. Landlord shall not accelerate the rent owed hereunder in connection with such assignment(s), so long as Franchisor, its affiliate(s) or its third-party franchisee(s) assumes in writing the obligations of Tenant under the Lease. Nothing in this

Section 2.a shall serve to extend the term of the Lease or provide Franchisor any occupancy rights, options to renew or other rights not expressly set forth to Tenant in the Lease.

b. Landlord agrees to furnish Franchisor with copies of any and all letters and notices to Tenant pertaining to the Lease and the Premises at the same time that such letters and notices are sent to Tenant. Landlord further agrees that, if it intends to terminate the Lease, the Landlord will give Franchisor the same advance written notice of such intent as provided to Tenant, specifying in such notice all defaults that are the cause of the proposed termination. Franchisor shall have the right to cure, at its sole option, any such default within the time periods granted to Tenant under the Lease. If neither Tenant nor Franchisor cures all such defaults within said time periods (or such longer cure periods as may be specifically permitted by the Lease), then the Landlord may terminate the Lease, re-enter the Premises and/or exercise all other rights as set forth in the Lease.

c. Prior to the expiration or termination of the Lease, Franchisor shall have the right to enter the Premises to make any reasonable modifications or reasonable alterations necessary to protect Franchisor's interest in the *Cold Stone Creamery* brand and its trademarks, trade names, logos, tag lines, signs, décor items, color schemes and related components of the *Cold Stone Creamery* franchise system with an authorized Rocky Mountain Chocolate Factory® product offering, or to cure any default under the Lease, and Landlord and Tenant agree that Franchisor shall not be liable for trespass or any other crimes or tort.

3. Notices.

All notices and demands required to be given hereunder shall be in writing and shall be sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, email or facsimile (provided that the sender confirm the facsimile by sending an original confirmation copy by certified transmission), to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other parties.

If directed to Tenant, the notice shall be addressed to:

Attn: _____

Facsimile: _____

Email: _____

If directed to Landlord, the notice shall be addressed to:

Attn: _____

Facsimile: _____

Email: _____

If directed to Franchisor, the notice shall be addressed to:

Kahala Franchising, L.L.C.
9311 E. Via De Ventura
Scottsdale, AZ 85258
Attn: Real Estate Department
Facsimile: (480) 362-4792
Email: leases@kahalamgmt.com

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by email or facsimile shall be deemed given on the business day of transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) business days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days' written notice of such change to the other parties.

4. Amendments.

Landlord and Tenant will not amend, renew, extend or otherwise modify the Lease in any manner which would materially affect any of the provisions in this Lease Addendum without Franchisor's prior written consent.

5. Right of First Refusal.

Landlord and Tenant agree that should Landlord and Tenant desire to terminate the Lease prior to the scheduled expiration date, Landlord will notify Franchisor of the proposed termination not less than thirty (30) days in advance of the proposed termination date. Franchisor shall have a right of first refusal to assume the Lease whereby Tenant will assign the Lease to Franchisor and Franchisor will assume all rights and obligations of Tenant under the Lease.

6. Miscellaneous.

The terms and conditions of this Lease Addendum will supersede any conflicting terms of the Lease. Any capitalized term not specifically defined in this Lease Addendum shall have the meaning ascribed to such term in the Lease.

IN WITNESS WHEREOF, the parties hereto, by and through their respective representatives authorized to enter into and bind each respective party without further consent or authorization, have duly executed and delivered this Lease Addendum in duplicate as of the date set forth above.

LANDLORD:

_____, a(n) _____

By: _____

Name: _____

Title: _____

TENANT:

_____, a(n) _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT M
TO THE FRANCHISE DISCLOSURE DOCUMENT

Lease Guaranty Acknowledgment

Lease Guaranty Acknowledgment

You have informed Kahala Franchising, L.L.C. (the “Company”) that the landlord of the location which you have selected for the operation of your Franchised Business requires, as a condition for you to obtain a lease agreement, that you obtain a lease guaranty from the Company or any affiliate of the Company of your obligations under the lease. You have requested that the Company or any affiliate of the Company execute and deliver a lease guaranty in favor of the premises landlord for the location you have selected or are considering for your Franchised Business. You acknowledge that neither the Company nor any of its affiliates is required to serve as guarantor of your lease for the site of your Franchised Business and that a decision whether to serve as guarantor is within the sole and absolute discretion of the Company.

We are willing to undertake to assist you in obtaining a lease by agreeing to execute and deliver a lease guaranty, in form and substance satisfactory to the Company and its counsel. In consideration for the execution and delivery of a lease guaranty, you hereby acknowledge that you have agreed to pay a lease guaranty fee to the Company in an amount equal to the lesser of (i) ten percent (10%) of the total amount of the rental obligations to be guaranteed under the lease during its term, and any renewal term (inclusive of any charges for real estate taxes, common area maintenance, insurance), or (ii) Ten Thousand (\$10,000) Dollars (the “Lease Guaranty Fee”). The Lease Guaranty Fee will be due and payable to the Company upon the Company’s (or any affiliate of the Company) execution of the applicable lease guaranty agreement with the landlord.

Any capitalized terms not specifically defined in this Lease Guaranty Acknowledgment shall have the meaning ascribed to such terms in your *Cold Stone Creamery* Franchise Agreement dated _____.

The undersigned understands and acknowledges that: (i) notwithstanding the agreement of the Company to execute and deliver a lease guaranty, the execution and delivery of such guaranty and any participation of the Company and/or its agents or employees, including, without limitation, its Area Representatives, and/or brand presidents in the negotiation of an LOI or a lease, and analyzing and/or approving site(s) for the Location of the Franchised Business, you are solely responsible for conducting a review of the proposed site, the LOI and lease terms, and for final Location selection and approval based upon your review, your business plan and model; (ii) you have not relied upon the assistance of the Company in procuring, or in the approval of, an LOI or lease for the Franchised Business, or in its decision to select any proposed site; (iii) each potential site for the Franchised Business is unique and provides different risks and benefits, which may impact the performance of the Franchised Business; and, (iv) as part of analyzing the proposed site, it is your responsibility to meet with the local officials to determine, among other things whether any street, highway, interchange, city, or other changes are planned in the area or access to the proposed site that could negatively affect the performance of the Franchised Business.

Acknowledged and accepted:

Corporation or Entity: _____

By: _____

Print Name: _____

Brand Concept: _____

Date: _____

EXHIBIT N

TO THE FRANCHISE DISCLOSURE DOCUMENT

**Lease Review and/or Negotiation Agreement and Release
and State Addenda**

LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE

You have requested that the real estate department of Kahala Management, L.L.C. ("Company") assist you in the review of the Lease for your Franchised Business ("Location"), which may include participation in the negotiation of the business terms of a lease with the landlord and/or broker/agent of the landlord for the Location ("Lease Assistance"). You have agreed to pay the Company a fee of Two Thousand Five Hundred Dollars (\$2,500) for Lease Assistance. The Company is willing to undertake to assist you in the review and related negotiations.

Any capitalized terms not specifically defined in this LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE shall have the meaning ascribed to such terms in your *Cold Stone Creamery* Franchise Agreement dated _____, 20__ for store number _____.

Although, Company must review your selection of a Location and the Lease to confirm it meets our minimum site requirements, the provisions, final approval and execution of the Lease remain your sole responsibility. You may require or elect to seek additional information or guidance of others, including, without limitation, independent business and legal advisors of your own choosing, other than what is provided by Company. This would be your sole responsibility. The services provided by the Company's real estate department will include only those certain services as detailed in your Franchise Agreement.

The undersigned understands and acknowledges that: (i) notwithstanding any provision by Company and/or its subsidiaries, parent, or affiliated companies, agents or employees, including, without limitation, its Area Representatives, Brand Presidents or Vice President of Operations, in the Lease Assistance for the location of the Franchised Business, you are solely responsible for conducting a review of the proposed site, the Letter Of Intent ("LOI") and Lease terms, and for final site selection based upon your review, your individual business plan and model; (ii) you have not relied solely upon the Lease Assistance of Company in reviewing, negotiating, or approving if an LOI or Lease for the Franchised Business, or in your decision to select any proposed site; (iii) each site for the Franchised Business is unique and provides different risks and benefits, which may impact the performance of the Franchised Business; and (iv) as part of your analysis of the proposed site for the operation of the Franchised Business, it is your sole responsibility to conduct such due diligence reviews of the geographic area and the shopping center in which the Franchised Business is to be located as you, in your sole discretion, deem necessary and advisable, including, without limitation, meeting with the local officials to determine, among other things, whether any street, highway, interchange, city, or other changes are planned in the area or access to the proposed site that could negatively affect the performance of the Franchised Business.

In consideration of the agreement of Company to provide Lease Assistance to you, the undersigned hereby fully releases, discharges, and acquits Kahala Franchising, L.L.C., Company, and its respective predecessors, successors and assigns, parents, subsidiaries and affiliated corporations, their respective officers, directors, agents, employees and representatives, past and present, of any and all of such corporations (collectively "Franchisor Parties"), and/or their Area Representatives, Brand Presidents and/or Vice President of Operations, from and against any and all claims, demands and causes of action (whether now

existing or hereafter arising, known or unknown) that he/she/it, or any of his/her/its parent, affiliate, or subsidiary companies, agents, representatives, members, officers, directors, or employees, may now or in the future have against Franchisor Parties, and/or their Area Representatives, Brand Presidents and/or Vice President of Operations (or any of them), including, without limitation, claims, demands and causes of action that resulted, result or may result from, arise out of or relate to, in whole or in part, directly or indirectly, the Lease Assistance.

Acknowledged and accepted:

By: _____

Print Name: _____

Corporation or Entity: _____

Date: _____

By: _____

Print Name: _____

Date: _____

By: _____

Print Name: _____

Date: _____

By: _____

Print Name: _____

Date: _____

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF CALIFORNIA)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF CALIFORNIA) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. California Corporations Code §31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§31000 through 31516).
2. Business and Professions Code §20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§20000 through 20043).
3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF HAWAII)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF HAWAII) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. If the Franchisee is required to execute a release of claims, such release shall exclude claims arising under the Hawaii Franchise Investment Law. Any condition, stipulation or provision binding the Franchisee to waive compliance with any provision of Section 482E-6 of the Hawaii Franchise Investment Law shall be void.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Hawaii Franchise Investment Law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, have duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF ILLINOIS)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF ILLINOIS) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20____ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the General Release:

1. A general release is incorporated in the Lease Review Agreement. If the Franchisee is required to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Illinois Franchise Disclosure Act of 1987, 815 ILCS 705/20, or a rule of order under the Act, such release shall exclude claims arising under the Illinois Franchise Disclosure Act, and such acknowledgements shall be void with respect to claims under the Act.

2. Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void."

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Illinois Franchise Disclosure Act, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

4. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20____.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF INDIANA)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF INDIANA) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. If the Franchisee is required to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule of order under the Act, such release shall exclude claims arising under the Indiana Franchises Act, Ind. Code Ann. §§ 23-2-2.5 and the Indiana Deceptive Franchise Practices Act, Ind. Code Ann. § 23-2-2.7-1, and such acknowledgements shall be void with respect to claims under the Act.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Indiana Deceptive Practices Act and the Indiana Franchises Act, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF MARYLAND)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF MARYLAND) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. The general release required as a condition of renewal shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF MICHIGAN)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF MICHIGAN) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20____ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. The following provision is void and unenforceable under the Michigan Franchise Investment Law § 445.1527 if contained in any documents relating to a franchise: A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives franchisee of rights and protections provided in the Act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.

2. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20____.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF MINNESOTA)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF MINNESOTA) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Minnesota Rules 2860.4400.D prohibits a franchisor from requiring a franchisee to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statutes 1973 Supplement, sections [80C.01](#) to [80C.22](#); provided, that this part shall not bar the voluntary settlement of disputes.

2. Any condition, stipulation or provision, including any choice of law provision, purporting to bind any person who, at the time of acquiring a franchise is a resident of this state, or, in the case of a partnership or corporation, organized or incorporated under the laws of this state, or purporting to bind a person acquiring any franchise to be operated in this state to waive compliance or which has the effect of waiving compliance with any provision of sections [80C.01](#) to [80C.22](#) or any rule or order thereunder is void under the Minnesota Franchise Act, Minn. Stat. § 80C.21.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Minnesota law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

4. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF NORTH DAKOTA)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF NORTH DAKOTA) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Under North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19-16, any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this chapter or any rule order hereunder is void.

2. THE SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (SECTION 51-19-09, N.D.C.C.):

- a. General Release: Franchise Agreements that require the franchisee to sign a general release upon renewal of the franchise agreement.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

4. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF NEW YORK)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF NEW YORK) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20____ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Under New York General Business Law, Article 33, Section 687, it is unlawful to require a franchisee to assent to a release, assignment, novation, waiver or estoppel which would relieve a person from any duty or liability imposed by this Article.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of New York General Business Law, with respect to each such provision are met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20____.

_____, a(n) _____

By: _____

[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF RHODE ISLAND)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF RHODE ISLAND) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Under the Franchise Investment Act, R.I. Gen. Law. ch. 395 Sec. 19-28.1-15, a condition, stipulation or provision requiring a franchisee to waive compliance with or relieving a person of a duty of liability imposed by or a right provided by this act or a rule or order under this act is void. An acknowledgement provision, disclaimer or integration clause or a provision having a similar effect in a franchise agreement does not negate or act to remove from judicial review any statement, misrepresentations or action that would violate this act or a rule or order under this act. This section shall not affect the settlement of disputes, claims or civil lawsuits arising or brought under this act.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF SOUTH DAKOTA)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF SOUTH DAKOTA) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Under the South Dakota Franchise Investment Law, South Dakota Codified Laws, Title 37, Chapter 37-5B, Sections 37-5B-26, No person may, directly or indirectly, in connection with the offer or sale of a franchise: (8) Disclaim or require a prospective franchisee to waive reliance on any representation made in the disclosure document or in its exhibits or amendments. However, this provision is not intended to prevent a prospective franchisee from voluntarily waiving specific contractual terms and conditions set forth in his or her disclosure document during the course of franchise sale negotiations.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the South Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF VIRGINIA)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF VIRGINIA) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20____ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Under the Virginia Retail Franchising Act, VA. Code Ann. §13.1-571(c), Any condition, stipulation or provision binding any person to waive compliance with any provision of this chapter or of any rule or order thereunder shall be void; provided, however, that nothing contained herein shall bar the right of a franchisor and franchisee to agree to binding arbitration of disputes consistent with the provisions of this chapter.

2. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20____.

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF WASHINGTON)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF WASHINGTON) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review and Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. The state of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the Franchisor, including the areas of termination and renewal of your Franchise.

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

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, has duly executed and delivered this Addendum on _____, 20__.

FRANCHISEE

_____, a(n) _____

By: _____
[Name, Title]

ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE
(FOR THE STATE OF WISCONSIN)

This ADDENDUM TO LEASE REVIEW AND/OR NEGOTIATION AGREEMENT AND RELEASE (FOR THE STATE OF WISCONSIN) ("Addendum") hereby amends the Lease Review and/or Negotiation Agreement and Release dated _____, 20__ ("Lease Review Agreement") from the undersigned to Franchisor Parties. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Lease Review Agreement. The Lease Review Agreement is hereby amended by the addition of the following language, which shall be considered an integral part of the Lease Review Agreement:

1. A general release is incorporated in the Lease Review Agreement. Under the Wisconsin Franchise Investment Law, Wis. Stat. Ann. § 553.76, Any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this chapter or any rule or order under this chapter is void. This section does not affect the settlement of disputes, claims or civil lawsuits arising or brought under this chapter.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Wisconsin law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Except as set forth in this Addendum, the terms and provisions of the Lease Review Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, by and through its respective representative with full rights, power and authority to enter into and bind the undersigned without further consent or approval of any kind, have duly executed and delivered this Addendum on _____, 20__.

_____, a(n) _____

By: _____
[Name, Title]

EXHIBIT O-1
TO THE FRANCHISE DISCLOSURE DOCUMENT

Sublease and Guaranty of Sublease
(Franchisee pays rent directly to Landlord)

SUBLEASE

This SUBLEASE ("Sublease") is effective as of the date set forth in Exhibit A attached hereto and incorporated herein by reference, executed by [LEASING ENTITY], a[n] _____ ("Sublessor"), and the sublessee identified in Exhibit A to this Sublease ("Sublessee").

WHEREAS, Sublessor, as tenant, previously entered into, or intends to enter into, that certain lease ("Lease") in the form of Exhibit B attached hereto and incorporated herein by reference, as may be amended from time to time, pursuant to which Sublessor leases certain premises ("Premises") as described in the Lease from the landlord under such Lease ("Landlord");

WHEREAS, Sublessor and Sublessee are parties to a sublease dated _____, as amended (collectively the "Prior Sublease"). Sublessee agrees and acknowledges that it remains liable under the Prior Sublease up through the date immediately preceding the Effective Date of this Sublease. Sublessor and Sublessee further acknowledge and agree that the Prior Sublease is deemed terminated as of and after the Effective Date of this Sublease.

WHEREAS, Sublessee has entered into that certain Franchise Agreement for Cold Stone Creamery Store No. _____ ("Franchise Agreement") with Kahala Franchising, L.L.C. ("Franchisor");

WHEREAS, pursuant to the Franchise Agreement, the parties and Franchisor intend that Sublessee will establish and operate a Cold Stone Creamery restaurant at the location identified in the Franchise Agreement;

WHEREAS, Sublessee may only use and occupy the Premises as a Cold Stone Creamery restaurant selling Cold Stone Creamery-authorized products pursuant to the terms of the Franchise Agreement, and for no other purpose. Sublessee may not sell any other items at the Premises unless first authorized in writing by the Sublessor;

WHEREAS, Sublessee has selected the Premises for the location of the Cold Stone Creamery restaurant to be established and operated by Sublessee;

WHEREAS, in accordance with the Franchise Agreement, Sublessor desires to sublease to Sublessee, and Sublessee desires to sublease from Sublessor, the Premises and Sublessor's rights in the Premises pursuant to the Lease, upon the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the foregoing premises, and the terms, conditions and covenants set forth in this Sublease, the parties hereby agree as follows:

1. Agreement to Sublease. Sublessor hereby demises and sublets to Sublessee the Premises, and Sublessor grants Sublessee all of its respective rights, privileges and appurtenances related to the Premises, and Sublessee takes from Sublessor, the Premises, for the Term (as defined in Section 2.1).

1.1. Assumption. As of the Effective Date (as defined in Exhibit A and attached hereto), Sublessee assumes, and agrees to abide by, all terms and conditions of the Lease with respect to the Premises, and will faithfully perform all obligations required thereunder to be performed by Sublessor during the Term and any obligations to be performed by Sublessor under the Lease prior to, as of and after the Commencement Date of the Lease (as defined in Exhibit A attached hereto) to the extent the same have not been fully performed by Sublessor as of the Effective Date hereof (including without limitation, any initial construction obligations).

1.2. Compliance with Lease. Notwithstanding anything to the contrary contained herein, the terms of this Sublease and Sublessee's use, occupancy, maintenance, repair and restoration of the Premises are subject and subordinate to the terms, covenants, conditions, agreements and requirements of the Lease. Sublessee will not commit or permit to be committed on the Premises any act or omission which will violate any term or condition of the Lease. To enforce the rights of Sublessor hereunder, Sublessor may exercise any and

all remedies available to Landlord under the Lease, in addition to any other remedies provided hereunder or available at law or in equity.

2. Term; Renewal Options.

2.1. Term. This Sublease will be effective as of the Effective Date and will continue for the full term of the Lease ("Term"), as the same may be amended, earlier terminated, or renewed or extended from time to time pursuant to Section 2.2 below, minus one day.

2.2. Renewal Options. If the Lease, as may be amended by Sublessor from time to time, contains renewal options, Sublessee may exercise such options in accordance with this Section 2.2, provided that as of the time of the giving of the Renewal Notice, no event of default exists or would exist hereunder or under the Lease but for the passage of time or the giving of notice, or both. ***To exercise a renewal option, Sublessee must notify Sublessor in writing in accordance with Section 17 herein of Sublessee's intent to exercise such option ("Renewal Notice") not more than 90 days, or less than 60 days, before the date that Sublessor is required to notify Landlord pursuant to the Lease of its intention to exercise such option. Time is of the essence.*** Notwithstanding the foregoing, Sublessee acknowledges and agrees that the decision to exercise any renewal option in connection with the Lease is solely at the discretion of Sublessor.

2.3. Failure to Timely Deliver Renewal Notice. If Sublessee does not deliver the Renewal Notice within the time period set forth above, Sublessee's right to exercise the renewal option pursuant to this Section 2 will automatically become null and void and of no further force or effect. Sublessee's exercise of a renewal option, as evidenced by the Renewal Notice, will be irrevocable in all events. Upon receipt of an effective Renewal Notice, Sublessor will undertake to renew the Lease for the applicable renewal term and Sublessee will indemnify, defend and hold Sublessor and the Indemnified Parties (as defined in Section 11) harmless with respect to the exercise of the renewal term. Notwithstanding the foregoing, Sublessee acknowledges and agrees that the decision to exercise any renewal option in connection with the Lease is solely at the discretion of Sublessor.

3. Rent, Taxes, and Insurance.

3.1. Payment of Rent. The first month's Rent (as such term is hereinafter defined) and the Sublease Security Deposit (as defined in Section 4.1 and set forth on Exhibit A) will be due and payable on the date hereof. Sublessee promises to timely pay to Landlord, without demand, deduction or set-off, regular installments of: (a) all base, minimum or fixed rent payable under the Lease ("Base Rent"), (b) any percentage rent or other rent based upon sales in, at, or from the Premises ("Percentage Rent") and (c) any other payments payable under the Lease for operating expenses, common area expenses, utilities, marketing funds, merchants associations, sprinkler fees and any other costs and expenses, including any annual reconciliation(s) of the same, as applicable (collectively, "Operating Expenses"), together with all sales, rental and privilege taxes due thereon, as required under the Lease. The foregoing costs are collectively referred to as "Rent."

3.2. Payment of Taxes and Insurance. Sublessee promises to timely pay any and all taxes and insurance covering or incurred during the Term of this Sublease and due as required under the Lease or in connection with the Premises, when billed or invoiced from the respective taxing authority or insurance company, whether addressed to Sublessor or its affiliate or Sublessee, without demand, deduction or set-off, including any annual reconciliation(s), as applicable.

3.3. Sales Reports. Not later than the tenth (10th) day after the end of each calendar month in the Term and the fifteenth (15th) day after the end of each calendar year in the Term (including the last year in the Term), or such sooner periods as may be set forth in the Lease, Sublessee will submit to Sublessor (and Landlord, if the Lease requires the delivery of sales reports) an itemized and accurate written statement signed by Sublessee or its duly authorized officer, setting forth in reasonable detail the full amount of Lease Gross Sales (as defined below) made during the preceding calendar month or year, as applicable, and certifying to Sublessor and Landlord that the same is true and correct. If the total amount of Percentage Rent paid by Sublessee for any week, month or calendar year during the Term (including the last calendar year of the Term) shall be less than the actual amount due from Sublessee for such period, Sublessee will pay to Landlord the difference between the amount paid by Sublessee and the actual amount due upon demand, but in no event later than what is required under the Lease. Upon three (3) days' notice to Sublessee, Sublessor or its

representatives will have the right to conduct an audit of Sublessee's books and records relating to Lease Gross Sales at the Premises at any time during the Term. If such audit reveals that Sublessee understated Lease Gross Sales, then Sublessee will pay to Sublessor the costs and expenses of the audit, together with Interest (as defined in Section 3.5 below) from the date Percentage Rent should have been paid hereunder and any interest, late fees or other penalties incurred by Sublessor under the Lease as a result of such underpayment. Sublessee will maintain all books and records relating to sales at the Premises for a minimum of three (3) years. The obligations under this Section 3.3 will survive the expiration or sooner termination of this Sublease.

3.4. Lease Gross Sales. As used herein, the term "Lease Gross Sales" will mean the total gross sales in, on, from or originating within the Premises on which percentage rent, if any, is payable under the terms of the Lease or, if not defined therein, will mean Gross Sales (as defined in the Franchise Agreement).

3.5. Late Charge. Sublessee acknowledges that any late payment by Sublessee to Landlord of any rent or other payment due to Landlord hereunder may result in the assessment of late charges as allowed under the Lease, if any, and that Sublessee shall be solely liable for the payment of such late charges. Sublessee acknowledges that late payment by Sublessee to Sublessor of any payment which may be due to Sublessor hereunder will cause Sublessor to incur costs not contemplated by this Sublease, the exact amount of such costs being extremely difficult and impractical to determine. Therefore, if Sublessee is delinquent in any installment of such which may be due and payable to Sublessor hereunder for more than three (3) days, Sublessee will pay to Sublessor on demand a late charge equal to five percent (5%) of such delinquent sum, *plus* any late charges and interest incurred by Sublessor under the Lease as a result of such late payment. The parties agree that such late charge represents a fair and reasonable estimate of the costs that Sublessor will incur by reason of such late payment by Sublessee. The provision for such late charge will be in addition to all of Sublessor's other rights and remedies hereunder or at law and will not be construed as a penalty. In addition to the foregoing late charge, if Sublessee is delinquent in any installment of any payment which may be due to Sublessor hereunder for more than ten (10) days, then such delinquent sum will bear interest at the rate of eighteen percent (18%) per annum or the highest rate permitted by law, whichever is less ("Interest"), from the due date until paid in full.

4. Sublease Security Deposit.

4.1. Cash Deposit. Contemporaneously with Sublessee's execution hereof, Sublessee will deposit with Sublessor a sublease security deposit, which shall not be less than one month's base rent, in the amount set forth on Exhibit A ("Sublease Security Deposit"). The Sublease Security Deposit will be held by Sublessor as security for the performance of Sublessee's obligations under this Sublease, Sublessee's Franchise Agreement with Franchisor, and any other agreement between Sublessee or its affiliates and Sublessor, Franchisor, or their affiliates. The Sublease Security Deposit is not an advance rental deposit or a measure of Sublessor's damages in case of Sublessee's default. Upon each occurrence of an Event of Default hereunder (as defined in Section 15 below), or monies owed to Sublessor, Sublessor or Franchisor or their affiliates may use all or part of the Sublease Security Deposit to pay delinquent payments due under this Sublease, the Franchise Agreement, and any other agreement between Sublessee or its affiliates and Sublessor, Franchisor, or their affiliates, and the cost of any damage, injury, expense or liability caused by such default, without prejudice to any other remedy provided herein or provided by law. Sublessee will pay Sublessor on demand the amount that will restore the Sublease Security Deposit to its original amount. Sublessor's obligation respecting the Sublease Security Deposit is that of a debtor, not a trustee; no interest will accrue thereon unless otherwise required by law. The Sublease Security Deposit will be the property of Sublessee, but will be refunded to Sublessee when Sublessee's obligations under this Sublease, the Franchise Agreement, and any other agreement between Sublessee or its affiliates and Sublessor, Franchisor, or their affiliates have been completely fulfilled. Sublessee agrees and acknowledges that the Sublease Security Deposit is separate and distinct from the security deposit held by the Landlord in the amount set forth on Exhibit A ("Lease Security Deposit"). Sublessee further agrees and acknowledges that it will be required to deposit with Sublessor the Sublease Security Deposit and may be required to reimburse Sublessor for the Lease Security Deposit.

4.2. Security Agreement. Sublessee hereby grants Sublessor a security interest, and this Sublease constitutes a security agreement within the meaning of and pursuant to the Uniform Commercial Code of the state in which the Premises is located, in and to all of Sublessee's property situated in, or upon, or used in

connection with the Premises (except merchandise sold in the ordinary course of business) (collectively, "Collateral") as security for all of Sublessee's obligations hereunder, including, without limitation, the obligation to pay Rent and other monetary amounts hereunder. Such property thus encumbered includes specifically all trade fixtures and any other fixtures removable by Sublessor, as tenant, pursuant to the Lease, inventory, equipment, signage, small wares, furniture, contract rights, accounts receivable and the proceeds thereof. Sublessee hereby irrevocably authorizes Sublessor to file such financing statements and other Uniform Commercial Code filings as Sublessor deems appropriate in order to perfect such security interest. Sublessee further agrees to execute such other financing statements as reasonably requested by Sublessor to further secure Sublessor's interest under this Section 4.2 as often as Sublessor in its discretion shall require.

5. Utilities. Sublessee will arrange for and pay for, prior to delinquency, the cost of any and all electricity, water, gas, sewer, telephone and other utilities consumed in the Premises commencing on the date Sublessee is permitted to access the Premises and continuing during the Term hereof (collectively, "Utilities"), unless Landlord expressly pays for the same pursuant to the Lease or the cost thereof is paid by Sublessee as Operating Expenses. Such payments will be made directly to the utility provider unless the Lease provides otherwise. Notwithstanding the foregoing, Sublessor may elect to arrange for and/or pay the cost of such Utilities directly to the utility provider. If Sublessor so elects, then Sublessee will pay to Sublessor any and all amounts due for such Utilities upon demand. Any failure to pay the cost of Utilities to any utility provider, as applicable, when due will be deemed a failure to pay Rent hereunder and will entitle Sublessor to exercise its remedies hereunder.

6. Use. Sublessee will use the Premises solely for the operation of a Cold Stone Creamery restaurant in accordance with the terms and conditions of the Lease, this Sublease and all applicable federal, state and local laws, and for no other purpose whatsoever.

7. Sublessor's Obligations. Subject to the terms of this Sublease, Sublessor is conveying to Sublessee only those rights to the Premises that it has acquired by virtue of the Lease respectively. Sublessee acknowledges that the Lease sets forth certain Landlord obligations, which, as between Sublessor and Sublessee, Sublessor is not obligated to perform. Sublessee waives and releases Sublessor from any and all claims Sublessee may now or hereafter have against Sublessor with respect to any and all such obligations and/or the contents of the Lease or any provision thereof, all of which have been read and approved by Sublessee. If Landlord fails to perform its obligations under the Lease, Sublessee will promptly send Sublessor written notice specifically describing the default in detail. Upon receipt of such notice, Sublessor will promptly notify Landlord of the alleged default. Sublessor will not be obligated to bring or defend any claim or action against Landlord and, if it declines to do so, Sublessee, at Sublessee's sole expense, will have the right to do so, in which event Sublessee will indemnify, defend and hold harmless the Indemnified Parties (as defined in Section 11 below) against the same.

8. Maintenance, Repair, and Alterations. Without limiting the generality of Section 1.1 herein, Sublessee will maintain the Premises in good condition and repair and will perform all of "Tenant's" (as defined in Exhibit A) maintenance, repair and replacement obligations under the Lease. Sublessee acknowledges that Sublessor will have no repair or maintenance obligations with respect to the Premises or the shopping center/development ("Project") in which the Premises is located. Sublessee will not perform any construction or make any alterations, additions or changes to the Premises without Sublessor's prior written consent and, if required by the Lease, Landlord's written approval. Upon the expiration of the Term or the sooner termination of this Sublease, Sublessee will surrender the Premises in good condition and repair, in as good a condition or better than required at the time of Sublessor's surrender under the Lease.

9. Assignment and Subletting. Without the prior written consent of Sublessor, which consent may be withheld in Sublessor's sole and absolute discretion, (a) Sublessee will not assign, transfer, convey, pledge or mortgage this Sublease or any interest therein, whether by operation of law or otherwise, (b) no interest in Sublessee may be assigned, transferred, conveyed, pledged or mortgaged, whether by operation of law or otherwise, including without limitation, a merger or consolidation of Sublessee with another entity or the dissolution of Sublessee, and (c) Sublessee will not sublet all or any part of the Premises. No assignment of this Sublease or subletting of the Premises consented to will relieve Sublessee of its obligations under this Sublease. Any assignment, transfer, conveyance, pledge, mortgage or subletting in violation of this Section 9 will be voidable at the sole option of Sublessor. Sublessee acknowledges that any assignment or subletting to which Sublessor may consent will be conditioned upon Landlord's consent thereto, if Landlord's consent is

required under the Lease. Any assignment of this Lease or sublease of the Premises by Sublessee will be subject to the provisions of Section 6 above.

10. Risk of Loss. Except to the extent caused by the intentional misconduct of Sublessor and to the fullest extent permitted by law, (a) Sublessee assumes all risk of loss of or damage to Sublessee's property located within the Premises or the Project, including any loss or damage caused by water leakage, fire, windstorm, explosion, theft, vandalism, earthquake, act of God or act of any other tenant or third party; and (b) Sublessee waives any claim, demand and action against Sublessor for injury, death or property damage occurring in or around the Premises or Project during the Term.

11. Indemnification. To the fullest extent permitted by law, Sublessee hereby indemnifies, defends (with counsel acceptable to Sublessor), releases and holds harmless Sublessor, and each of its officers, directors, affiliates, contractors, agents, attorneys and employees (collectively, "Indemnified Parties"), against all claims, demands, damages, losses, causes of action and actions of any kind or nature whatsoever, and all related costs and expenses (including reasonable attorneys' fees) (a) for injury, death, disability, or illness of any person or damage to property, occurring in or around the Premises or Project or arising out of Sublessee's use of the Premises or Project, (b) in connection with or arising from the terms, conditions, requirements and provisions of the Lease (or Sublessor's negotiation or documentation thereof) and this Sublease and (c) in connection with or arising from any mechanics' or materialmen's lien or claim filed against the Premises for work performed or materials furnished by or on behalf of Sublessee, except to the extent caused by the intentional misconduct of Sublessor. It is expressly agreed that Sublessee's obligations under this Section 11 will survive the expiration or earlier termination of this Sublease for any reason.

12. Insurance. Sublessee will provide such commercial general liability, property and other insurance coverages as Sublessor may reasonably request with respect to the operation of Sublessee's business in the Premises, but in no event less than the insurance coverage required to be carried by "Tenant" pursuant to the Lease (including loss of rent insurance, etc.). The insurance will be with companies reasonably acceptable to Sublessor, written on an occurrence basis, provide primary coverage, and name Sublessor (and Sublessor's area representative, if any) and Landlord as additional insureds or loss payees as their interests may appear, as applicable and as otherwise required of the "Tenant" under the Lease. The liability policy will contain a contractual liability endorsement. Sublessee will deliver certificates evidencing the insurance required by this Section 12, which provide that the insurance may not be cancelled or materially changed in the scope or amount of coverage unless thirty (30) days advance written notice is given to Sublessor and Landlord.

13. Right to Inspect. Sublessor and its agents, employees or representatives will have the right to inspect the Premises during business hours to determine Sublessee's compliance with the terms of this Sublease and the Lease.

14. Acceptance of Premises; Sublessee's Representations. Upon the date that Landlord delivers possession of the Premises to Sublessor and Sublessor delivers possession of the Premises to Sublessee (which may occur simultaneously), Sublessee agrees to accept the Premises in an "AS IS" condition, without representation or warranty. Sublessee represents and confirms to Sublessor that Sublessee has selected the Premises for the location of the Cold Stone Creamery restaurant to be established and operated by Sublessee and that: (a) no representative, agent, attorney or employee of Sublessor made any representations, inducements or promises about the Premises, the Lease or the entry into this Sublease; (b) no representative, agent, attorney or employee of Sublessor made any representations, inducements or promises about the characteristics or conditions regarding or pertaining to the Premises or the shopping center/development in which the Premises is situated; (c) Sublessee has independently investigated the potential for the success of its operations in the Premises and has not relied upon any representations, inducements or promises by Sublessor's representatives, agents, attorney or employees, or any area representative; (d) Sublessee has concluded that the Premises has a reasonable opportunity for success as a Cold Stone Creamery restaurant; (e) Sublessee has inspected the Premises and finds the same in acceptable condition; (f) Sublessor has made no representation or warranty as to the suitability of the Premises for the conduct of Sublessor's business; (g) Sublessee waives any implied warranty that the Premises are suitable for Sublessee's intended purposes; (h) Sublessee accepts full responsibility for the consequences of Sublessee's decision to operate a Cold Stone Creamery restaurant at the Premises in accordance with the terms of this Sublease, the Lease and the Franchise Agreement; and (i) Sublessee has thoroughly reviewed the Lease and this Sublease and has been advised by its legal counsel regarding the Lease and this Sublease, or Sublessee has made a reasoned and

fully informed decision not to be so represented by counsel and understands and acknowledges the significance and consequences of such decision, and Sublessee is fully knowledgeable about and is fully satisfied with the terms and provisions, and assumes all of its obligations as tenant under, the Lease and this Sublease. Sublessee acknowledges that the foregoing representations by Sublessee are a material inducement to Sublessor's execution of this Sublease.

15. Default.

15.1. An "Event of Default" will occur if at any time during the Term: (a) Sublessee defaults in the payment of Rent or other payment due hereunder and the same is not cured within three (3) days after written notice thereof; provided, however, Sublessor will be obligated to give only two (2) such notices in any calendar year, with subsequent payment default to be an Event of Default if such failure to pay continues for a period of three (3) days or more from the date such payment is due (without any notice); (b) Sublessee defaults in any other obligation under this Sublease, including, but not limited to causing or permitting the occurrence of any event which, but for the passage of time or the giving of notice, or both, would constitute a default under the Lease, and the same is not cured within ten (10) days after written notice thereof or such shorter cure period as may be set forth in the Lease; (c) Sublessee defaults in any obligation under the Franchise Agreement or any other agreement between Sublessor (or its affiliates) and Sublessee (or its affiliates), and the same is not cured within ten (10) days after written notice thereof; (d) any proceeding is begun by or against Sublessee to subject the assets of Sublessee to any bankruptcy or insolvency law or for an appointment of a receiver of Sublessee or for any of Sublessee's asset;, or (e) Sublessee makes a general assignment of Sublessee's assets for the benefit of its creditors.

15.2. Upon an Event of Default, Sublessor may at any time thereafter at its election: (a) terminate this Sublease; (b) terminate Sublessee's right of possession in the Premises; (c) cure any such default and receive from Sublessee, as additional rent, all costs incurred in doing so, plus interest at the lesser of fifteen percent (15%) per annum or the highest rate permitted by law; (d) exercise any remedy available to Landlord under the Lease; and/or (e) pursue any other remedies available at law or in equity. All Sublessor remedies provided herein will be cumulative and non-exclusive. Upon the termination of this Sublease or termination of Sublessee's right of possession, it will be lawful for Sublessor, without formal demand or notice of any kind, to re-enter the Premises, by summary dispossession proceedings or otherwise, and to remove Sublessee and all persons and property therefrom. If Sublessor re-enters the Premises following an Event of Default, Sublessor will have the right to keep in place and use, or remove and store, all of the furniture, fixtures, equipment, signage, inventory and other items covered by Sublessor's lien pursuant to Section 4.2 hereof. No action taken by Sublessor pursuant to this Section 15 will relieve Sublessee of its obligations under this Sublease or will be deemed an act terminating this Sublease or declaring the Term hereof ended unless notice is served upon Sublessee by Sublessor expressly setting forth therein that Sublessor elects to terminate this Sublease or declare the Term ended.

15.3. If, following an Event of Default, Sublessor terminates this Sublease, Sublessor may recover from Sublessee the sum of: (a) all Rent and all other amounts accrued hereunder to the date of such termination; (b) the cost of reletting the whole or any part of the Premises, including without limitation brokerage fees and/or leasing commissions incurred by Sublessor, and costs of removing and storing Sublessee's or any other occupant's property, and repairing, altering, remodeling, or otherwise putting the Premises into condition acceptable to a new tenant or tenants and the Landlord; (c) all reasonable expenses incurred by Sublessor in pursuing its remedies, including reasonable attorneys' fees and court costs; and (d) an amount in cash equal to the then present value of the Rent and other amounts payable by Sublessee under this Sublease as would otherwise have been required to be paid by Sublessee to Sublessor during the period following the termination of this Sublease measured from the date of such termination to the expiration date stated in this Sublease. Such present value will be calculated at a discount rate equal to the 90-day U.S. Treasury bill rate at the date of such termination.

15.4. If, following an Event of Default, Sublessor terminates Sublessee's right of possession (but not this Sublease), Sublessor may, but will be under no obligation to, relet the Premises for the account of Sublessee for such rent and upon such terms as shall be satisfactory to Sublessor without thereby releasing Sublessee from any liability hereunder and without demand or notice of any kind to Sublessee. If the Premises are not relet, then Sublessee will pay to Sublessor as damages a sum equal to the amount of the rental reserved in this Sublease for such period or periods, plus the cost of recovering possession of the Premises

(including attorneys' fees and costs of suit), the unpaid Rent and other amounts accrued hereunder at the time of repossession, and the costs incurred in any attempt by Sublessor to relet the Premises. If the Premises are relet and a sufficient sum shall not be realized from such reletting (after first deducting therefrom, for retention by Sublessor, the unpaid Rent and other amounts accrued hereunder at the time of reletting, the cost of recovering possession (including attorneys' fees and costs of suit), all of the costs and expense of repairs, changes, alterations, and additions, the expense of such reletting (including without limitation brokerage fees and leasing commissions) and the cost of collection of the rent accruing therefrom) to satisfy the rent provided for in this Sublease to be paid, then Sublessee will immediately satisfy and pay any such deficiency. Any such payments due Sublessor will be made upon demand therefor from time to time and Sublessee agrees that Sublessor may file suit to recover any sums falling due from time to time. Notwithstanding any such reletting without termination, Sublessor may at any time thereafter elect in writing to terminate this Sublease for such previous breach.

16. Brokerage. Sublessee represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction. Without limiting the foregoing, Sublessee will pay to any broker, agent or other person all commissions and other compensation that may be due as a result of Sublessee's dealings with such broker, agent or other person in connection with this leasing transaction and will indemnify, defend and hold Sublessor harmless from and against any claims by any such broker, agent or other person claiming a commission or other form of compensation by virtue of actually or allegedly having dealt with Sublessee with regard to this leasing transaction.

17. Notices. All communications or notices required or permitted to be given or served under this Sublease must be in writing and will be deemed to have been duly given or made if (a) delivered in person or by courier (including by Federal Express or other courier); (b) deposited in the United States mail, postage prepaid, for mailing by certified or registered mail, return receipt requested; or (c) faxed with confirmed transmission, followed by a hard copy in the mail on the next business day, and addressed as follows:

If to Sublessor: [LEASING ENTITY]
Attention: Real Estate Department
9311 E. Via de Ventura
Scottsdale, Arizona 85258
Facsimile: (480) 362-4792

with a copy to: [FRANCHISING ENTITY]
Attention: Legal Department
9311 E. Via de Ventura
Scottsdale Arizona 85258
Facsimile: (480) 362-4819

If to Sublessee: At the Premises or as designated in the notice provision(s) of the Franchise Agreement

All communications and notices will be effective upon delivery in person or by courier to the address set forth in this Sublease, upon being deposited in the United States mail in the manner set forth above or upon being faxed in the manner set forth above. Any party may change his, her or its address or fax number by giving notice in writing, stating his, her or its new address or fax number, to the other party to this Sublease as provided in the foregoing manner.

18. Personal Property Taxes. Sublessee will comply with all legal requirements for filing a personal property tax return for, and paying all taxes assessed against, all personal property, equipment and fixtures located within the Premises during the Term hereof, such payment to be made by Sublessee directly to the taxing authority on or before the due date thereof.

19. Quiet Enjoyment. So long as Sublessee pays all amounts due hereunder and performs all other covenants and agreements herein set forth, and so long as no Event of Default exists, Sublessee will peaceably

and quietly have, hold and enjoy the Premises for the term hereof without hindrance from Sublessor subject to the terms and provisions of this Sublease. As this is a Sublease, Sublessee agrees to take the Premises subject to the terms of the Lease and all matters of record.

20. Governing Law. This Sublease and all questions relating to its validity, interpretation, performance and enforcement will be governed by and construed, interpreted and enforced in accordance with the laws of the State of Arizona, notwithstanding any Arizona or other conflict of laws provisions to the contrary.

21. Attorneys' Fees. If either party should prevail in any litigation or other legal proceeding instituted by or against the other related to this Sublease, the prevailing party, as determined by the court or the like, will receive from the non-prevailing party all costs and reasonable attorneys' fees (payable at standard hourly rates) incurred in such litigation or other legal proceeding, including costs on appeal, as determined by the court or the like. Sublessee will also pay to Sublessor, as additional rent, Sublessor's reasonable attorneys' fees incurred as a result of any breach or default by Sublessee under this Sublease.

22. Successors and Assigns. Subject to Section 9 hereof, which restricts Sublessee's rights to assign this Sublease and its rights hereunder, this Sublease will be binding upon and inure to the benefit of the parties and their respective assigns, legal representatives, executors, heirs and successors. Any attempt by Sublessee to assign this Sublease, or any of its rights hereunder, or to delegate its obligations hereunder, without compliance with the terms of Section 9 will be void. Notwithstanding anything contained in this Sublease to the contrary, Sublessor may assign this Sublease, or any of its rights hereunder, or delegate any of its obligations hereunder without the consent of Sublessee or any other person.

23. Joint and Several Liability. If Sublessee consists of more than one person or entity, the obligations hereunder will be joint and several.

24. Entire Agreement. This Sublease, including the exhibits hereto and the other agreements contained as exhibits to Franchisor's operations manual, contains the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes, replaces and extinguishes all prior agreements and understandings between the parties with respect to that subject matter. Each of the exhibits and other agreements (whether between the current parties or a former sublessee) is incorporated in this Sublease by this reference and constitute a part of this Sublease. This Sublease supersedes all Subleases and Agreements of Intent to Sublet between the parties (or their respective affiliates) with respect to the Premises.

25. Counterparts. This Sublease may be executed in two or more counterparts, each of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

26. Time is of the Essence. Time is of the essence as to the performance of the parties' obligations under this Sublease.

27. Waiver of Right to Jury Trial, Class Action and Certain Damages. IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN SUBLESSOR AND SUBLESSEE ARISING OUT OF THIS SUBLEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO, SUBLESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, (A) THE RIGHT TO A JURY TRIAL OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, (B) THE RIGHT TO INITIATE OR PARTICIPATE IN A CLASS ACTION IN ANY FORUM, INCLUDING ARBITRATION, AND (C) THE RIGHT TO SEEK OR COLLECT PUNITIVE, CONSEQUENTIAL AND SPECIAL DAMAGES IN ANY FORUM, INCLUDING ARBITRATION.

28. Personal Guaranty. If Sublessee is an individual and married, the obligations and liabilities of Sublessee under this Sublease shall be personally guaranteed by the Sublessee's spouse, in the form of guaranty attached hereto as Exhibit D and incorporated herein by reference. If the Sublessee is a corporation, limited liability company, or other business entity, the obligations and liabilities of Sublessee shall be personally guaranteed by each of the Sublessee's shareholders, members, or other owners, direct or indirect (and their respective spouses, if married) in the form of a guaranty attached hereto as Exhibit D and incorporated herein by reference. In the event any person who has not previously signed said guaranty becomes Sublessee's

spouse or Sublessee's shareholder, member, or other owner, direct or indirect, or a spouse of such owner, at any time after the execution of this Sublease, Sublessee must cause such person(s) to immediately execute and deliver said guaranty of the Sublease to Sublessor.

29. Plurals, Possessives and Captions. Words in the singular number include the plural when the context requires (and vice-versa), and defined terms include the possessive when the context requires (and vice-versa).

[SIGNATURE PAGE FOLLOWS]

Store No. _____

SUBLESSOR'S SIGNATURE PAGE

SUBLESSOR: [LEASING ENTITY], an Arizona _____

By: _____
[Name, Title]

STATE OF ARIZONA)
) SS:
COUNTY OF MARICOPA)

The foregoing Sublease was acknowledged before me this ____ day of _____, 20____, by _____, the _____ of [LEASING ENTITY], an Arizona _____, on behalf of said entity.

Notary Public (Seal)

My Commission Expires

Store No. _____

**Exhibit A
to
Sublease**

| | |
|--|---|
| Effective Date of Sublease: | _____ |
| Name of Sublessee: | _____, a(n) _____ |
| Lease: | By and between [LEASING ENTITY] (" <u>Tenant</u> ") and [LANDLORD] (" <u>Landlord</u> ") |
| Premises: | [Address City, State Zip] |
| Commencement Date of Lease: | _____, 20__ |
| Expiration Date of Lease: | _____, 20__ |
| How many option(s) to extend the Lease are remaining and Option Terms: | ___ () ___ ()-year option(s) remaining [or N/A] |
| Lease Security Deposit currently held by Landlord: | \$X,XXX.XX - Amount set forth in Lease [verified by] [but not verified] by Landlord [or N/A] |
| Sublease Security Deposit: | \$X,XXX.XX [or N/A] |
| Exercise Renewal Option(s) Notice Date to Landlord: | [IF RENEWAL OPTIONS REMAIN] No earlier than _____, 20__, no later than _____, 20__] <u>OR</u> [IF NO RENEWAL OPTIONS REMAIN] As of the Effective Date, no renewal options remain under the Lease. If Sublessee is interested in exploring extending the subtenancy after the Lease expiration date, Sublessee is required to notify Sublessor of its desire to extend the tenancy no earlier than _____, 20__, no later than _____, 20__. |

**Exhibit B
to
Sublease**

LEASE AGREEMENT

**Exhibit C
to
Sublease**

Lease Verification Checklist

By initialing below, Sublessee hereby acknowledges reviewing the attached Lease for the Premises, including all amendments and addendums (**Exhibit B**), and accepts to be bound by all the terms contained therein:

Sublessee acknowledges and agrees to be bound by all of the terms of the Lease, including, but not limited to, the following:

INITIALS:

Current monthly rental payment amounts (Sublessee acknowledges are subject to periodic increases as detailed in the Lease), including CAM, NNN, taxes and related fees

Lease term, including any renewal options

**Exhibit D
to
Sublease**

GUARANTY OF SUBLEASE

GUARANTY OF SUBLEASE

In order to induce Kahala Franchising, L.L.C. ("Franchisor") to enter into that certain Franchise Agreement dated _____ ("Franchise Agreement") with _____ ("Franchisee"), and to induce [LEASING ENTITY], an affiliate company of Franchisor ("Sublessor") to enter into that certain sublease ("Sublease") dated _____, 20__ with Franchisee, as "Sublessee", covering the Cold Stone Creamery store located at: _____, the undersigned ([individually and collectively,]"Guarantor"), hereby personally guarantees the payment and performance of and agrees to pay and perform as a primary obligor all liabilities, obligations and duties (including, but not limited to, payment of rent) imposed upon Franchisee as Sublessee under the terms of the Sublease, as if Guarantor had executed the Sublease as Sublessee thereunder.

Recitals

- A. Guarantor is a shareholder, partner, member, or other person or entity interested in effecting the grant of the Sublease.
- B. Without this Guaranty of Sublease ("Guaranty"), Sublessor cannot be assured that there are sufficient assets to operate the Cold Stone Creamery store or to protect Sublessor in the event of a default by Sublessee.
- C. Sublessor is willing to enter into the Sublease only if Guarantor personally guarantees faithful performance of all the terms of the Sublease.
- D. Guarantor acknowledges Guarantor received and read the Sublease, and all exhibits thereto, and agrees to be bound to the obligations in this Guaranty with regard to the Sublease.

Agreement

1. In consideration of the above recitals, Guarantor personally guarantees, for the benefit of Sublessor, its parent, subsidiaries, affiliates and successors and assigns, the prompt and complete performance of all the covenants and conditions contained in the foregoing Sublease.
2. This Guaranty is effective until all terms of the Sublease have been fully and completely performed by Sublessee and shall continue through the entire term of the Sublease as may be renewed or extended. No release of Sublessee or discharge of Sublessee under bankruptcy law, or any other law, shall impair or effect the obligations of Guarantor to Sublessor hereunder.
3. Sublessor is not required to proceed first against the Sublessee, but may proceed first against the Guarantor alone or concurrent with proceeding against Sublessee. The obligations of Guarantor hereunder are absolute and unconditional.
4. Sublessee and Sublessor may from time to time alter or modify the Sublease between themselves, possibly changing or increasing the extent of Guarantor's obligation under this Guaranty. Guarantor consents to any and all modifications or amendments of the Sublease and related documents, without requiring notice to Guarantor or Guarantor's consent.
5. Guarantor agrees specifically to be bound by any confidentiality requirements in the Sublease.
6. Guarantor waives notice of acceptance of this Guaranty and notice of non-performance or non-payment by Sublessee of any of its obligations or liabilities under the Sublease.
7. Guarantor agrees to pay all attorneys' fees, costs and expenses incurred by Sublessor in enforcing this Guaranty, whether or not suit or action is filed, and if suit or action is filed, then through trial and all appeals, and also in any proceedings or matter in Bankruptcy Court; Guarantor assumes all liability for all losses, costs, attorney's

fees, and expenses that Sublessor incurs as a result of a default by Sublessee, including those fees and expenses incurred in a bankruptcy proceeding involving Sublessee.

8. Guarantor hereby agrees that upon notice of default or upon an uncured default of the Sublease or any other agreement between Guarantor (or a legal entity thereof) and Sublessor or its affiliates, and with no prior notice, Guarantor consents to Sublessor's (or its affiliates' or third-party contractors') acquisition and use of non-business consumer credit reports on Guarantor in order to evaluate as necessary the financial condition of Guarantor as principal, member, manager, franchisee, and/or guarantor in connection with the collection of monetary obligations as contemplated by the Sublease, this Guaranty, a promissory note, or any other agreements between Guarantor (or a legal entity thereof), and Sublessor or its affiliates. Guarantor hereby knowingly consents to the use of such credit reports consistent with the Federal Fair Credit Reporting Act as contained in 15 U.S.C. § 1681 et seq.

9. This Guaranty is personal to Guarantor and the obligations and duties imposed herein may not be delegated or assigned; provided, however, that this Guaranty shall be binding upon the successors, assigns and personal representatives of Guarantor. This Guaranty shall inure to the benefit of Sublessor, its affiliates, successors and assigns.

10. [The undersigned _____ [include name(s) here of each of the undersigned who is not married] each represents that he/she is not married as of the first date set forth above.]

11. In the event that any one or more provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Guaranty shall be construed to bind Guarantor to the maximum extent permitted by law that is subsumed within the terms of such provision as though it were separately articulated herein.

12. This Guaranty shall be interpreted and construed under the laws of the State of Arizona, which laws shall prevail in the event of any conflict of law. Any appropriate state or federal court located in Maricopa County, Arizona has exclusive jurisdiction over any case or controversy arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy, and the parties hereto irrevocably submit to the jurisdiction of any such court. THE PARTIES AGREE THAT ALL DISPUTES ADMITTED TO THE COURT PURSUANT TO THIS SECTION 12 SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

13. If Guarantor consists of two (2) or more persons, then each person will be jointly and severally liable under the provisions of this Guaranty.

14. Guarantor acknowledges (i) that it is a condition to the granting of the Sublease to Sublessee that Guarantor shall execute and deliver this Guaranty to Sublessor, (ii) that Sublessor has entered into the Sublease in reliance upon the agreement of Guarantor to do so, and (iii) that, as owners of the Sublessee, if applicable, Guarantor has received adequate consideration to support its execution of this Guaranty. This Guaranty does not grant or create in Guarantor any interests, rights or privileges in any franchise or the Franchise Agreement.

GUARANTOR:

[Name], an individual

[Name], an individual

EXHIBIT O-2
TO THE FRANCHISE DISCLOSURE DOCUMENT

Sublease and Guaranty of Sublease
(Franchisor or affiliate collects rent from Franchisee and pays to Landlord)

SUBLEASE

This SUBLEASE (“Sublease”) is effective as of the date set forth in Exhibit A attached hereto and incorporated herein by reference, executed by [LEASING ENTITY], a[n] _____ (“Sublessor”), and the sublessee identified in Exhibit A to this Sublease (“Sublessee”).

WHEREAS, Sublessor, as tenant, previously entered into, or intends to enter into, that certain lease (“Lease”) in the form of Exhibit B attached hereto and incorporated herein by reference, as may be amended from time to time, pursuant to which Sublessor leases certain premises (“Premises”) as described in the Lease from the landlord under such Lease (“Landlord”);

WHEREAS, Sublessor and Sublessee are parties to a sublease dated _____, as amended (collectively the “Prior Sublease”). Sublessee agrees and acknowledges that it remains liable under the Prior Sublease up through the date immediately preceding the Effective Date of this Sublease. Sublessor and Sublessee further acknowledge and agree that the Prior Sublease is deemed terminated as of and after the Effective Date of this Sublease.

WHEREAS, Sublessee has entered into that certain Franchise Agreement for Cold Stone Creamery Store No. _____ (“Franchise Agreement”) with Kahala Franchising, L.L.C. (“Franchisor”);

WHEREAS, pursuant to the Franchise Agreement, the parties and Franchisor intend that Sublessee will establish and operate a Cold Stone Creamery restaurant at the location identified in the Franchise Agreement;

WHEREAS, Sublessee may only use and occupy the Premises as a Cold Stone Creamery restaurant selling Cold Stone Creamery-authorized products pursuant to the terms of the Franchise Agreement, and for no other purpose. Sublessee may not sell any other items at the Premises unless first authorized in writing by the Sublessor;

WHEREAS, Sublessee has selected the Premises for the location of the Cold Stone Creamery restaurant to be established and operated by Sublessee;

WHEREAS, in accordance with the Franchise Agreement, Sublessor desires to sublease to Sublessee, and Sublessee desires to sublease from Sublessor, the Premises and Sublessor’s rights in the Premises pursuant to the Lease, upon the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the foregoing premises, and the terms, conditions and covenants set forth in this Sublease, the parties hereby agree as follows:

1. Agreement to Sublease. Sublessor hereby demises and sublets to Sublessee the Premises, and Sublessor grants Sublessee all of its respective rights, privileges and appurtenances related to the Premises, and Sublessee takes from Sublessor, the Premises, for the Term (as defined in Section 2.1).

1.1. Assumption. As of the Effective Date (as defined in Exhibit A and attached hereto), Sublessee assumes, and agrees to abide by, all terms and conditions of the Lease with respect to the Premises, and will faithfully perform all obligations required thereunder to be performed by Sublessor during the Term and any obligations to be performed by Sublessor under the Lease prior to, as of and after the Commencement Date of the Lease (as defined in Exhibit A attached hereto) to the extent the same have not been fully performed by Sublessor as of the Effective Date hereof (including without limitation, any initial construction obligations).

1.2. Compliance with Lease. Notwithstanding anything to the contrary contained herein, the terms of this Sublease and Sublessee’s use, occupancy, maintenance, repair and restoration of the Premises are subject and subordinate to the terms, covenants, conditions, agreements and requirements of the Lease. Sublessee will not commit or permit to be committed on the Premises any act or omission which will violate any term or condition of the Lease. To enforce the rights of Sublessor hereunder, Sublessor may exercise any and all remedies available to Landlord under the Lease, in addition to any other remedies provided hereunder or available at law or in equity.

2. Term; Renewal Options.

2.1. Term. This Sublease will be effective as of the Effective Date and will continue for the full term of the Lease ("Term"), as the same may be amended, earlier terminated, or renewed or extended from time to time pursuant to Section 2.2 below, minus one day.

2.2. Renewal Options. If the Lease, as may be amended by Sublessor from time to time, contains renewal options, Sublessee may exercise such options in accordance with this Section 2.2, provided that as of the time of the giving of the Renewal Notice, no event of default exists or would exist hereunder or under the Lease but for the passage of time or the giving of notice, or both. ***To exercise a renewal option, Sublessee must notify Sublessor in writing in accordance with Section 17 herein of Sublessee's intent to exercise such option ("Renewal Notice") not more than 90 days, or less than 60 days, before the date that Sublessor is required to notify Landlord pursuant to the Lease of its intention to exercise such option. Time is of the essence.*** Notwithstanding the foregoing, Sublessee acknowledges and agrees that the decision to exercise any renewal option in connection with the Lease is solely at the discretion of Sublessor.

2.3. Failure to Timely Deliver Renewal Notice. If Sublessee does not deliver the Renewal Notice within the time period set forth above, Sublessee's right to exercise the renewal option pursuant to this Section 2 will automatically become null and void and of no further force or effect. Sublessee's exercise of a renewal option, as evidenced by the Renewal Notice, will be irrevocable in all events. Upon receipt of an effective Renewal Notice, Sublessor will undertake to renew the Lease for the applicable renewal term and Sublessee will indemnify, defend and hold Sublessor and the Indemnified Parties (as defined in Section 11) harmless with respect to the exercise of the renewal term. Notwithstanding the foregoing, Sublessee acknowledges and agrees that the decision to exercise any renewal option in connection with the Lease is solely at the discretion of Sublessor.

3. Rent, Taxes and Insurance.

3.1. Payment of Rent. The first month's Base Rent (as defined in this Section 3.1), the Sublease Security Deposit (as defined in Section 4.1 and set forth on Exhibit A) and the first monthly installment of estimated Operating Expenses (as defined in this Section 3.1) will be due and payable on the date hereof. Sublessee promises to pay to Sublessor in advance, without demand, deduction or set-off, regular installments of: (a) all base, minimum or fixed rent payable under the Lease ("Base Rent"), (b) any percentage rent or other rent based upon sales in, at, or from the Premises ("Percentage Rent") and (c) any other payments payable under the Lease for operating expenses, common area expenses, utilities, marketing funds, merchants associations, sprinkler fees and any other costs and expenses, including any annual reconciliation(s) of the same, as applicable (collectively, "Operating Expenses"), together with all sales, rental and privilege taxes due thereon. The foregoing costs are collectively referred to as "Rent."

3.1.1. From and after the Commencement Date and through the Term hereof, Sublessee will pay to Sublessor on the earlier of: (i) the 25th day of the month, or (ii) the fourth (4th) Friday of the month; or (ii) on a day reasonably set by Sublessor to ensure timely payment of Rent under the Lease (as applicable, "Due Date"), an amount equal to 1/12th of the annual Base Rent and 1/12th of the estimated Operating Expenses and all applicable taxes thereon, as applicable, for the following month (i.e., Sublessee's first Base Rent and estimated Operating Expense payments payable under this Section 3.1.1 will be applied to the second month of the Term, so that Base Rent and Operating Expenses will always be paid one month in advance). To the extent Sublessee has paid Base Rent and estimated Operating Expenses in advance, Sublessee will not be obligated to pay the same on the Due Date the last month of the Term. If any of Sublessee's Base Rent and Operating Expenses payments are returned for non-sufficient funds, Sublessor has the option, at its sole discretion, to collect the Base Rent and Operating Expenses payments on a weekly basis one month in advance without prior notice to Sublessee. If Sublessor exercises this option, Sublessee will pay to Sublessor on each Friday for the remainder of the Term an amount equal to 1/52nd of the annual Base Rent and 1/52nd of the estimated Operating Expenses and all applicable taxes thereon, at least four (4) weeks in advance of the first of the month for which it is paid by Sublessor to Landlord.

3.1.2. In addition to Base Rent and estimated Operating Expenses paid in accordance with Section 3.1.1 above, commencing on the date of this Sublease, Sublessee will pay Percentage Rent and any other amounts due hereunder or under the Lease in the amounts and the same number of installments due from Sublessor, as tenant, to Landlord under the Lease, which payment will be made by Sublessee to Sublessor at least ten (10) days before the same is due to Landlord under the Lease;

provided, however, at Sublessor's election, Percentage Rent will be paid by Sublessee in arrears on a weekly basis, in which event Sublessee will also submit along with each payment of Percentage Rent, a sales report of Lease Gross Sales (as defined below) for the previous week in the form described in Section 3.3 below.

3.1.3. If requested by Sublessor, concurrently with Sublessee's execution hereof or at any time thereafter, Sublessee will sign a pre-authorization enabling Sublessor to draw against Sublessee's bank account for the full amount of the Rent and any other amounts due hereunder as and when the same become due. All Rent and other payments required to be made by Sublessee to Sublessor hereunder may be drawn against Sublessee's bank account by Sublessor, or at Sublessor's election, will be payable at such address as Sublessor may specify from time to time by written notice delivered in accordance herewith. Further, Sublessor may direct Sublessee to make full or partial payments of Base Rent, Percentage Rent, and/or Operating Expenses directly to Landlord, and Sublessee will immediately comply with such direction.

3.2. Payment of Taxes and Insurance. Sublessee promises to timely pay any and all taxes and insurance covering or incurred during the Term of this Sublease and due as required under the Lease or in connection with the Premises, when billed or invoiced from the respective taxing authority or insurance company, whether addressed to Sublessor or its affiliate or Sublessee, without demand, deduction or set-off, including any annual reconciliation(s), as applicable. Sublessee agrees and acknowledges that taxes and insurance may be collected by Sublessor either pursuant to Section 3.1.1 above or in such a manner reasonably determined by Sublessor to ensure timely payment of any and all taxes and insurance due under the Lease or in connection with the Premises to the requisite taxing authorities or insurance companies.

3.3. Sales Reports. Not later than the tenth (10th) day after the end of each calendar month in the Term and the fifteenth (15th) day after the end of each calendar year in the Term (including the last year in the Term), or such sooner periods as may be set forth in the Lease, Sublessee will submit to Sublessor (and Landlord, if the Lease requires the delivery of sales reports) an itemized and accurate written statement signed by Sublessee or its duly authorized officer, setting forth in reasonable detail the full amount of Lease Gross Sales made during the preceding calendar month or year, as applicable, and certifying to Sublessor and Landlord that the same is true and correct. If the total amount of Percentage Rent paid by Sublessee for any week, month or calendar year during the Term (including the last calendar year of the Term) shall be less than the actual amount due from Sublessee for such period, Sublessee will pay to Sublessor the difference between the amount paid by Sublessee and the actual amount due upon demand, but in no event later than fifteen (15) days after the end of such calendar year; and if the total amount of Percentage Rent paid by Sublessee for any such week, month or year shall exceed such actual amount due from Sublessee for such period, then such excess will be credited against the next installment(s) of Rent due from Sublessee to Sublessor under this Sublease, or promptly refunded to Sublessee if this Sublease has expired or otherwise terminated and Sublessee is not then in default hereunder. Upon three (3) days' notice to Sublessee, Sublessor or its representatives will have the right to conduct an audit of Sublessee's books and records relating to Lease Gross Sales at the Premises at any time during the Term. If such audit reveals that Sublessee understated Lease Gross Sales, then Sublessee will pay to Sublessor the costs and expenses of the audit, together with Interest (as defined in Section 3.5 below) from the date Percentage Rent should have been paid hereunder and any interest, late fees or other penalties incurred by Sublessor under the Lease as a result of such underpayment. Sublessee will maintain all books and records relating to sales at the Premises for a minimum of three (3) years. The obligations under this Section 3.3 will survive the expiration or sooner termination of this Sublease.

3.4. Lease Gross Sales. As used herein, the term "Lease Gross Sales" will mean the total gross sales in, on, from or originating within the Premises on which percentage rent, if any, is payable under the terms of the Lease or, if not defined therein, will mean Gross Sales (as defined in the Franchise Agreement).

3.5. Late Charge. Sublessee acknowledges that late payment by Sublessee to Sublessor of any rent or other payment due to Sublessor hereunder will cause Sublessor to incur costs not contemplated by this Sublease, the exact amount of such costs being extremely difficult and impractical to determine. Therefore, if Sublessee is delinquent in any installment of Base Rent, Percentage Rent, Operating Expenses or other sums due and payable hereunder for more than three (3) days, Sublessee will pay to Sublessor on demand a late charge equal to five percent (5%) of such delinquent sum, *plus* any late charges and interest incurred by Sublessor under the Lease as a result of such late payment. The parties agree that such late charge represents a fair and reasonable estimate of the costs that Sublessor will incur by reason of such late payment by Sublessee. The provision for such late charge will

be in addition to all of Sublessor's other rights and remedies hereunder or at law and will not be construed as a penalty. In addition to the foregoing late charge, if Sublessee is delinquent in any installment of Rent or other payments due hereunder for more than ten (10) days, then such delinquent sum will bear interest at the rate of eighteen percent (18%) per annum or the highest rate permitted by law, whichever is less ("Interest"), from the due date until paid in full.

4. Sublease Security Deposit.

4.1. Cash Deposit. Contemporaneously with Sublessee's execution hereof, Sublessee will deposit with Sublessor a sublease security deposit, which shall not be less than one month's base rent, in the amount set forth on Exhibit A ("Sublease Security Deposit"). The Sublease Security Deposit will be held by Sublessor as security for the performance of Sublessee's obligations under this Sublease, Sublessee's Franchise Agreement with Franchisor, and any other agreement between Sublessee or its affiliates and Sublessor, Franchisor, or their affiliates. The Sublease Security Deposit is not an advance rental deposit or a measure of Sublessor's damages in case of Sublessee's default. Upon each occurrence of an Event of Default hereunder (as defined in Section 15 below), or monies owed to Sublessor, Sublessor or Franchisor or their affiliates may use all or part of the Sublease Security Deposit to pay delinquent payments due under this Sublease, the Franchise Agreement, and any other agreement between Sublessee or its affiliates and Sublessor, Franchisor, or their affiliates, and the cost of any damage, injury, expense or liability caused by such default, without prejudice to any other remedy provided herein or provided by law. Sublessee will pay Sublessor on demand, or Sublessor may draw on Sublessee's bank account, the amount that will restore the Sublease Security Deposit to its original amount. Sublessor's obligation respecting the Sublease Security Deposit is that of a debtor, not a trustee; no interest will accrue thereon unless otherwise required by law. The Sublease Security Deposit will be the property of Sublessee, but will be refunded to Sublessee when Sublessee's obligations under this Sublease, the Franchise Agreement, and any other agreement between Sublessee or its affiliates and Sublessor, Franchisor, or their affiliates have been completely fulfilled. Sublessee agrees and acknowledges that the Sublease Security Deposit is separate and distinct from the security deposit held by the Landlord in the amount set forth on Exhibit A ("Lease Security Deposit"). Sublessee further agrees and acknowledges that it will be required to deposit with Sublessor the Sublease Security Deposit and may be required to reimburse Sublessor for the Lease Security Deposit

4.2. Security Agreement. Sublessee hereby grants Sublessor a security interest, and this Sublease constitutes a security agreement within the meaning of and pursuant to the Uniform Commercial Code of the state in which the Premises is located, in and to all of Sublessee's property situated in, or upon, or used in connection with the Premises (except merchandise sold in the ordinary course of business) (collectively, "Collateral") as security for all of Sublessee's obligations hereunder, including, without limitation, the obligation to pay Rent and other monetary amounts hereunder. Such property thus encumbered includes specifically all trade fixtures and any other fixtures removable by Sublessor, as tenant, pursuant to the Lease, inventory, equipment, signage, small wares, furniture, contract rights, accounts receivable and the proceeds thereof. Sublessee hereby irrevocably authorizes Sublessor to file such financing statements and other Uniform Commercial Code filings as Sublessor deems appropriate in order to perfect such security interest. Sublessee further agrees to execute such other financing statements as reasonably requested by Sublessor to further secure Sublessor's interest under this Section 4.2 as often as Sublessor in its discretion shall require.

5. Utilities. Sublessee will arrange for and pay for, prior to delinquency, the cost of any and all electricity, water, gas, sewer, telephone and other utilities consumed in the Premises commencing on the date Sublessee is permitted to access the Premises and continuing during the Term hereof (collectively, "Utilities"), unless Landlord expressly pays for the same pursuant to the Lease or the cost thereof is paid by Sublessee as Operating Expenses. Such payments will be made directly to the utility provider unless the Lease provides otherwise. Notwithstanding the foregoing, Sublessor may elect to arrange for and/or pay the cost of such Utilities directly to the utility provider. If Sublessor so elects, then Sublessee will pay to Sublessor any and all amounts due for such Utilities upon demand. Sublessor may draw against Sublessee's bank account from time to time for the full amount of the cost of such Utilities or Sublessee's reasonable estimate of the costs thereof. Any failure to pay the cost of Utilities to Sublessor or any utility provider, as applicable, when due will be deemed a failure to pay Rent hereunder and will entitle Sublessor to exercise its remedies hereunder.

6. Use. Sublessee will use the Premises solely for the operation of a Cold Stone Creamery restaurant in accordance with the terms and conditions of the Lease, this Sublease and all applicable federal, state and local laws, and for no other purpose whatsoever.

7. Sublessor's Obligations. Subject to the terms of this Sublease, Sublessor is conveying to Sublessee only those rights to the Premises that it has acquired by virtue of the Lease respectively. Sublessee acknowledges that the Lease sets forth certain Landlord obligations, which, as between Sublessor and Sublessee, Sublessor is not obligated to perform. Sublessee waives and releases Sublessor from any and all claims Sublessee may now or hereafter have against Sublessor with respect to any and all such obligations and/or the contents of the Lease or any provision thereof, all of which have been read and approved by Sublessee. If Landlord fails to perform its obligations under the Lease, Sublessee will promptly send Sublessor written notice specifically describing the default in detail. Upon receipt of such notice, Sublessor will promptly notify Landlord of the alleged default. Sublessor will not be obligated to bring or defend any claim or action against Landlord and, if it declines to do so, Sublessee, at Sublessee's sole expense, will have the right to do so, in which event Sublessee will indemnify, defend and hold harmless the Indemnified Parties (as defined in Section 11 below) against the same.

8. Maintenance, Repair, and Alterations. Without limiting the generality of Section 1.1 herein, Sublessee will maintain the Premises in good condition and repair and will perform all of "Tenant's" (as defined in Exhibit A) maintenance, repair and replacement obligations under the Lease. Sublessee acknowledges that Sublessor will have no repair or maintenance obligations with respect to the Premises or the shopping center/development ("Project") in which the Premises is located. Sublessee will not perform any construction or make any alterations, additions or changes to the Premises without Sublessor's prior written consent and, if required by the Lease, Landlord's written approval. Upon the expiration of the Term or the sooner termination of this Sublease, Sublessee will surrender the Premises in good condition and repair, in as good a condition or better than required at the time of Sublessor's surrender under the Lease.

9. Assignment and Subletting. Without the prior written consent of Sublessor, which consent may be withheld in Sublessor's sole and absolute discretion, (a) Sublessee will not assign, transfer, convey, pledge or mortgage this Sublease or any interest therein, whether by operation of law or otherwise, (b) no interest in Sublessee may be assigned, transferred, conveyed, pledged or mortgaged, whether by operation of law or otherwise, including without limitation, a merger or consolidation of Sublessee with another entity or the dissolution of Sublessee, and (c) Sublessee will not sublet all or any part of the Premises. No assignment of this Sublease or subletting of the Premises consented to will relieve Sublessee of its obligations under this Sublease. Any assignment, transfer, conveyance, pledge, mortgage or subletting in violation of this Section 9 will be voidable at the sole option of Sublessor. Sublessee acknowledges that any assignment or subletting to which Sublessor may consent will be conditioned upon Landlord's consent thereto, if Landlord's consent is required under the Lease. Any assignment of this Lease or sublease of the Premises by Sublessee will be subject to the provisions of Section 6 above.

10. Risk of Loss. Except to the extent caused by the intentional misconduct of Sublessor and to the fullest extent permitted by law, (a) Sublessee assumes all risk of loss of or damage to Sublessee's property located within the Premises or the Project, including any loss or damage caused by water leakage, fire, windstorm, explosion, theft, vandalism, earthquake, act of God or act of any other tenant or third party; and (b) Sublessee waives any claim, demand and action against Sublessor for injury, death or property damage occurring in or around the Premises or Project during the Term.

11. Indemnification. To the fullest extent permitted by law, Sublessee hereby indemnifies, defends (with counsel acceptable to Sublessor), releases and holds harmless Sublessor, and each of its officers, directors, affiliates, contractors, agents, attorneys and employees (collectively, "Indemnified Parties"), against all claims, demands, damages, losses, causes of action and actions of any kind or nature whatsoever, and all related costs and expenses (including reasonable attorneys' fees) (a) for injury, death, disability, or illness of any person or damage to property, occurring in or around the Premises or Project or arising out of Sublessee's use of the Premises or Project, (b) in connection with or arising from the terms, conditions, requirements and provisions of the Lease (or Sublessor's negotiation or documentation thereof) and this Sublease and (c) in connection with or arising from any mechanics' or materialmen's lien or claim filed against the Premises for work performed or materials furnished by or on behalf of Sublessee, except to the extent caused by the intentional misconduct of Sublessor. It is expressly agreed that Sublessee's obligations under this Section 11 will survive the expiration or earlier termination of this Sublease for any reason.

12. Insurance. Sublessee will provide such commercial general liability, property and other insurance coverages as Sublessor may reasonably request with respect to the operation of Sublessee's business in the Premises, but in no event less than the insurance coverage required to be carried by "Tenant"

pursuant to the Lease (including loss of rent insurance, etc.). The insurance will be with companies reasonably acceptable to Sublessor, written on an occurrence basis, provide primary coverage, and name Sublessor (and Sublessor's area representative, if any) and Landlord as additional insureds or loss payees as their interests may appear, as applicable and as otherwise required of the "Tenant" under the Lease. The liability policy will contain a contractual liability endorsement. Sublessee will deliver certificates evidencing the insurance required by this Section 12, which provide that the insurance may not be cancelled or materially changed in the scope or amount of coverage unless thirty (30) days advance written notice is given to Sublessor and Landlord.

13. Right to Inspect. Sublessor and its agents, employees or representatives will have the right to inspect the Premises during business hours to determine Sublessee's compliance with the terms of this Sublease and the Lease.

14. Acceptance of Premises; Sublessee's Representations. Upon the date that Landlord delivers possession of the Premises to Sublessor and Sublessor delivers possession of the Premises to Sublessee (which may occur simultaneously), Sublessee agrees to accept the Premises in an "AS IS" condition, without representation or warranty. Sublessee represents and confirms to Sublessor that Sublessee has selected the Premises for the location of the Cold Stone Creamery restaurant to be established and operated by Sublessee and that: (a) no representative, agent, attorney or employee of Sublessor made any representations, inducements or promises about the Premises, the Lease or the entry into this Sublease; (b) no representative, agent, attorney or employee of Sublessor made any representations, inducements or promises about the characteristics or conditions regarding or pertaining to the Premises or the shopping center/development in which the Premises is situated; (c) Sublessee has independently investigated the potential for the success of its operations in the Premises and has not relied upon any representations, inducements or promises by Sublessor's representatives, agents, attorney or employees, or any area representative; (d) Sublessee has concluded that the Premises has a reasonable opportunity for success as a Cold Stone Creamery restaurant; (e) Sublessee has inspected the Premises and finds the same in acceptable condition; (f) Sublessor has made no representation or warranty as to the suitability of the Premises for the conduct of Sublessor's business; (g) Sublessee waives any implied warranty that the Premises are suitable for Sublessee's intended purposes; (h) Sublessee accepts full responsibility for the consequences of Sublessee's decision to operate a Cold Stone Creamery restaurant at the Premises in accordance with the terms of this Sublease, the Lease and the Franchise Agreement; and (i) Sublessee has thoroughly reviewed the Lease and this Sublease and has been advised by its legal counsel regarding the Lease and this Sublease, or Sublessee has made a reasoned and fully informed decision not to be so represented by counsel and understands and acknowledges the significance and consequences of such decision, and Sublessee is fully knowledgeable about and is fully satisfied with the terms and provisions, and assumes all of its obligations as tenant under, the Lease and this Sublease. Sublessee acknowledges that the foregoing representations by Sublessee are a material inducement to Sublessor's execution of this Sublease.

15. Default.

15.1. An "Event of Default" will occur if at any time during the Term: (a) Sublessee defaults in the payment of Base Rent, Percentage Rent, Operating Expenses or any other Rent or other payment due hereunder and the same is not cured within three (3) days after written notice thereof; provided, however, Sublessor will be obligated to give only two (2) such notices in any calendar year, with subsequent payment default to be an Event of Default if such failure to pay continues for a period of three (3) days or more from the date such payment is due (without any notice); (b) Sublessee defaults in any other obligation under this Sublease, including, but not limited to causing or permitting the occurrence of any event which, but for the passage of time or the giving of notice, or both, would constitute a default under the Lease, and the same is not cured within ten (10) days after written notice thereof or such shorter cure period as may be set forth in the Lease; (c) Sublessee defaults in any obligation under the Franchise Agreement or any other agreement between Sublessor (or its affiliates) and Sublessee (or its affiliates), and the same is not cured within ten (10) days after written notice thereof; (d) any proceeding is begun by or against Sublessee to subject the assets of Sublessee to any bankruptcy or insolvency law or for an appointment of a receiver of Sublessee or for any of Sublessee's assets; or (e) Sublessee makes a general assignment of Sublessee's assets for the benefit of its creditors.

15.2. Upon an Event of Default, Sublessor may at any time thereafter at its election: (a) terminate this Sublease; (b) terminate Sublessee's right of possession in the Premises; (c) cure any such default and receive from Sublessee, as additional rent, all costs incurred in doing so, plus interest at the lesser of fifteen percent (15%) per annum or the highest rate permitted by law; (d) exercise any remedy

available to Landlord under the Lease; and/or (e) pursue any other remedies available at law or in equity. All Sublessor remedies provided herein will be cumulative and non-exclusive. Upon the termination of this Sublease or termination of Sublessee's right of possession, it will be lawful for Sublessor, without formal demand or notice of any kind, to re-enter the Premises, by summary dispossession proceedings or otherwise, and to remove Sublessee and all persons and property therefrom. If Sublessor re-enters the Premises following an Event of Default, Sublessor will have the right to keep in place and use, or remove and store, all of the furniture, fixtures, equipment, signage, inventory and other items covered by Sublessor's lien pursuant to Section 4.2 hereof. No action taken by Sublessor pursuant to this Section 15 will relieve Sublessee of its obligations under this Sublease or will be deemed an act terminating this Sublease or declaring the Term hereof ended unless notice is served upon Sublessee by Sublessor expressly setting forth therein that Sublessor elects to terminate this Sublease or declare the Term ended.

15.3. If, following an Event of Default, Sublessor terminates this Sublease, Sublessor may recover from Sublessee the sum of: (a) all Rent and all other amounts accrued hereunder to the date of such termination; (b) the cost of reletting the whole or any part of the Premises, including without limitation brokerage fees and/or leasing commissions incurred by Sublessor, and costs of removing and storing Sublessee's or any other occupant's property, and repairing, altering, remodeling, or otherwise putting the Premises into condition acceptable to a new tenant or tenants and the Landlord; (c) all reasonable expenses incurred by Sublessor in pursuing its remedies, including reasonable attorneys' fees and court costs; and (d) an amount in cash equal to the then present value of the Rent and other amounts payable by Sublessee under this Sublease as would otherwise have been required to be paid by Sublessee to Sublessor during the period following the termination of this Sublease measured from the date of such termination to the expiration date stated in this Sublease. Such present value will be calculated at a discount rate equal to the 90-day U.S. Treasury bill rate at the date of such termination.

15.4. If, following an Event of Default, Sublessor terminates Sublessee's right of possession (but not this Sublease), Sublessor may, but will be under no obligation to, relet the Premises for the account of Sublessee for such rent and upon such terms as shall be satisfactory to Sublessor without thereby releasing Sublessee from any liability hereunder and without demand or notice of any kind to Sublessee. If the Premises are not relet, then Sublessee will pay to Sublessor as damages a sum equal to the amount of the rental reserved in this Sublease for such period or periods, plus the cost of recovering possession of the Premises (including attorneys' fees and costs of suit), the unpaid Rent and other amounts accrued hereunder at the time of repossession, and the costs incurred in any attempt by Sublessor to relet the Premises. If the Premises are relet and a sufficient sum shall not be realized from such reletting (after first deducting therefrom, for retention by Sublessor, the unpaid Rent and other amounts accrued hereunder at the time of reletting, the cost of recovering possession (including attorneys' fees and costs of suit), all of the costs and expense of repairs, changes, alterations, and additions, the expense of such reletting (including without limitation brokerage fees and leasing commissions) and the cost of collection of the rent accruing therefrom) to satisfy the rent provided for in this Sublease to be paid, then Sublessee will immediately satisfy and pay any such deficiency. Any such payments due Sublessor will be made upon demand therefor from time to time and Sublessee agrees that Sublessor may file suit to recover any sums falling due from time to time. Notwithstanding any such reletting without termination, Sublessor may at any time thereafter elect in writing to terminate this Sublease for such previous breach.

16. Brokerage. Sublessee represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction. Without limiting the foregoing, Sublessee will pay to any broker, agent or other person all commissions and other compensation due as a result of Sublessee's dealings with such broker, agent or other person in connection with this leasing transaction and will indemnify, defend and hold Sublessor harmless from and against any claims by such broker, agent or other person claiming a commission or other form of compensation by virtue of actually or allegedly having dealt with Sublessee with regard to this leasing transaction.

17. Notices. All communications or notices required or permitted to be given or served under this Sublease must be in writing and will be deemed to have been duly given or made if (a) delivered in person or by courier (including by Federal Express or other courier); (b) deposited in the United States mail, postage prepaid, for mailing by certified or registered mail, return receipt requested; or (c) faxed with confirmed transmission, followed by a hard copy in the mail on the next business day, and addressed as follows:

If to Sublessor: [LEASING ENTITY]
Attention: Real Estate Department
9311 E. Via de Ventura
Scottsdale, Arizona 85258
Facsimile: (480) 362-4792

with a copy to: [FRANCHISING ENTITY]
Attention: Legal Department
9311 E. Via de Ventura
Scottsdale Arizona 85258
Facsimile: (480) 362-4819

If to Sublessee: At the Premises or as designated
in the notice provision(s) of the
Franchise Agreement
Facsimile: See Exhibit A

All communications and notices will be effective upon delivery in person or by courier to the address set forth in this Sublease, upon being deposited in the United States mail in the manner set forth above or upon being faxed in the manner set forth above. Any party may change his, her or its address or fax number by giving notice in writing, stating his, her or its new address or fax number, to the other party to this Sublease as provided in the foregoing manner.

18. Personal Property Taxes. Sublessee will comply with all legal requirements for filing a personal property tax return for, and paying all taxes assessed against, all personal property, equipment and fixtures located within the Premises during the Term hereof, such payment to be made by Sublessee directly to the taxing authority on or before the due date thereof.

19. Quiet Enjoyment. So long as Sublessee pays all amounts due hereunder and performs all other covenants and agreements herein set forth, and so long as no Event of Default exists, Sublessee will peaceably and quietly have, hold and enjoy the Premises for the term hereof without hindrance from Sublessor subject to the terms and provisions of this Sublease. As this is a Sublease, Sublessee agrees to take the Premises subject to the terms of the Lease and all matters of record.

20. Governing Law. This Sublease and all questions relating to its validity, interpretation, performance and enforcement will be governed by and construed, interpreted and enforced in accordance with the laws of the State of Arizona, notwithstanding any Arizona or other conflict of laws provisions to the contrary.

21. Attorneys' Fees. If either party should prevail in any litigation or other legal proceeding instituted by or against the other related to this Sublease, the prevailing party, as determined by the court or the like, will receive from the non-prevailing party all costs and reasonable attorneys' fees (payable at standard hourly rates) incurred in such litigation or other legal proceeding, including costs on appeal, as determined by the court or the like. Sublessee will also pay to Sublessor, as additional rent, Sublessor's reasonable attorneys' fees incurred as a result of any breach or default by Sublessee under this Sublease.

22. Successors and Assigns. Subject to Section 9 of this Sublease, which restricts Sublessee's rights to assign this Sublease and its rights hereunder, this Sublease will be binding upon and inure to the benefit of the parties and their respective assigns, legal representatives, executors, heirs and successors. Any attempt by Sublessee to assign this Sublease, or any of its rights hereunder, or to delegate its obligations hereunder, without compliance with the terms of Section 9 will be void. Notwithstanding anything contained in this Sublease to the contrary, Sublessor may assign this Sublease, or any of its rights hereunder, or delegate any of its obligations hereunder without the consent of Sublessee or any other person.

23. Joint and Several Liability. If Sublessee consists of more than one person or entity, the obligations hereunder will be joint and several.

24. Entire Agreement. This Sublease, including the exhibits hereto and the other agreements contained as exhibits to Franchisor's operations manual, contains the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes, replaces and

extinguishes all prior agreements and understandings between the parties with respect to that subject matter. Each of the exhibits and other agreements (whether between the current parties or a former sublessee) is incorporated in this Sublease by this reference and constitute a part of this Sublease. This Sublease supersedes all Subleases and Agreements of Intent to Sublet between the parties (or their respective affiliates) with respect to the Premises.

25. Counterparts. This Sublease may be executed in two or more counterparts, each of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

26. Time is of the Essence. Time is of the essence as to the performance of the parties' obligations under this Sublease.

27. Waiver of Right to Jury Trial, Class Action and Certain Damages. IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN SUBLESSOR AND SUBLESSEE ARISING OUT OF THIS SUBLEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO, SUBLESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, (A) THE RIGHT TO A JURY TRIAL OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, (B) THE RIGHT TO INITIATE OR PARTICIPATE IN A CLASS ACTION IN ANY FORUM, INCLUDING ARBITRATION, AND (C) THE RIGHT TO SEEK OR COLLECT PUNITIVE, CONSEQUENTIAL AND SPECIAL DAMAGES IN ANY FORUM, INCLUDING ARBITRATION.

28. Personal Guaranty. If Sublessee is an individual and married, the obligations and liabilities of Sublessee under this Sublease shall be personally guaranteed by the Sublessee's spouse, in the form of guaranty attached hereto as Exhibit D and incorporated herein by reference. If the Sublessee is a corporation, limited liability company, or other business entity, the obligations and liabilities of Sublessee shall be personally guaranteed by each of the Sublessee's shareholders, members, or other owners, direct or indirect (and their respective spouses, if married) in the form of a guaranty attached hereto as Exhibit D and incorporated herein by reference. In the event any person who has not previously signed said guaranty becomes Sublessee's spouse or Sublessee's shareholder, member, or other owner, direct or indirect, or a spouse of such owner, at any time after the execution of this Sublease, Sublessee must cause such person(s) to immediately execute and deliver said guaranty of the Sublease to Sublessor.

29. Plurals, Possessives and Captions. Words in the singular number include the plural when the context requires (and vice-versa), and defined terms include the possessive when the context requires (and vice-versa).

[SIGNATURE PAGE FOLLOWS]

SUBLESSOR'S SIGNATURE PAGE

SUBLESSOR: [LEASING ENTITY], an Arizona _____

By: _____
[Name, Title]

STATE OF ARIZONA)
) SS:
COUNTY OF MARICOPA)

The foregoing Sublease was acknowledged before me this _____ day of _____, 20____, by _____, the _____ of [LEASING ENTITY], an Arizona _____, on behalf of said entity.

_____ (Seal)

Notary Public

My Commission Expires

**Exhibit A
to
Sublease**

| | |
|--|--|
| Effective Date of Sublease: | _____ |
| Name of Sublessee: | _____, a(n) _____ |
| Lease: | By and between [LEASING ENTITY] (" <u>Tenant</u> ") and [LANDLORD] (" <u>Landlord</u> ") |
| Premises: | [Address City, State Zip] |
| Commencement Date Of Lease: | _____, 20__ |
| Expiration Date of Lease: | _____, 20__ |
| How many option(s) to extend the Lease are remaining and Option Terms: | ___ () ___ ()-year option(s) remaining [or N/A] |
| Lease Security Deposit currently held by Landlord: | X,XXX.XX - Amount set forth in Lease [verified by] [but not verified] by Landlord [or N/A] |
| Sublease Security Deposit: | \$X,XXX.XX [or N/A] |
| Exercise Renewal Option(s) Notice Date to Landlord: | [<i>IF RENEWAL OPTIONS REMAIN</i>] No earlier than _____, 20__, no later than _____, 20__] <u>OR</u> [<i>IF NO RENEWAL OPTIONS REMAIN</i>] As of the Effective Date, no renewal options remain under the Lease. If Sublessee is interested in exploring extending the subtenancy after the Lease expiration date, Sublessee is required to notify Sublessor of its desire to extend the tenancy no earlier than _____, 20__, no later than _____, 20__ . |

**Exhibit B
to
Sublease**

LEASE AGREEMENT

**Exhibit C
to
Sublease**

Lease Verification Checklist

By initialing below, Sublessee hereby acknowledges reviewing the attached Lease for the Premises, including all amendments and addendums (Exhibit B), and accepts to be bound by all the terms contained therein:

Sublessee acknowledges and agrees to be bound by all of the terms of the Lease, including, but not limited to, the following:

INITIALS:

Current monthly rental payment amounts (Sublessee acknowledges are subject to periodic increases as detailed in the Lease), including CAM, NNN, taxes and related fees

Lease term, including any renewal options

**Exhibit D
to
Sublease**

GUARANTY OF SUBLEASE

GUARANTY OF SUBLEASE

In order to induce Kahala Franchising, L.L.C. ("Franchisor") to enter into that certain Franchise Agreement dated _____, 20__ ("Franchise Agreement") with _____ ("Franchisee"), and to induce [LEASING ENTITY], an affiliate company of Franchisor ("Sublessor") to enter into that certain sublease ("Sublease") dated _____, 20__ with Franchisee, as "Sublessee", covering the Cold Stone Creamery store located at: _____, the undersigned ([individually and collectively,]"Guarantor"), hereby personally guarantees the payment and performance of and agrees to pay and perform as a primary obligor all liabilities, obligations and duties (including, but not limited to, payment of rent) imposed upon Franchisee as Sublessee under the terms of the Sublease, as if Guarantor had executed the Sublease as Sublessee thereunder.

Recitals

- A. Guarantor is a shareholder, partner, member, or other person or entity interested in effecting the grant of the Sublease.
- B. Without this Guaranty of Sublease ("Guaranty"), Sublessor cannot be assured that there are sufficient assets to operate the Cold Stone Creamery store or to protect Sublessor in the event of a default by Sublessee.
- C. Sublessor is willing to enter into the Sublease only if Guarantor personally guarantees faithful performance of all the terms of the Sublease.
- D. Guarantor acknowledges Guarantor received and read the Sublease, and all exhibits thereto, and agrees to be bound to the obligations in this Guaranty with regard to the Sublease.

Agreement

1. In consideration of the above recitals, Guarantor personally guarantees, for the benefit of Sublessor, its parent, subsidiaries, affiliates and successors and assigns, the prompt and complete performance of all the covenants and conditions contained in the foregoing Sublease.
2. This Guaranty is effective until all terms of the Sublease have been fully and completely performed by Sublessee and shall continue through the entire term of the Sublease as may be renewed or extended. No release of Sublessee or discharge of Sublessee under bankruptcy law, or any other law, shall impair or effect the obligations of Guarantor to Sublessor hereunder.
3. Sublessor is not required to proceed first against the Sublessee, but may proceed first against Guarantor alone or concurrent with proceeding against Sublessee. The obligations of Guarantor hereunder are absolute and unconditional.
4. Sublessee and Sublessor may from time to time alter or modify the Sublease between themselves, possibly changing or increasing the extent of Guarantor's obligation under this Guaranty. Guarantor consents to any and all modifications or amendments of the Sublease related documents, without requiring notice to Guarantor or Guarantor's consent.
5. Guarantor agrees specifically to be bound by any confidentiality requirements in the Sublease.
6. Guarantor waives notice of acceptance of this Guaranty and notice of non-performance or non-payment by Sublessee of any of its obligations or liabilities under the Sublease.
7. Guarantor agrees to pay all attorneys' fees, costs and expenses incurred by Sublessor in enforcing this Guaranty, whether or not suit or action is filed, and if suit or action is filed, then through trial and all appeals, and also in any proceedings or matter in Bankruptcy Court; Guarantor assumes all liability for all

losses, costs, attorney's fees, and expenses that Sublessor incurs as a result of a default by Sublessee, including those fees and expenses incurred in a bankruptcy proceeding involving Sublessee.

8. Guarantor hereby agrees that upon notice of default or upon an uncured default of the Sublease or any other agreement between Guarantor (or a legal entity thereof) and Sublessor or its affiliates, and with no prior notice, Guarantor consents to Sublessor's (or its affiliates' or third-party contractors') acquisition and use of non-business consumer credit reports on Guarantor in order to evaluate as necessary the financial condition of Guarantor as principal, member, manager, franchisee, and/or guarantor in connection with the collection of monetary obligations as contemplated by the Franchise Agreement, the Sublease, this Guaranty, a promissory note, or any other agreements between Guarantor (or a legal entity thereof), and Sublessor or its affiliates. Guarantor hereby knowingly consents to the use of such credit reports consistent with the Federal Fair Credit Reporting Act as contained in 15 U.S.C. § 1681 et seq.

9. This Guaranty is personal to Guarantor and the obligations and duties imposed herein may not be delegated or assigned; provided, however, that this Guaranty shall be binding upon the successors, assigns and personal representatives of Guarantor. This Guaranty shall inure to the benefit of Sublessor, its affiliates, successors and assigns.

10. [The undersigned _____][include name(s) here of each of the undersigned who is not married] each represents that he/she is not married as of the date first set forth above.]

11. In the event that any one or more provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Guaranty shall be construed to bind Guarantor to the maximum extent permitted by law that is subsumed within the terms of such provision as though it were separately articulated herein.

12. This Guaranty shall be interpreted and construed under the laws of the State of Arizona, which laws shall prevail in the event of any conflict of law. Any appropriate state or federal court located in Maricopa County, Phoenix, Arizona has exclusive jurisdiction over any case or controversy arising under or in connection with this Agreement and is the proper forum in which to adjudicate the case or controversy, and the parties hereto irrevocably submit to the jurisdiction of any such court. THE PARTIES AGREE THAT ALL DISPUTES ADMITTED TO THE COURT PURSUANT TO THIS SECTION 12 SHALL BE TRIED TO THE COURT SITTING WITHOUT A JURY, NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHTS OR PROVISIONS.

13. If Guarantor consists of two (2) or more persons, then each person will be jointly and severally liable under the provisions of this Guaranty.

14. Guarantor acknowledges (i) that it is a condition to the granting of the Sublease to Sublessee that Guarantor shall execute and deliver this Guaranty to Sublessor, (ii) that Sublessor has entered into the Sublease in reliance upon the agreement of Guarantor to do so, and (iii) that, as owners of the Sublessee, if applicable, Guarantor has received adequate consideration to support its execution of this Guaranty. This Guaranty does not grant or create in the undersigned any interests, rights or privileges in any franchise or the Franchise Agreement.

GUARANTOR:

[Name], an individual

[Name], an individual

EXHIBIT P

TO THE FRANCHISE DISCLOSURE DOCUMENT

Pre-Authorized Electronic Funds Transfer Form

ELECTRONIC FUNDS TRANSFER (EFT) AUTHORIZATION

FRANCHISEE INFORMATION

| | | |
|--|---|----------------------|
| Franchisee Name | Store No. | Franchisee Phone No. |
| Franchisee Mailing Address (street, city, state, zip) | | |
| Contact Name, Address and Phone number (if different than above) | | |
| Employer Identification Number (if applicable) | Principal's Name and Social Security Number | |

BANK ACCOUNT INFORMATION

| | | |
|---|---------------------|--|
| Bank Name | Bank Account Number | Bank Routing Number [:]: 9 Characters |
| Bank Mailing Address (street, city, state, zip) | | |
| Bank Phone Number | | |

PAYMENT AUTHORIZATION

Franchisee hereby authorizes Kahala Franchising, L.L.C., its affiliates or agents ("Payee"), to initiate withdrawals from the Bank Account indicated on this form, and hereby authorizes the Bank to honor and debit the Bank Account for electronic funds transfers or drafts drawn on the Bank Account and payable to Payee. The amount of such charge shall be set forth in a notice from the Payee presented to the Bank on the day(s) of the week set forth in Franchisee's franchise agreement, promissory note and security agreement, gift card participation agreement (or similar agreement for the gift card program), and any other agreement Franchisee signs that authorizes Payee, its affiliate or agent to debit Franchisee's account for the fees, which may be modified by Kahala Franchising, L.L.C., its affiliates or agents, for the payment of royalty fees, advertising fees, POS support fees, gift card and e-gifting program fees and funds flow, and any other fees, charges and other amounts payable to Payee, its affiliates or agents for any services Payee, its affiliates or agents provide or facilitate. Franchisee agrees to execute such additional documents as may be reasonably requested by Payee or the Bank to evidence the interest of this EFT Authorization. This authority shall remain in full force and effect until Payee has received written notification from Franchisee in such time and manner as to afford Payee and the Bank to act on such notice. Franchisee understands that the termination of this authorization does not relieve Franchisee of its obligations to make payments to Payee. Payee may assign its rights and obligations under this EFT Authorization to Payee's affiliates or agents. Payee may change its designated affiliates or agents at Payee's discretion.

| | |
|------------|-------|
| Signature: | Date: |
|------------|-------|

NOTE: FRANCHISEE MUST ATTACH A VOIDED OR COMPLETED CHECK RELATING TO THE BANK ACCOUNT.

ATTACH VOIDED OR COMPLETED CHECK HERE

ELECTRONIC FUNDS TRANSFER (EFT) AUTHORIZATION

Voided Check Requirements

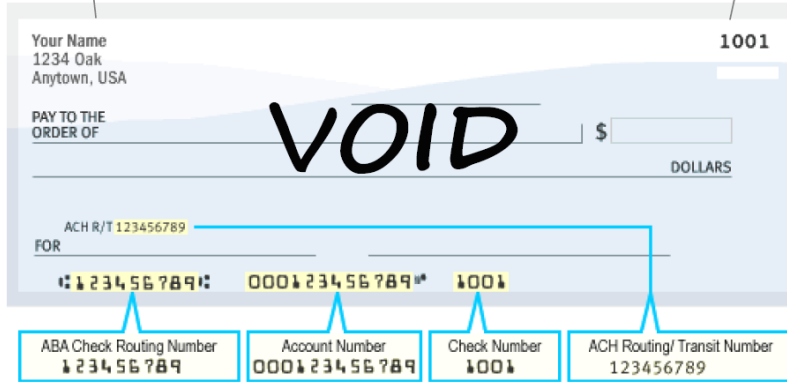
Starter checks may not be used.

DBA or Legal Name

The DBA name or legal name of the business must be preprinted, included on the check and match the merchant account.

Check Number

Check number must be present on the top right and bottom of the check.



Bank Letter Requirements

Bank Letter Requirements

DBA or Legal Name

The DBA name or legal name of the business must be included on the letter and match the merchant account.

Generic Bank & Trust

Bank Letterhead

The letter must be printed on official bank letterhead.

Banker Signature

The banker must sign the letter.

Regarding: Bobby Bankrate
123 Bankrate Boulevard
New York, NY 10001

To whom it may concern:

The letter is to verify that the business named above has a business checking account with Generic Bank and Trust. The account number is 9999999999 and the ABA number is 88888888. It was opened on 01/01/2017. If you need any additional information on this account, please contact me at the number below.

Thank you,

Tim Teller

Tim Teller

Senior Banker
Generic Bank and Trust
123 Trust Avenue
New York, NY 10001
555-555-5555

Routing & Account

Ensure complete ABA (routing #) and DDA (account #) is included.

Contact Information

The bank officer name and phone number should be included in the letter.

EXHIBIT P-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

Participation Agreement



SECTION C: FORMS

Gift Card Participation Agreement

Participation Agreement

This Participation Agreement, dated _____, 201____ (this “**Participation Agreement**”), is between ValueLink, LLC (“**ValueLink**”) and _____ [please type or legibly write legal entity name of the store here] through _____, [please type or legibly write name of principal of the legal entity of the store here] its principal (“**Participating Franchisee**”) which owns and operates Cold Stone Creamery Store number _____ [please type or legibly write store number] located at _____ [please type or legibly write street address, city, state, zip here] (“**Designated Location**”). Unless otherwise indicated herein, “**party**” or “**parties**” refer to ValueLink and/or Participating Franchisee. “**Affiliated Processor**” refers to ValueLink’s affiliate, Western Union Financial Services, Inc. A “**Designated Location**” is a Cold Stone Restaurant owned and operated by Participating Franchisee.

RECITALS

WHEREAS, Cold Stone Creamery, Inc. (“**Client**”) and ValueLink entered into that certain Agreement, dated July 14, 2005 (the “**Agreement**”), pursuant to which Client operates a stored value card program (“**Client’s Program**” or the “**Program**”) and ValueLink provides to Client data processing and related services for the Program;

WHEREAS, Participating Franchisee, a franchisee of Client, desires to participate in the Program and Client has approved Participating Franchisee to participate in the Program; and

WHEREAS, Participating Franchisee will engage ValueLink to provide, and ValueLink has agreed to provide to Participating Franchisee, the Services, as defined below, for the Program in accordance with the terms of this Participation Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual representations, covenants and agreements contained in this Participation Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

- 1. ValueLink Responsibilities.** ValueLink will provide these services (the “**Services**”):
 - a. Database; Reports.** ValueLink will maintain a Database of Card Data. “**Card Data**” is the transaction record and current value of each Card recorded in the Database. The “**Database**” is the information repository software owned and operated by ValueLink or its suppliers.
 - b. Authorization.** ValueLink will respond to authorization requests and process Card transactions received at ValueLink’s data processing center in ValueLink’s designated format (“**Authorization**”). ValueLink will reduce the Card balance by the amount authorized. Participating Franchisee will obtain payment from the Cardholder for any deficiency between the purchase price and



the amount authorized. “**Cardholder**” means any person possessing or using a Card or Card number. Authorizations will be provided in a real time or batch environment, as mutually agreed. Authorizations will be based on the available balance recorded in the Database. ValueLink is not responsible for determining whether transactions are fraudulent, improper or otherwise unauthorized.

c. IVR; Help Desk. ValueLink will operate an IVR, 24 hours per day, 7 days per week, within the service level standards set forth in the Agreement and which service level standards will be provided by Client to Participating Franchisee upon request, for the processing of mutually agreed transactions. ValueLink will also staff a help desk 24 hours per day, 7 days per week (Christmas Day excluded), for the processing of mutually agreed transactions. “**IVR**” means an automated interactive voice response system accessible from the U.S. and Canada through a toll free telephone number.

d. Settlement. ValueLink will, through Affiliated Processor, provide certain settlement services to Client and Participating Franchisee (the “**ACH Settlement Services**”) through debits and credits to the Franchisee Account (as defined below) and the designated accounts of Client (the “**Merchant Account**”) for the net value of Card Transactions. Participating Franchisee must provide Client with an ACH authorization form, and by executing this Participation Agreement, hereby confirms its authorization of Client and its service providers (including ValueLink and Affiliated Processor, acting on behalf of Client) to initiate debit and credit entries to the Franchisee Account as necessary or appropriate to effect any Card transaction and all adjustments and corrections thereto, and as necessary or appropriate to effect any other transfer contemplated by this Participation Agreement. Participating Franchisee shall comply with and be bound by any applicable law and the rules and regulations of the National Automated Clearing House Association as in effect from time to time. Participating Franchisee hereby:

(i). In the event that any debit to the deposit account is returned for any reason, Participating Franchisee authorizes Client and its service providers (including ValueLink and Affiliated Processor, acting on behalf of Client) to initiate a debit to the account for the original debit amount plus any associated returned item fees; and

(ii). Agrees, acknowledges and covenants with ValueLink that: (1) Participating Franchisee will keep its banking information current and updated, at all times, with Client; (2) ValueLink can and will rely on any such banking information received by ValueLink from Client; and (3) ValueLink, or any service providers (including Affiliated Processor), will not incur or have any liability for any ACH debit and/or credit entries that are made pursuant to Client instructions and the banking information on file with Client and ValueLink, except to the extent related directly to ValueLink’s or Affiliated Processor’s gross negligence or willful misconduct in carrying out any ACH debit and/or credit entries made pursuant to Client instructions and the banking information on file with Client and ValueLink.

e. License. ValueLink may provide or permit Participating Franchisee to access computer software, enhancements thereto and updates, new releases, and copies thereof (“**Software**”). All right, title and interest in and to all Software will remain in ValueLink or its suppliers and no title is transferred to Participating Franchisee. ValueLink grants to Participating Franchisee, and Participating Franchisee accepts, the nonexclusive, nontransferable right during the term of this Participation Agreement to use the Software solely to perform its obligations. Participating Franchisee will not copy, modify, distribute, display, sublicense, rent, reverse engineer, decompile, create derivative works of, or disassemble the Software, nor will Participating Franchisee allow anyone else to do so, except to the extent permitted by applicable law. Participating Franchisee acknowledges that the Software is proprietary and Confidential Information of ValueLink. Participating Franchisee will not alter, remove, modify or suppress any notices in the Software.



2. **Participating Franchisee Responsibilities.**

a. Card Production. Participating Franchisee will obtain all Cards for the Program from Client. A “Card” is a Client-issued plastic card with a magnetic stripe that accesses Card Data. Participating Franchisee acknowledges that Client is responsible for the control and distribution of Cards to Participating Franchisee under the Program.

b. Franchisee Account. Participating Franchisee shall establish and maintain a deposit account(s) (the “**Franchisee Account**”) at an insured depository institution (the “**Depository**”) for the settlement of Card transactions and other transactions as authorized from time to time in the Program Procedures (as defined below and collectively referred to as “**Card Transactions**”).

c. Distribution; Card Authorization Equipment. Participating Franchisee will actively promote the Program. Participating Franchisee will request an Authorization in advance of each transaction. Participating Franchisee will provide and maintain (i) all POS devices, telecommunications facilities and other equipment (collectively, “**Card Authorization Equipment**”) required for Participating Franchisee to electronically transmit Card transaction data from Designated Locations to ValueLink; and (ii) any development, programming or other modifications to the Card Authorization Equipment as necessary to access and use Services and Service modifications. A “**POS**” is a point of sale terminal, device or system certified to ValueLink specifications. The parties will test the Card Authorization Equipment for functionality prior to Program launch.

d. Program Procedures. The processes and procedures by which Participating Franchisee sells Cards and enables use of Cards at Designated Locations are also part of the Program, and Participating Franchisee shall be solely responsible that such processes and procedures comply with the Program Procedures, as defined below. Client is solely responsible for defining and implementing those processes and procedures, including those relating to the sale of Cards, service fees (if any), Card redemption, merchandise returns or refunds and Cardholder dispute resolution (collectively, “**Program Procedures**”). Participating Franchisee understands that ValueLink has no obligation to process any transaction for any card other than Cards supported under the Program.

e. Cardholder Fees. Fees assessed to Cardholders in connection with Cards, including any transaction, maintenance or inactivity fees, shall be as established by Client. Participating Franchisee shall not assess any fee or surcharge for purchase, use, activation or any other transaction in respect of a Card unless otherwise defined in the Program Procedures.

3. Term. The “**Term**” begins when the Participation Agreement is signed by the parties and continues for so long as the Agreement is in effect, provided, however, that to the extent ValueLink is required to provide commercially reasonable support services following a termination of the Agreement, the provisions of this Participation Agreement shall remain in effect, but only to the extent necessary for ValueLink to perform such services and for Participating Franchisee to fulfill its obligations in connection with such services.

4. **Termination for Cause.**

a. Either party has the right to terminate this Participation Agreement immediately in the event that the other party is guilty of a material breach of this Participation Agreement and such breach remains uncured thirty (30) days following receipt of notice thereof.



b. ValueLink may terminate this Participation Agreement upon notice to Participating Franchisee: (i) if Participating Franchisee or the Program causes ValueLink to violate any law or regulation and Participating Franchisee or Client fails to cure the condition causing such violation within ten (10) business days after notice; (ii) if Participating Franchisee fails to pay any amount due within ten (10) days after receipt of notice; (iii) if ValueLink determines, in its sole discretion, that a material adverse change has occurred in the financial condition of Participating Franchisee; (iv) in whole or in part, in one or more jurisdictions, if the ACH Settlement Services cause ValueLink or its Affiliated Processor to violate any law or regulation and Participating Franchisee or Client fails to cure the condition causing such violation within ten (10) business days after notice; (v) if ValueLink is informed that Participating Franchisee no longer operates as a franchisee of Client; or (vi) if Client instructs ValueLink in writing to immediately terminate the Participation Agreement. ValueLink's obligation to provide the Services will be suspended during the cure periods referenced in clauses (i) and (iv).

c. Either party may also terminate this Participation Agreement immediately in the event that the other party shall go into liquidation, suffer the appointment of a receivership of its assets, go into bankruptcy, voluntarily or involuntarily, or otherwise take advantage of any insolvency laws, or upon any involuntary sale, transfer, or other disposition of substantially all of the assets of the other party.

5. Termination of Agreement. Termination or expiration of the Agreement results in immediate termination of this Participation Agreement with no notice required.

6. Termination of Franchise Agreement(s). Termination or expiration of Participating Franchisee's franchise agreement(s) with Client ("**Franchise Agreement**") results in immediate termination of this Participation Agreement with respect to the Designated Locations covered by the terminated or expired Franchise Agreement, with no notice required.

7. Exclusivity. During the Agreement term: (i) ValueLink will be the sole and exclusive provider of the Services to Participating Franchisee; and (ii) Participating Franchisee will not, directly or indirectly, offer or promote any other proprietary, closed network, online gift card program.

8. Confidentiality. "**Confidential Information**" includes this Participation Agreement and any information obtained by one party ("**Recipient**") regarding the other party ("**Discloser**") or their respective businesses, including all confidential or proprietary concepts, Software, documentation, reports, data, specifications, Card Data, computer software, source code, object code, flow charts, databases, inventions, know-how, show-how and trade secrets, whether or not patentable or copyrightable. Confidential Information will not include information that: (i) is or becomes in the public domain through no fault of Recipient; (ii) was received from a third party free of any obligation of confidence to Recipient's knowledge; (iii) was in Recipient's possession prior to receipt from Discloser; (iv) is required to be disclosed by law, regulation or court order after giving Discloser as much advance notice as practical; or (v) is independently developed by Recipient's employees, consultants or agents without use of or reference to the Discloser's Confidential Information. Participation Agreement will be used by Recipient only to exercise its rights and to perform its obligations under this Participation Agreement. Recipient will use reasonable care to safeguard Confidential Information. Recipient will return or destroy Confidential Information within a reasonable period after request, except that ValueLink may retain Card Data, subject to this Section 8, to comply with any legal or regulatory requirements or any potential audit requests or requirements. Breach of the restrictions on use or disclosure of Confidential Information will result in immediate and irreparable harm to Discloser and money damages will be inadequate to compensate for that harm. Discloser will be entitled to equitable relief in addition to all other available remedies to redress any breach. Except as expressly provided herein, no license is granted to Recipient under any Discloser patent, trademark, copyright, trade secret or other proprietary right.



9. Indemnification.

a. General. Subject to the limitations set forth in Sections 10(a) through 10(d), each party will indemnify the other, its Affiliates, and their respective directors, officers, employees, and agents from and against any and all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of its failure to comply with this Participation Agreement. Participation Franchisee further agrees to indemnify ValueLink, its directors, officers, employees, and agents from and against any and all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of ValueLink's compliance with Participation Franchisee's instructions, orders or specifications. "**Affiliate**" means, with respect to either party, any entity controlling, controlled by or under common control with such party.

b. Intellectual Property. ValueLink agrees to indemnify Participating Franchisee, its directors, officers, employees and agents from and against all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of any allegation that ValueLink's Software misappropriate or infringe such third party's U.S. copyright, trademark, patent or other intellectual property right, except to the extent that such allegation arises from

(i) Participating Franchisee's use of Software other than in compliance with this Agreement and any documentation supplied by ValueLink, (ii) Participating Franchisee's use of Software in combination with other software, equipment, systems, services, processes, components or elements not provided by ValueLink, if the infringement or misappropriation would not have occurred but for such use or combination, or (iii) modifications or development requested by Client or Participating Franchisee, using designs, instructions or specifications provided or approved by Client or Participating Franchisee. Participating Franchisee agrees to indemnify ValueLink, its directors, officers, employees and agents from and against all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of any allegation that materials supplied by Client or Participating Franchisee (including trademarks, artwork, designs and specifications) misappropriate or infringe such third party's U.S. copyright, trademark, patent or other intellectual property right, except to the extent that such allegation arises from ValueLink's use of such materials other than in compliance with (a) this Agreement or (b) any relevant instructions supplied by Client or Participating Franchisee.

10. Limitation of Liability; Disclaimer of Warranties.

a. Limitation. EXCEPT FOR SECTION 9.B. ABOVE, VALUELINK'S, AND ITS SUPPLIERS' AND AFFILIATED PROCESSOR'S, CUMULATIVE AGGREGATE LIABILITY TO CLIENT AND PARTICIPATING FRANCHISEE AND ALL OTHER PARTICIPATING FRANCHISEES UNDER THE AGREEMENT AND THIS PARTICIPATION AGREEMENT AND ALL PARTICIPATION AGREEMENTS WILL BE LIMITED TO ACTUAL DIRECT DAMAGES AND, IN ANY EVENT, WILL NOT: (i) EXCEED \$300,000.00; OR (ii) INCLUDE ANY LIABILITY FOR CLAIMS ARISING OUT OF OR RELATING TO THE CARDS ISSUED TO PARTICIPATING FRANCHISEES FROM CLIENT. FOR EXAMPLE, IF CLIENT AND TWO ADDITIONAL PARTICIPATING FRANCHISEES PARTICIPATE IN THE PROGRAM, VALUELINK'S CUMULATIVE AGGREGATE LIABILITY TO CLIENT AND SUCH PARTICIPATING FRANCHISEES FOR ACTUAL DIRECT DAMAGES WILL NOT EXCEED THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) AND WILL NOT INCLUDE ANY LIABILITY FOR CLAIMS ARISING OUT OF OR RELATING TO SERVICES AND/OR ITEMS SUPPLIED BY CLIENT OR THIRD PARTIES.

b. Exclusion. IN NO EVENT WILL ANY PARTY TO THIS PARTICIPATION AGREEMENT, THEIR AFFILIATES, OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE FOR LOST PROFITS, LOST BUSINESS OPPORTUNITIES, LOST REVENUES, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR THE LIKE, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.



c. **Disclaimer.** THIS IS A SERVICE AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, VALUELINK DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

d. **Time Limitation.** Participating Franchisee may not assert any cause of action against ValueLink under this Participation Agreement that was or reasonably should have been discovered by Participating Franchisee more than one year prior to the filing of a suit or the commencement of arbitration proceedings alleging such cause of action.

e. **Compliance with Law.** Participating Franchisee will comply with all laws and regulations applicable to its business.

11. **Pre-condition to Liability.** Prior to bringing any claim against ValueLink under this Participation Agreement, Participating Franchisee shall provide Client with written notice detailing the claim (“**Notice of Claim**”), and Client shall have the right to pursue such claim on Participating Franchisee’s behalf by providing Participating Franchisee with written notice of the same within ten (10) business days after receiving the Notice of Claim. If Client elects to pursue such claim on Participating Franchisee’s behalf, Participating Franchisee may participate in the claim with Client at Participating Franchisee’s election. Any resolution of a claim brought by Client on Participating Franchisee’s behalf shall be binding on Participating Franchisee. If Client elects not to pursue such claim on Participating Franchisee’s behalf, Participating Franchisee may pursue such claim on its own behalf.

12. **Miscellaneous.**

a. **Notices.** Notices will be effective upon receipt if they are received in writing, by registered or certified mail, postage prepaid, return receipt requested or by overnight delivery to the President of the other party at its address set forth below. Notices to ValueLink must also be sent to ValueLink’s General Counsel at 6200 South Quebec Street, Greenwood Village, Colorado 80111 to be effective.

b. **Independent Contractor; Third Party Beneficiaries.** The parties are independent contractors. Neither party shall have any authority to bind the other. This Participation Agreement is entered into solely for the benefit of ValueLink and Participating Franchisee, and will not confer any rights upon any person not expressly a party to this Participation Agreement, including Cardholders. ValueLink may subcontract with others to provide Services.

c. **Complete Agreement.** This Participation Agreement is the complete and exclusive understanding of the parties with respect to its subject matter. Except as expressly provided herein, no modification or waiver of this Participation Agreement will be valid unless in writing signed by each party. A party’s waiver of a breach of any term will not be a waiver.



Assignment. Participating Franchisee may not assign its rights or delegate its obligations under this Participation Agreement without ValueLink’s prior written consent.

d. Governing Law; Arbitration. The laws of the State of Delaware, excluding its rules on conflicts of laws, will govern this Participation Agreement. Subject to Section 11, all disputes will be submitted to the American Arbitration Association (the “AAA”) for resolution before a panel consisting of three arbitrators, one of which will be selected by Participating Franchisee, one by ValueLink and the third selected by mutual agreement of the first two. Arbitration will be conducted in accordance with the Commercial Arbitration Rules of the AAA then in effect. The decision of the arbitrators will be binding upon the parties; except that disputes arising out of Section 8 will not be subject to arbitration, and may be brought to a court for judicial resolution. Judgment upon any arbitration award or decision may be entered in any court having jurisdiction. Arbitration will be held in Denver, Colorado. Each party will pay its own arbitration expenses and one-half of the fee of the arbitrators and the administrative fee of the AAA. The Colorado Rules of Evidence will apply to such arbitration. The arbitrators will be required to render a decision based on the terms of this Participation Agreement and applicable law.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK —
SIGNATURE PAGE IMMEDIATELY FOLLOWS**



IN WITNESS WHEREOF, each of the parties have caused this Participation Agreement to be executed by their authorized representatives as of the date first set forth above.

Authorization and Agreement:

Participating Franchisee (Name of Legal Entity of the Store):

VALUELINK, LLC

[Redacted]

Signature: [Redacted]

Signature: _____

Print Name: [Redacted]

Print Name: _____

Title: [Redacted]

Title: _____

Street Address: [Redacted]

6200 South Quebec Street

City, State and ZIP: [Redacted]

Greenwood Village, Colorado 80111

Phone Number: [Redacted]

Facsimile: [Redacted]

E-mail: [Redacted]

Company Taxpayer ID #: [Redacted]

Date: [Redacted]

[Note to Participating Franchisee: Please complete all shaded areas of the Participation Agreement]



SECTION C: FORMS

EFT Authorization Form

| FRANCHISEE INFORMATION | | |
|--|---|----------------------|
| Franchisee Name | Store No. | Franchisee Phone No. |
| Franchisee Mailing Address (street, city, state, zip) | | |
| Contact Name, Address and Phone number (if different than above) | | |
| Employer Identification Number (if applicable) | Principal's Name and Social Security Number | |

| BANK ACCOUNT INFORMATION | | |
|---|---------------------|---|
| Bank Name | Bank Account Number | Bank Routing Number [: :] 9 Characters |
| Bank Mailing Address (street, city, state, zip) | | |
| Bank Phone Number | | |

| PAYMENT AUTHORIZATION | |
|--|--------------|
| <p>Franchisee hereby authorizes Kahala Franchising, L.L.C., its affiliates or agents (“Payee”), to initiate withdrawals from the Bank Account indicated on this form, and hereby authorizes the Bank to honor and debit the Bank Account for electronic funds transfers or drafts drawn on the Bank Account and payable to Payee. The amount of such charge shall be set forth in a notice from the Payee presented to the Bank on the day(s) of the week set forth in Franchisee’s franchise agreement, promissory note and security agreement, gift card participation agreement (or similar agreement for the gift card program), and any other agreement Franchisee signs that authorizes Payee, its affiliate or agent to debit Franchisee’s account for the fees, which may be modified by Kahala Franchising, L.L.C., its affiliates or agents, for the payment of royalty fees, advertising fees, POS support fees, gift card and e-gifting program fees and funds flow, and any other fees, charges and other amounts payable to Payee, its affiliates or agents for any services Payee, its affiliates or agents provide or facilitate. Franchisee agrees to execute such additional documents as may be reasonably requested by Payee or the Bank to evidence the interest of this EFT Authorization. This authority shall remain in full force and effect until Payee has received written notification from Franchisee in such time and manner as to afford Payee and the Bank to act on such notice. Franchisee understands that the termination of this authorization does not relieve Franchisee of its obligations to make payments to Payee. Payee may assign its rights and obligations under this EFT Authorization to Payee’s affiliates or agents. Payee may change its designated affiliates or agents at Payee’s discretion.</p> | |
| Signature: | Date: |

NOTE: FRANCHISEE MUST ATTACH A VOIDED OR COMPLETED CHECK RELATING TO THE BANK ACCOUNT.

ATTACH VOIDED OR COMPLETED CHECK HERE

EXHIBIT Q

TO THE FRANCHISE DISCLOSURE DOCUMENT

General Release for Renewal of Franchise Agreement

**GENERAL RELEASE
FOR RENEWAL OF FRANCHISE AGREEMENT**

("General Release")

_____, a(n) _____ ("Franchisee") and each of its current, past and future predecessors, successors and assigns, and each of its and the foregoing entities' respective parents, subsidiaries, shareholders, members, managers, owners, partners, directors, officers, employees, representatives, agents, successors, assigns, guarantors, insurers, spouses, heirs, executors, trustees and estates, if any, of any and all such entities (collectively with Franchisee, "Franchisee Parties"), hereby irrevocably and unconditionally release, remise and forever discharge Kahala Franchising, L.L.C., an Arizona limited liability company ("Franchisor") and each of its current, past and future predecessors, successors and assigns, and of its and the foregoing entities respective parents, subsidiaries, shareholders, members, managers, owners, partners, directors, officers, employees, representatives, agents, successors, assigns, guarantors, insurers, spouses, heirs, executors, trustees, and estates, if any, of any and all such entities (collectively with Franchisor "Franchisor Parties"), from any and all claims, demands, causes of action suits, debts, duties, accounts, covenants, contracts, agreements, promises, damages, judgments, taxes, liabilities and obligations, both contingent and fixed, known and unknown, now existing or hereafter, of every kind and nature whatsoever, in law or equity, or otherwise, under local state, or federal law including, without limitation the Americans with Disabilities Act ("ADA"), or the law of any other applicable jurisdiction, that any of the Franchisee Parties have against any of the Franchisor Parties, including, without limitation, those arising from, in connection with or relating to: (i) the Franchise Agreement dated _____, 20__ (including any amendments or modifications thereto) for *Cold Stone Creamery* Store No. _____ ("Store"); (ii) the operation, leasing or subleasing of the Store; and (iii) the offering and sale of the franchise for the Store; arising from an act, omission, conduct or activity occurring before and including the date hereof.

It is understood by Franchisee that if the facts or law with respect to the foregoing release hereafter turn out to be different from the facts or law known to be or believed by Franchisee to be true at the time of the date hereof, then Franchisee expressly assumes the risk of the facts or law turning out to be so different, and agrees that the foregoing release shall be in all respects effective and not subject to termination or rescission, in whole or in part, based upon such differences.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT R-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

Consent to Transfer and Release Agreement without Sublease

CONSENT TO TRANSFER AND RELEASE AGREEMENT

(Store #; City, State)

This CONSENT TO TRANSFER AND RELEASE AGREEMENT ("Agreement") is entered into on _____ ("Effective Date") by and between _____, a(n) _____ ("Assignor"), and _____, a(n) _____ ("Assignee"), and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company [, as ultimate assignee of _____] ("Franchisor"). All capitalized terms not defined expressly in this Agreement shall have the meaning assigned to such terms in the Franchise Agreement (as defined in Recital A. below).

Recitals

A. Franchisor and Assignor are parties to a Franchise Agreement dated _____, 20____[, as amended], ("collectively the]Franchise Agreement") for the *Cold Stone Creamery* restaurant located at _____ ("Store"). The Brand franchise located at the address listed in the foregoing sentence will hereinafter be referred to as the "Franchised Business"

B. Assignor desires to assign the Franchised Business to Assignee, and Assignee desires to accept the assignment. [Assignor and Assignee hereby represent and warrant to Franchisor that the assignment of the Franchised Business is supported by a purchase agreement entered into by Assignor and Assignee and hereby agree that, consistent with their indemnification obligations provided for below, they have sole responsibility for any disputes related to the accuracy and content of such purchase agreement].

C. [FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignor hereby agrees that Assignor is the responsible franchisee under the Franchise Agreement from _____, 20____ until the date immediately preceding the Effective Date. Assignee hereby agrees that Assignee is the responsible franchisee under the Franchise Agreement as of and after the Effective Date and continuing through the Term of the Franchise Agreement[, as amended by the [First] Amendment to Franchise Agreement].

D. [FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA] Assignee and Assignor each acknowledges that upon assignment, Assignee must execute Franchisor's current form of franchise agreement, which includes its current royalty fees and advertising contributions that may be greater than the amount of such corresponding fees in Assignor's Franchise Agreement. The Franchise Agreement shall be deemed expired as of and after the effective date of Assignee's current form of franchise agreement executed concurrently with this Agreement.

[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignee acknowledges receipt of a copy of the Franchise Agreement from Assignor.

E. Franchisor agrees to consent to the assignment of the Franchised Business from Assignor to Assignee, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and terms contained in this Agreement, the parties agree as follows:

Agreement

1. The foregoing Recitals are hereby incorporated in and made a part of this Agreement.

2. Pursuant to the terms and conditions of the Franchise Agreement, Assignor requested Franchisor's prior written consent to assign the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement] from Assignor to Assignee. Franchisor hereby consents to the transfer of the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement] to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

3. Assignor agrees to transfer the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement] to Assignee pursuant to the transfer provisions in Assignor's Franchise Agreement, and Assignee accepts the transfer of the Franchised Business pursuant to the transfer provisions in Assignor's Franchise Agreement, including, but not limited to, the payment of the applicable transfer fees.

4. [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*] Assignor and Assignee agree that, pursuant to the terms of the Franchise Agreement, Assignee is required to execute Franchisor's then-current form of franchise agreement and all exhibits attached thereto prior to the closing of the transfer of the Franchised Business. Franchisor hereby waives Assignee's obligation to execute Franchisor's then-current form of franchise agreement and all exhibits attached thereto as required by the terms of the Franchise Agreement for this transfer only. Assignor hereby acknowledges and agrees that Franchisor's waiver of Assignor's obligations under the terms of the Franchise Agreement is not a permanent waiver and that Franchisor, its assigns and their respective affiliates hereby reserve the right to require Assignor, Assignee or their respective affiliates, authorized assignees or principals to sign Franchisor's then-current form of franchise agreement and all exhibits attached thereto in connection with other transfers that may be requested by and between the parties.

5. Subject to Section 13 below, Assignor hereby agrees to continue to be bound by the terms and conditions set forth in the Franchise Agreement until the date immediately preceding the Effective Date.

6. [*FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA*] Assignee hereby agrees to execute Franchisor's current form of franchise agreement with Franchisor, and to be bound by the terms and conditions set forth in the current form of franchise agreement.

[OR *FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*] Assignee hereby agrees to be bound by the terms and conditions set forth in the Franchise Agreement.

7. [*USE WHEN BUYER IS PAYING THE TRANSFER [FRANCHISE] FEE*] Pursuant to the terms of the Franchise Agreement, Franchisor is owed a Transfer [Franchise] Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$XX,X00.00). Assignor, Assignee and Franchisor hereby agree that the Transfer [Franchise] Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the Transfer [Franchise] Fee if Assignee fails to pay the Transfer [Franchise] Fee in full.

[OR *USE WHEN SELLER IS PAYING THE TRANSFER [FRANCHISE] FEE*] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with the execution of this Agreement, a Transfer [Franchise] Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$XX,X00.00).

8. [*USE IF BUYER IS PAYING THE [TRANSFER] TRAINING FEE*] Pursuant to the terms of the Franchise Agreement, Franchisor is owed a [Transfer] Training Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$X,X00.00). Assignor, Assignee and Franchisor

hereby agree that the [Transfer] Training Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the [Transfer] Training Fee if Assignee fails to pay the [Transfer] Training Fee in full.

[OR USE IF SELLER IS PAYING THE [TRANSFER] TRAINING FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with the execution of this Agreement, a [Transfer] Training Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$X,X00.00).

9. Assignor agrees to cure any and all monetary defaults due and payable under their phone service agreement, complete and sign a letter of agency, letter of authorization or equivalent form, and provide the form to Assignee at least one week prior to the transfer of the Franchised Business to allow Assignee to retain the telephone number of the Franchised Business.

10. Assignee agrees to provide the letter of agency, letter of authorization or equivalent form to their phone service provider in an effort to retain the telephone number of the Franchised Business.

11. Assignor agrees to cure any and all defaults and/or debts of any monetary consideration due and payable to Franchisor (or its affiliates) prior to the execution of this Agreement, including, without limitation, any past due and current royalties and advertising contributions under the Franchise Agreement through the date immediately preceding the Effective Date, along with any accruing interest, late fees or other penalties as allowed under the Franchise Agreement and/or applicable law. Notwithstanding the foregoing, in the event Assignor fails to cure any and all defaults and/or fully satisfy any debts as required, Franchisor has the sole and absolute discretion to move forward with the transfer as contemplated by this Agreement but without waiving any amounts due and owing to Franchisor and/or its affiliates and reserves all rights to pursue such defaults and debts and charges against Assignor at a later time.

12. Assignor represents and warrants that it has not failed to disclose to Franchisor any information, which, if known by Franchisor, might provide grounds for Franchisor to reasonably withhold its consent to this Agreement, and that Assignor has disclosed all of the terms of the transfer to Franchisor.

13. Assignor ratifies and reaffirms any and all provisions and/or agreements with Franchisor intended to survive the assignment and/or termination of the Franchise Agreement and agrees to remain bound by them, including but not limited to any provisions pertaining to confidential information and covenant against competition.

14. Assignor agrees that it has no rights in any of the trademarks, trade names, or service marks of Franchisor, except in connection with other *Cold Stone Creamery* franchises owned by Assignor, if any. Assignor also stipulates that such trademarks, trade names, service marks and the like are the sole property of Franchisor and that Assignor has no rights in them, except as authorized by Franchisor in connection with other *Cold Stone Creamery* franchises owned by Assignor, if any. Assignor quitclaims to Franchisor any rights in any trademarks, trade names, and service marks of Franchisor, in the event Assignor has any such rights, except those rights acquired through other *Cold Stone Creamery* franchises authorized by Franchisor and owned by Assignor, if any.

15. Assignee acknowledges that Franchisor has not made any express or implied verbal or written representations or promises whatsoever that:

- a. future assignments will be approved;

OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH ASSIGNOR, "ASSIGNOR AFFILIATES") HEREBY IRREVOCABLY AND UNCONDITIONALLY RELEASE, REMISE AND FOREVER DISCHARGE FRANCHISOR AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH FRANCHISOR, "FRANCHISOR AFFILIATES"), FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, DEBTS, DUTIES, ACCOUNTS, COVENANTS, CONTRACTS, AGREEMENTS, PROMISES, DAMAGES, JUDGMENTS, TAXES, LIABILITIES AND OBLIGATIONS, BOTH CONTINGENT AND FIXED, KNOWN AND UNKNOWN, NOW EXISTING OR HEREAFTER, OF EVERY KIND AND NATURE WHATSOEVER, IN LAW OR EQUITY, OR OTHERWISE, UNDER LOCAL STATE, OR FEDERAL LAW OR THE LAW OF ANY OTHER APPLICABLE JURISDICTION, THAT ANY OF THE ASSIGNOR AFFILIATES HAVE AGAINST ANY OF THE FRANCHISOR AFFILIATES, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM, IN CONNECTION WITH OR RELATING TO: (I) THE FRANCHISEE AGREEMENT (INCLUDING ANY AMENDMENTS OR MODIFICATIONS THERETO); (II) THE OPERATION OF THE FRANCHISED BUSINESS, INCLUDING ANY LEASING OR SUBLEASING RELATED THERETO; AND (III) THE OFFERING AND SALE OF THE FRANCHISED BUSINESS; ARISING FROM AN ACT, OMISSION, CONDUCT OR ACTIVITY OCCURRING BEFORE AND INCLUDING THE EFFECTIVE DATE.

IT IS UNDERSTOOD BY ASSIGNOR THAT IF THE FACTS OR LAW WITH RESPECT TO THE FOREGOING RELEASE HEREAFTER TURN OUT TO BE DIFFERENT FROM THE FACTS OR LAW KNOWN TO BE OR BELIEVED BY ASSIGNOR TO BE TRUE AT THE TIME OF THE DATE HEREOF, THEN ASSIGNOR EXPRESSLY ASSUMES THE RISK OF THE FACTS OR LAW TURNING OUT TO BE SO DIFFERENT, AND AGREES THAT THE FOREGOING RELEASE SHALL BE IN ALL RESPECTS EFFECTIVE AND NOT SUBJECT TO TERMINATION OR RESCISSION IN WHOLE OR IN PART BASED UPON SUCH DIFFERENCES.

21. Assignor and Assignee hereby agree to protect, defend and indemnify each of the Franchisor Affiliates and hold them harmless from and against any and all costs and expenses actually incurred by them or for which they are liable, including, without limitation, attorney's fees, court costs, expert witness fees and costs, losses, liabilities, damages, claims and demands of every kind or nature, and including those incurred pursuant to a settlement entered into in good faith, arising out of or in connection with the Franchised Business, including specifically without limitation any claim or controversy arising out of (i) this Agreement, (ii) the Franchise Agreement, (iii) any transfer of the Franchised Business by Assignee or Assignor, (iv) acts or omissions of Assignee and/or Assignor which are not in strict compliance with this Agreement, the Franchise Agreement, and/or the Operations Manual in respect of use or display of the Proprietary Marks, or (v) acts or omissions of Assignee and/or Assignor which tend to create an impression that the relationship between the parties hereto is other than one of Franchisor and Franchisee. Franchisor Affiliates, at their sole discretion, may hire legal counsel to defend any actions brought against any Franchisor Affiliates which arise out of Assignor's obligations under all agreements entered into between Assignor and any of the Franchisor Affiliates, including, without limitation, this Agreement, and Assignee's obligations herein. Assignor and Assignee hereby agree to pay any and all attorneys' fees, expert costs, and any other fees and costs incurred by Franchisor Affiliates to said selected counsel upon the request of Franchisor Affiliates. Assignor and Assignee will, if requested by any Franchisor Affiliates, defend

any suits at the sole cost and expense of Assignor and Assignee. Assignor and Assignee hereby agree to defend said suits with the use of attorneys requested by Franchisor Affiliates. For purposes of this provision, requests shall be made pursuant to the notice provisions set forth in this Agreement. Notwithstanding the other provisions of this Section to the contrary, if any, except as otherwise specified in this Agreement, Assignor shall not be responsible for any of the acts or omissions of Assignee after the Effective Date.

22. Assignor agrees for itself and its successors and assigns that it will not disparage, denigrate or defame the Franchisor Affiliates, or any of their business dealings, financial condition, pending litigation and arbitrations, officers, directors, employees, agents, representatives or attorneys, either publicly or privately, by any means whatsoever (including electronic means) (collectively, "Non Disparagement Provision"). In the event such a communication is made to anyone, including, but not limited to, third party legal counsel adverse to Franchisor Affiliates in any fashion, former employees of Franchisor Affiliates, former shareholders of Franchisor Affiliates, current or former vendors, franchisees, licensees, or area representatives of Franchisor Affiliates' quick service restaurant brands, media government agencies, public interest groups, and publishing companies, it will be considered a material breach of the terms of this Agreement and Franchisor Affiliates shall be entitled to bring a legal action for appropriate equitable relief as well as damages. In addition to any other rights or remedies available at law, in equity, or by statute, Assignor consents to the specific enforcement of this Non Disparagement Provision through an injunction or restraining order issued by an appropriate court, without the requirement of posting a bond. Notwithstanding the above, nothing in this provision shall prevent or prohibit Assignor from testifying in any legal proceeding, including a deposition, hearing or trial, from cooperating in good faith in any governmental investigation or action, or from making any report required by law.

23. Each individual executing this Agreement on behalf of a partnership, limited liability company or corporation represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of the partnership, limited liability company, or corporation, and agrees to deliver evidence of his or her authority to Franchisor upon request by Franchisor.

24. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. If the provision found to be unenforceable was material to this Agreement, the parties agree to promptly negotiate the terms of a substitute provision to replace the severed provision consistent with the then-current law and the parties' original intent.

25. This Agreement shall be construed under and according to the laws of the State of Arizona, without regard to conflict of laws principles.

26. ANY AND ALL COURT PROCEEDINGS ARISING FROM THIS AGREEMENT SHALL BE BROUGHT IN, AND ONLY IN, A COURT OF COMPETENT JURISDICTION LOCATED IN MARICOPA COUNTY, ARIZONA. THE PARTIES CONSENT TO THE EXERCISE OF SUBJECT MATTER AND PERSONAL JURISDICTION BY SUCH COURTS AND HEREBY WAIVE ANY OBJECTIONS OR DEFENSE THERETO.

27. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature

28. No amendment, addendum, modification, supplement or waiver of this Agreement or any of its provisions shall be binding on the parties unless made in writing and duly executed by an authorized representative of Franchisor and Assignor and Assignee. A failure of any party to enforce at any time any of the provisions of this Agreement or to require at any time performance by another party or any provision of this Agreement, shall in no way be construed as a continuing waiver of those provisions or of any other rights under this Agreement.

29. Except as otherwise specified in this Agreement, this Agreement shall not be construed in any way as modifying, waiving, or affecting any of the terms, covenants, conditions, or agreements contained in the Franchise Agreement executed by Assignor, or the current form of franchise agreement to be executed by Assignee.

30. This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and their respective successors and assigns.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has executed this Agreement by and through its duly authorized representative with full rights, power and authority to enter into and bind his or her respective party, without further consent or approval of any kind, as of the Effective Date of this Agreement.

ASSIGNOR:

-

By: _____
[Name, Title]

By: _____
[Name, Title]

ASSIGNEE:

-

By: _____
[Name, Title]

By: _____
[Name, Title]

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

EXHIBIT R-2

TO THE FRANCHISE DISCLOSURE DOCUMENT

Consent to Transfer and Release Agreement with Sublease

CONSENT TO TRANSFER AND RELEASE AGREEMENT

(Store #; City, State)

This CONSENT TO TRANSFER AND RELEASE AGREEMENT ("Agreement") is entered into on _____ ("Effective Date") by and between _____, a(n) _____ ("Assignor"), and _____, a(n) _____ ("Assignee"), and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company[, as ultimate assignee of _____] ("Franchisor") and _____, a(n) _____ ("Sublessor") (Franchisor and Sublessor may collectively be referred to in this Agreement as "Company"). All capitalized terms not defined expressly in this Agreement shall have the meaning assigned to such terms in the Franchise Agreement (as defined in Recital A. below) or the Sublease (as defined in Recital B. below).

Recitals

A. Franchisor and Assignor are parties to a Franchise Agreement dated _____, _____[, as amended], (collectively the "Franchise Agreement") for the *Cold Stone Creamery* restaurant located at _____ ("Store"). The Brand franchise located at the address listed in the foregoing sentence will hereinafter be referred to as the "Franchised Business."

B. Sublessor and Assignor are parties to a Sublease Agreement dated _____, _____[, as amended], (collectively the "Sublease") for the Franchised Business.

C. Assignor desires to assign the Franchised Business to Assignee, and Assignee desires to accept the assignment. [Assignor and Assignee hereby represent and warrant to Company that the assignment of the Franchised Business is supported by a purchase agreement entered into by Assignor and Assignee and hereby agree that, consistent with their indemnification obligations provided for below, they have sole responsibility for any disputes related to the accuracy and content of such purchase agreement.

D. [FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA] Assignee acknowledges that upon assignment, Assignee must execute Franchisor's current form of franchise agreement, which includes its current royalty fees and advertising contributions that may be greater than the amount of such corresponding fees in Assignor's Franchise Agreement. The Franchise Agreement shall be deemed expired as of and after the effective date of Assignee's current form of franchise agreement executed concurrently with this Agreement.

[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignee acknowledges receipt of a copy of the Franchise Agreement from Assignor.

E. [FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignor hereby agrees that Assignor is the responsible franchisee under the Franchise Agreement from _____, _____ until the date immediately preceding the Effective Date. Assignee hereby agrees that Assignee is the responsible franchisee under the Franchise Agreement as of and after the Effective Date and continuing through the Term of the Franchise Agreement[, as amended by the [First] Amendment to Franchise Agreement].

F. [FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW SUBLEASE] Assignee acknowledges that upon assignment, Assignee must execute Sublessor's current form of sublease. The Sublease shall be deemed expired as of and after the effective date of Assignee's current form of sublease executed concurrently with this Agreement.

[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER]
Assignee acknowledges receipt of a copy of the Sublease from Assignor, together with all amendments, supplements, riders, exhibits, and revisions, including a copy of the underlying Master Lease, and fully understands and acknowledges the obligations under the Sublease

G. [FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignor hereby agrees that Assignor is the responsible sublessee under the Sublease from _____, _____ until the date immediately preceding the Effective Date. Assignee hereby agrees that Assignee is the responsible sublessee under the Sublease as of and after the Effective Date and continuing through the Term of the Sublease [, as amended by the [First] Amendment to Franchise Sublease].

H. Franchisor agrees to consent to the assignment of the Franchised Business from Assignor to Assignee, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and terms contained in this Agreement, the parties agree as follows:

Agreement

1. The foregoing Recitals are hereby incorporated in and made a part of this Agreement.

2. Pursuant to the terms and conditions of the Franchise Agreement, Assignor requested Franchisor's prior written consent to assign the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement] from Assignor to Assignee. Franchisor hereby consents to the transfer of the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement] to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

3. [FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Pursuant to the terms and conditions of the Sublease, Assignor has requested Sublessor's prior written consent to assign the Sublease from Assignor to Assignee. Sublessor hereby consents to the transfer of the Sublease to Assignee, subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

4. Assignor agrees to transfer the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement and Sublease] to Assignee pursuant to the transfer provisions in Assignor's Franchise Agreement, and Assignee accepts the transfer of the Franchised Business [*FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER*: and Franchise Agreement and Sublease], pursuant to the transfer provisions in Assignor's Franchise Agreement, including, but not limited to, the payment of the applicable transfer fees.

5. [FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignor and Assignee agree that, pursuant to the terms of the Franchise Agreement, Assignee is required to execute Franchisor's then-current form of franchise agreement and all exhibits attached thereto prior to the closing of the transfer of the Franchised Business. Franchisor hereby waives Assignee's obligation to execute Franchisor's then-current form of franchise agreement and all exhibits attached thereto as required by the terms of the Franchise Agreement for this transfer only. Assignor hereby acknowledges and agrees that Franchisor's waiver of Assignor's obligations under

the terms of the Franchise Agreement is not a permanent waiver and that Franchisor, its assigns and their respective affiliates hereby reserve the right to require Assignor, Assignee or their respective affiliates, authorized assignees or principals to sign Franchisor's then-current form of franchise agreement and all exhibits attached thereto in connection with other transfers that may be requested by and between the parties.

6. Subject to Section ___ below, Assignor hereby agrees to continue to be bound by the terms and conditions set forth in the Franchise Agreement until the date immediately preceding the Effective Date.

7. *[FOR FULL TRANSFER AND ASSIGNEE ENTERS INTO A NEW FA]* Assignee hereby agrees to execute Franchisor's current form of franchise agreement with Franchisor, and to be bound by the terms and conditions set forth in the current form of franchise agreement.

[OR FOR CHANGE IN OWNERSHIP INTEREST THAT IS NOT A TRANSFER] Assignee hereby agrees to be bound by the terms and conditions set forth in the Franchise Agreement.

8. *[USE WHEN BUYER IS PAYING THE TRANSFER [FRANCHISE] FEE]* Pursuant to the terms of the Franchise Agreement, Franchisor is owed a Transfer [Franchise] Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$XX,X00.00). Assignor, Assignee and Franchisor hereby agree that the Transfer [Franchise] Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the Transfer [Franchise] Fee if Assignee fails to pay the Transfer [Franchise] Fee in full.

[OR USE WHEN SELLER IS PAYING THE TRANSFER [FRANCHISE] FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with execution of this Agreement, a Transfer [Franchise] Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$XX,X00.00).

9. *[USE IF BUYER IS PAYING THE [TRANSFER] TRAINING FEE]* Pursuant to the terms of the Franchise Agreement, Franchisor is owed a [Transfer] Training Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$X,X00.00). Assignor, Assignee and Franchisor hereby agree that the [Transfer] Training Fee will be paid by Assignee to Franchisor, contemporaneous with the execution of this Agreement, on behalf of Assignor. Assignor shall be liable to Franchisor for the [Transfer] Training Fee if Assignee fails to pay the [Transfer] Training Fee in full.

[OR USE IF SELLER IS PAYING THE [TRANSFER] TRAINING FEE] Pursuant to the terms of the Franchise Agreement, Franchisor is owed, contemporaneous with the execution of this Agreement, a [Transfer] Training Fee in the amount of _____ Thousand _____ Hundred and 00/100 Dollars (\$X,X00.00).

10. Assignor agrees to the assignment of Assignor's interest in and to the lease security deposit, if any, currently held by the Landlord to the Assignee.

11. Subject to Section 18 below, Assignor hereby agrees to continue to be bound by the terms and conditions set forth in the Sublease through the date immediately preceding the Effective Date.

12. [IF ASSIGNEE IS SIGNING A NEW SUBLEASE] Assignee hereby agrees to execute Sublessor's current form of sublease, and to be bound by the terms and conditions set forth in the current form of sublease.

[OR IF ASSIGNEE IS NOT SIGNING A NEW SUBLEASE] Assignee hereby agrees to be bound by the terms and conditions set forth in the Sublease.

13. Assignor agrees to cure any and all monetary defaults due and payable under their phone service agreement, complete and sign a letter of agency, letter of authorization or equivalent form, and provide the form to Assignee at least one week prior to the transfer of the Franchised Business to allow Assignee to retain the telephone number of the Franchised Business.

14. Assignee agrees to provide the letter of agency, letter of authorization or equivalent form to their phone service provider in an effort to retain the telephone number of the Franchised Business.

15. Assignor agrees to cure any and all defaults and/or debts of any monetary consideration due and payable to Franchisor (or its affiliates) prior to the execution of this Agreement, including, without limitation, any past due and current royalties and advertising contributions under the Franchise Agreement through the date immediately preceding the Effective Date and any rental and other occupancy charges under the Sublease through the date immediately preceding the Effective Date, along with any accruing interest, late fees or other penalties as allowed under the Franchise Agreement, Sublease and/or applicable law. Notwithstanding the foregoing, in the event Assignor fails to cure any and all defaults, fully satisfy any debts and/or pay any charges as required, Franchisor has the sole and absolute discretion to move forward with the transfer as contemplated by this Agreement but without waiving any amounts due and owing to Franchisor and/or its affiliates and reserves all rights to pursue such defaults, debts and charges against Assignor at a later time.

16. Assignor and Assignee hereby understand and agree that there may be additional charges and/or credits under the Lease and/or Sublease for rent including, without limitation, common area and maintenance charges/reconciliations, insurance, and/or taxes, related to the Franchised Business. Assignor and Assignee further hereby agree that Assignee shall be entitled to receive the credits and/or pay the actual charges incurred to the Landlord or Sublessor, as directed by Sublessor, within ten (10) days from receipt of Sublessor's notice of such charges and/or credits to Assignee. Assignor and Assignee hereby represent and warrant to Sublessor that Assignor and Assignee have taken such actions as necessary to account for such charges and/or credits in the purchase price for the Franchised Business.

17. Assignor represents and warrants that it has not failed to disclose to Company any information, which, if known by Company, might provide grounds for Company to reasonably withhold its consent to this Agreement, and that Assignor has disclosed all of the terms of the transfer to Company.

18. Assignor ratifies and reaffirms any and all provisions and/or agreements with Company intended to survive the assignment and/or termination of the Franchise Agreement and Sublease and agrees to remain bound by them, including but not limited to any provisions pertaining to confidential information and covenant against competition.

19. Assignor agrees that it has no rights in any of the trademarks, trade names, or service marks of Franchisor, except in connection with other *Cold Stone Creamery* franchises owned by Assignor, if any. Assignor also stipulates that such trademarks, trade names, service marks and the like are the sole property of Franchisor and that Assignor has no rights in them, except as authorized by Franchisor in connection with other *Cold Stone Creamery* franchises

owned by Assignor, if any. Assignor quitclaims to Franchisor any rights in any trademarks, trade names, and service marks of Franchisor, in the event Assignor has any such rights, except those rights acquired through other *Cold Stone Creamery* franchises authorized by Franchisor and owned by Assignor, if any.

20. Assignee acknowledges that Company has not made any express or implied verbal or written representations or promises whatsoever that:

- a. future assignments will be approved;
- b. Assignee will have financial success operating the Franchised Business;
- c. the landlord will grant an extension of the Master Lease where the Franchised Business is located and operates;
- d. the consideration, if any, paid for the Franchised Business represents the true value of the Franchised Business; or
- e. Assignor is not in default under the terms of the Franchise Agreement and/or the Sublease.

21. Assignee acknowledges that Company has made no representations whatsoever concerning the value of the Franchised Business.

22. All notices required or permitted under this Agreement shall be in writing and shall be delivered by personal delivery, courier, such as FedEx® or UPS®, or by U.S. Mail, sent certified or registered mail, return receipt requested to the address set forth below, which address may be amended from time to time pursuant to the terms of this Section. Notices provided under this Section shall be deemed received upon personal delivery or delivery by courier and within three (3) days after deposit in the U.S. Mail. You have an obligation to promptly notify us pursuant to this Section whenever your mailing address, phone number or facsimile number change. Notices shall be provided to the parties at the address specified below:

If to Assignee: [Name]
 [Attn:]
 [Address]
 [City, State, Zip]
 Telephone Number:
 Facsimile Number:

If to Assignor: [Name]
 [Attn:]
 [Address]
 [City, State, Zip]
 Telephone Number:
 Facsimile Number:

If to Franchisor: KAHALA FRANCHISING, L.L.C.
Attn: Legal Department
9311 E Via de Ventura
Scottsdale, Arizona 85258
Telephone Number: (480) 362-4800
Facsimile Number: (480) 362-4819

If to Sublessor: [NAME OF SUBLESSOR]
Attn: Real Estate Department
9311 E Via de Ventura
Scottsdale, Arizona 85258
Telephone Number: (480) 362-4800
Facsimile Number: (480) 362-4792

23. Franchisor hereby consents to the transfer of the Franchised Business to Assignee subject to the terms and conditions of this Agreement being fully met by both Assignor and Assignee.

24. Assignor and Assignee understand the Effective Date is the closing date indicated on the escrow statement/closing statement.

25. IN CONSIDERATION OF COMPANY'S AGREEMENTS SET FORTH IN THIS AGREEMENT, ASSIGNOR REPRESENTS THAT COMPANY HAS NOT FAILED TO PERFORM, AND IS NOT IN ANY RESPECT IN DEFAULT IN THE PERFORMANCE OF, ANY OF ITS OBLIGATIONS UNDER THE SUBLEASE AND/OR THE FRANCHISE AGREEMENT, AND ASSIGNOR AND EACH OF ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH ASSIGNOR, "ASSIGNOR AFFILIATES") HEREBY IRREVOCABLY AND UNCONDITIONALLY RELEASE, REMISE AND FOREVER DISCHARGE COMPANY AND EACH ITS CURRENT, PAST AND FUTURE PREDECESSORS, SUCCESSORS AND ASSIGNS, AND EACH OF ITS AND THE FOREGOING ENTITIES RESPECTIVE PARENTS, SUBSIDIARIES, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, GUARANTORS, INSURERS, SPOUSES, HEIRS, EXECUTORS, TRUSTEES, AND ESTATES, IF ANY, OF ANY AND ALL SUCH ENTITIES (COLLECTIVELY WITH COMPANY "FRANCHISOR AFFILIATES"), FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, DEBTS, DUTIES, ACCOUNTS, COVENANTS, CONTRACTS, AGREEMENTS, PROMISES, DAMAGES, JUDGMENTS, TAXES, LIABILITIES AND OBLIGATIONS, BOTH CONTINGENT AND FIXED, KNOWN AND UNKNOWN, NOW EXISTING OR HEREAFTER, OF EVERY KIND AND NATURE WHATSOEVER, IN LAW OR EQUITY, OR OTHERWISE, UNDER LOCAL STATE, OR FEDERAL LAW OR THE LAW OF ANY OTHER APPLICABLE JURISDICTION, THAT ANY OF THE ASSIGNOR AFFILIATES HAVE AGAINST ANY OF THE FRANCHISOR AFFILIATES, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM, IN CONNECTION WITH OR RELATING TO: (I) THE SUBLEASE AND/OR FRANCHISE AGREEMENT (INCLUDING ANY AMENDMENTS OR MODIFICATIONS THERETO); (II) THE OPERATION OF THE FRANCHISED BUSINESS, INCLUDING ANY LEASING OR SUBLEASING RELATED THERETO; AND (III) THE

OFFERING AND SALE OF THE FRANCHISED BUSINESS; ARISING FROM AN ACT, OMISSION, CONDUCT OR ACTIVITY OCCURRING BEFORE AND INCLUDING THE EFFECTIVE DATE.

IT IS UNDERSTOOD BY ASSIGNOR THAT IF THE FACTS OR LAW WITH RESPECT TO THE FOREGOING RELEASE HEREAFTER TURN OUT TO BE DIFFERENT FROM THE FACTS OR LAW KNOWN TO BE OR BELIEVED BY ASSIGNOR TO BE TRUE AT THE TIME OF THE DATE HEREOF, THEN ASSIGNOR EXPRESSLY ASSUMES THE RISK OF THE FACTS OR LAW TURNING OUT TO BE SO DIFFERENT, AND AGREES THAT THE FOREGOING RELEASE SHALL BE IN ALL RESPECTS EFFECTIVE AND NOT SUBJECT TO TERMINATION OR RESCISSION IN WHOLE OR IN PART BASED UPON SUCH DIFFERENCES.

26. Assignor and Assignee hereby agree to protect, defend and indemnify each of the Franchisor Affiliates and hold them harmless from and against any and all costs and expenses actually incurred by them or for which they are liable, including, without limitation, attorney's fees, court costs, expert witness fees and costs, losses, liabilities, damages, claims and demands of every kind or nature, and including those incurred pursuant to a settlement entered into in good faith, arising out of or in connection with the Franchised Business, including specifically without limitation any claim or controversy arising out of (i) this Agreement, (ii) the Franchise Agreement, (iii) Sublease and/or Master Lease, (iv) any transfer of the Franchised Business by Assignee or Assignor, (v) acts or omissions of Assignee and/or Assignor which are not in strict compliance with this Agreement, the Franchise Agreement, Sublease and/or the Operations Manual in respect of use or display of the Proprietary Marks, or (vi) acts or omissions of Assignee and/or Assignor which tend to create an impression that the relationship between the parties hereto is other than one of Franchisor and Franchisee. Franchisor Affiliates, at their sole discretion, may hire legal counsel to defend any actions brought against any Franchisor Affiliates which arise out of Assignor's obligations under all agreements entered into between Assignor and any of the Franchisor Affiliates, including, without limitation, this Agreement, and Assignee's obligations herein. Assignor and Assignee hereby agree to pay any and all attorneys' fees, expert costs, and any other fees and costs incurred by any Franchisor Affiliates to said selected counsel upon the request of any Franchisor Affiliates. Assignor and Assignee will, if requested by any Franchisor Affiliates, defend any suits at the sole cost and expense of Assignor and Assignee. Assignor and Assignee hereby agree to defend said suits with the use of attorneys requested by any Franchisor Affiliates. For purposes of this provision, requests shall be made pursuant to the notice provisions set forth in this Agreement. Notwithstanding the other provisions of this Section to the contrary, if any, except as otherwise specified in this Agreement, Assignor shall not be responsible for any of the acts or omissions of Assignee after the Effective Date.

27. Assignor agrees for itself and its successors and assigns that it will not disparage, denigrate or defame the Franchisor Affiliates, or any of their business dealings, financial condition, pending litigation and arbitrations, officers, directors, employees, agents, representatives or attorneys, either publicly or privately, by any means whatsoever (including electronic means) (collectively, "Non Disparagement Provision"). In the event such a communication is made to anyone, including, but not limited to, third party legal counsel adverse to Franchisor Affiliates in any fashion, former employees of Franchisor Affiliates, former shareholders of Franchisor Affiliates, current or former vendors, franchisees, licensees, or area representatives of Franchisor Affiliates' quick service restaurant brands, media government agencies, public interest groups, and publishing companies, it will be considered a material breach of the terms of this Agreement and Franchisor Affiliates shall be entitled to bring a legal action for appropriate equitable relief as well as damages. In addition to any other rights or remedies available at law, in equity, or by statute, Assignor consents to the specific enforcement of this Non Disparagement Provision through an injunction or restraining order issued by an appropriate court, without the requirement of posting a bond. Notwithstanding the above, nothing in this provision shall prevent or prohibit Assignor from testifying

in any legal proceeding, including a deposition, hearing or trial, from cooperating in good faith in any governmental investigation or action, or from making any report required by law.

28. Each individual executing this Agreement on behalf of a partnership, limited liability company or corporation represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of the partnership, limited liability company, or corporation, and agrees to deliver evidence of his or her authority to Company upon request by Company.

29. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. If the provision found to be unenforceable was material to this Agreement, the parties agree to promptly negotiate the terms of a substitute provision to replace the severed provision consistent with the then-current law and the parties' original intent.

30. This Agreement shall be construed under and according to the laws of the State of Arizona, without regard to conflict of laws principles.

31. ANY AND ALL COURT PROCEEDINGS ARISING FROM THIS AGREEMENT SHALL BE BROUGHT IN, AND ONLY IN, A COURT OF COMPETENT JURISDICTION LOCATED IN MARICOPA COUNTY, ARIZONA. THE PARTIES CONSENT TO THE EXERCISE OF SUBJECT MATTER AND PERSONAL JURISDICTION BY SUCH COURTS AND HEREBY WAIVE ANY OBJECTIONS OR DEFENSE THERETO.

32. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signatures required for execution may be transmitted to the other party via facsimile or a scanned .pdf file sent via email and such signature shall be deemed a duplicate original, shall be effective upon receipt by the other party, may be admitted in evidence and shall fully bind the party and person making such signature.

33. No amendment, addendum, modification, supplement or waiver of this Agreement or any of its provisions shall be binding on the parties unless made in writing and duly executed by an authorized representative of Company and Assignor and Assignee. A failure of any party to enforce at any time any of the provisions of this Agreement or to require at any time performance by another party or any provision of this Agreement, shall in no way be construed as a continuing waiver of those provisions or of any other rights under this Agreement.

34. Except as otherwise specified in this Agreement, this Agreement shall not be construed in any way as modifying, waiving, or affecting any of the terms, covenants, conditions, or agreements contained in the Franchise Agreement and Sublease executed by Assignor, or the current form of franchise agreement or sublease to be executed by Assignee.

35. This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and their respective successors and assigns.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has executed this Agreement by and through its duly authorized representative with full rights, power and authority to enter into and bind his or her respective party, without further consent or approval of any kind, as of the Effective Date of this Agreement.

ASSIGNOR:

By: _____
[Name, Title]

By: _____
[Name, Title]

ASSIGNEE:

By: _____
[Name, Title]

By: _____
[Name, Title]

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

SUBLESSOR:

By: _____
[Name, Title]

EXHIBIT S

TO THE FRANCHISE DISCLOSURE DOCUMENT

State Addenda to Franchise Documents

ADDENDUM TO FRANCHISE DOCUMENTS

(FOR THE STATE OF CALIFORNIA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF CALIFORNIA) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

1. CALIFORNIA LAW MODIFICATIONS

- A. The California Franchise Investment Law requires that a copy of all proposed agreements relating to the sale of the franchise be delivered together with the Disclosure Document.
- B. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law. (11 U.S.C.A. Sec. 101 et seq.).
- C. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California Law.
- D. The Franchise Documents require application of the laws of the State of Arizona. This provision may not be enforceable under California Law.
- E. Section 31125 of the California Corporations Code requires us to give you a Disclosure Document, in a form containing the information that the Commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.
- F. California Corporations Code §31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§31000 through 31516). Business and Professions Code §20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§20000 through 20043).
- G. The Franchise Agreement requires binding arbitration. The arbitration will occur at the American Arbitration Association office in Maricopa County, Arizona, or, if our headquarters are no longer located in Maricopa County, Arizona, then the arbitration

shall take place in the county in which our headquarters are located at the time the arbitration is commenced, with *all of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorney's fees of the prevailing party* to be paid by the party that did not prevail. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

- H. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning transfer, termination or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.
- I. If the franchisee resides in the State of California or the franchised business is located within the State of California, the venue for any dispute may be within the State of California. Business and Professions Code Section 20040.5 voids restricting a venue to a forum outside California with respect to any claim arising under or relating to a franchise involving a franchise business operating in California.
- J. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the California law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

FRANCHISEE:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

_____,

By: _____
[Name, Title]

By: _____
[Name, Title]

By: _____
[Name, Title]

[SUBLESSOR:

By: _____

[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS

(FOR THE STATE OF HAWAII)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF HAWAII) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ ("Sublessor")] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

1. The Director of the Hawaii Department of Commerce and Consumer Affairs requires that certain provisions contained in franchise documents be amended to be consistent with Hawaii law, including the Hawaii Franchise Investment Law, Hawaii Revised Statutes, Title 26, Chapter 482E-1 through 482E-12 (1988). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Hawaii Franchise Investment Law provides rights to you concerning non-renewal, termination and transfer of the Franchise Agreement. If the Franchise Agreement contains a provision that is inconsistent with the Law, the Law will control. Among those rights, the law may require that upon termination or non-renewal Franchisor purchase for fair market value Franchisee's inventory, supplies, equipment and furnishings purchased from Franchisor or a supplier designated by Franchisor; provided that personalized materials which have no value to Franchisor need not be compensated for. If the non-renewal or termination is for the purpose of converting the Franchisee's business to one owned and operated by Franchisor, Franchisor may, additionally, be obligated to compensate the Franchisee for loss of goodwill. Franchisor may deduct all amounts due from Franchisee and any costs related to the transportation or disposition of items purchased against any payment for those items. If the parties cannot agree on fair market value, fair market value shall be determined in the manner set forth in the Franchise Agreement. If the Franchise Agreement does not provide for determination of fair market value of assets for purchase by Franchisor, such amount will be determined by an independent appraiser approved by both parties, and the costs of the appraisal shall be shared equally by the parties.
- b. If the Franchisee is required in the Franchise Documents to execute a release of claims, such release shall exclude claims arising under the Hawaii Franchise Investment Law. Any condition, stipulation or provision binding the Franchisee to waive compliance with any provision of Section 482E-6 of the Hawaii Franchise Investment Law shall be void.

- c. The requirement of a franchisee to purchase or lease goods or services of the franchisor or from designated sources may not be enforceable under Hawaii Franchise Investment law unless it is reasonably necessary for a lawful purpose, and does not substantially affect competition.
- d. The Hawaii Franchise Investment Law prohibits the Franchisor from establishing a similar business or granting a franchise for the establishment of a similar business to that of the Franchisee's within the Franchisee's exclusive territory. To the extent the Franchise Documents contain a provision that is inconsistent with the Act, the Act will control.
- e. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Section 482E-3(a) of the Hawaii Franchise Investment Law requires us to give you a copy of the Franchise Disclosure Document at least 7 calendar days prior to signing the Agreement.

3. The Franchise Documents permits us to terminate the Agreement upon your bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law. (11 U.S.C. §101, et seq.).

4. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Hawaii Franchise Investment Law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:
 KAHALA FRANCHISING, L.L.C., an Arizona
 limited liability company

FRANCHISEE:
 _____,

By: _____
 [Name, Title]

By: _____
 [Name, Title]

By: _____
 [Name, Title]

[SUBLESSOR:

By: _____

[Name, Title]]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF ILLINOIS)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF ILLINOIS) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

ILLINOIS LAW MODIFICATIONS

1. The Illinois Attorney General's Office requires that certain provisions contained in franchise documents be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, Ill. Comp. Stat. Ch. 815 para. 705/1 –705/44 (1994). To the extent that the Franchise Documents contain provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Illinois Franchise Disclosure Act Sections 19 and 20 provide rights to the Franchisee concerning non-renewal and termination of the Franchise Agreement. If the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. If the Franchisee is required in the Franchise Documents to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule of order under the Act, such release shall exclude claims arising under the Illinois Franchise Disclosure Act, and such acknowledgements shall be void with respect to claims under the Act.
- c. If the Franchise Documents designate jurisdiction or venue in a forum other than the State of Illinois, the requirement is void under the Illinois Franchise Disclosure Act except that the Franchise Documents may provide for arbitration in a forum outside the State of Illinois.
- d. If the Franchise Documents requires that it be governed by a state's law, other than the State of Illinois, to the extent that such law conflicts with the Illinois Franchise Disclosure Act, the Act will control.
- e. Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void."

- f. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Illinois Franchise Disclosure Act, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

[SUBLESSOR:

By: _____
[Name, Title]

FRANCHISEE:

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF INDIANA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF INDIANA) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement], as amended, [Consent to Transfer and Release Agreement], [General Release], [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

INDIANA LAW MODIFICATIONS

1. The Indiana Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with Indiana law, including the Indiana Franchises Act, Ind. Code Ann. §§ 1-51 (1994) and the Indiana Deceptive Franchise Practices Act, Ind. Code Ann. § 23-27 (1985). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning non-renewal and termination of the Franchise Agreement. To the extent the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. If the Franchisee is required in the Franchise Documents to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule of order under the Act, such release shall exclude claims arising under the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, and such acknowledgements shall be void with respect to claims under the Act.
- c. If the Franchise Agreement contains covenants not to compete upon expiration or termination of the Franchise Agreement that are inconsistent with the Indiana Deceptive Franchise Practices Act, the requirements of the Act will control.
- d. The Indiana Deceptive Franchise Practices Act provides that substantial modification of the Agreement by Franchisor requires written consent of the Franchisee. If the Agreement contains provisions that are inconsistent with this requirement, the Act will control.
- e. If the Franchise Documents requires litigation/arbitration to be conducted in a forum other than the State of Indiana, the requirement may be unenforceable

as a limitation on litigation under the Indiana Deceptive Franchise Practices Act §§ 23-2.2.7(10).

- f. If the Franchise Documents requires that it be governed by a state's law, other than the State of Indiana, to the extent that such law conflicts with the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, the Acts will control.
- g. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the waiver of claims or rights. To the extent the Franchise Documents contains a provision that is inconsistent with the Act, the Act will control.
- h. The Indiana Deceptive Franchise Practices Act provides rights to Franchisee concerning the time period to bring an action against the Franchisor. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- i. The Indiana Deceptive Franchise Practices Act prohibits the Franchisor from operating a substantially identical business to that of the Franchisee's within the Franchisee's territory, regardless of trade name. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- j. The Indiana Deceptive Franchise Practice Act excludes any indemnification for liability caused by the Franchisee's proper reliance on or use of procedures or materials provided by the Franchisor. To the extent the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- k. If the Franchise Agreement requires goods, supplies, inventories, or services to be purchased exclusively from the franchisor or sources designated by the franchisor where such goods, supplies, inventories or services of comparable quality are available from sources other than those designated by the franchisor, to the extent that such law conflicts with the Indiana Deceptive Franchise Practices Act and the Indiana Franchises Act, the Acts will control. Providing a list of approved suppliers to comply with specifications and standards prescribed by Franchisor does not constitute designation of a source under the Indiana Deceptive Franchise Practices Act.
- l. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Indiana Code § 23-2-2.5-9(2) requires us to give you a copy of the Franchise Disclosure Document at the earlier of: (i) 10 days prior to signing the Agreement; or (ii) 10 days prior to our receipt of any consideration.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Indiana Deceptive Practices Act and the Indiana Franchises Act,

with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, has duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

[SUBLESSOR:

_____,

By: _____
[Name, Title]

FRANCHISEE:

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF MARYLAND)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF MARYLAND) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ ("Sublessor")] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

MARYLAND LAW MODIFICATIONS

1. The Maryland Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Maryland law, including the Maryland Franchise Registration and Disclosure Law. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:
 - a. The general release required as a condition of assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
 - b. The general release required as a condition of renewal shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
 - c. The Franchise Documents requires litigation to be conducted in the State of Arizona. The Franchise Documents are amended to state that the requirement for litigation to be conducted in a forum other than the State of Maryland shall not be interpreted to limit any rights Franchisee may have to bring suit in the state of Maryland. A Franchisee may file a civil lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.
 - d. The Franchise Documents provide that certain disputes are resolved through arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

- e. Based upon the Franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the Franchisor completes its pre-opening obligations under the Franchise Documents.
- f. All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.
- g. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

[SUBLESSOR:

_____,

By: _____
[Name, Title]]

FRANCHISEE:

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF MICHIGAN)

Section 445.1508(1) of the Michigan Franchise Investment Law requires franchisor to give you a copy of the Franchise Disclosure Document earlier of: (i) 10 business days prior to signing the Franchise Agreement; or (ii) 10 business days prior to franchisor's receipt of any consideration.

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN THE FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU:

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if:
 - (i) The term of the franchise is less than 5 years and
 - (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:

- (i) The failure of the proposed transferee to meet the franchisor's then-current reasonable qualifications or standards.
 - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
 - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
 - (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.
- (h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).
- (i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.
- (j) No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.

Any questions regarding this Notice shall be directed to :

STATE OF MICHIGAN
DEPARTMENT OF THE ATTORNEY GENERAL
ATTENTION: FRANCHISE SECTION
P.O. BOX 30213
LANSING, MICHIGAN 48909
(517) 373-7117

ADDENDUM TO FRANCHISE DOCUMENTS

(FOR THE STATE OF MINNESOTA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF MINNESOTA) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

MINNESOTA LAW MODIFICATIONS

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in franchise documents be amended to be consistent with Minnesota Franchise Act, Minn. Stat. Section 80.01 et seq., and of the Rules and Regulations promulgated under the Act (collectively "Franchise Act"). To the extent that the Franchise Documents and Disclosure Document contain provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Minnesota Statutes, Section 80C.21 and Minnesota Rules 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction. Any condition, stipulation or provision, including any choice of law provision, purporting to bind any person who, at the time of acquiring a franchise is a resident of this state, or, in the case of a partnership or corporation, organized or incorporated under the laws of this state, or purporting to bind a person acquiring any franchise to be operated in this state to waive compliance or which has the effect of waiving compliance with any provision of sections [80C.01](#) to [80C.22](#) or any rule or order thereunder is void under the Minnesota Franchise Act, Minn. Stat. § 80C.21.
- b. With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement and (2) that consent to the transfer of the franchise will not be unreasonably withheld.

- c. Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes, Section 80C.12, Subd. 1(g). The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name.
- d. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statutes 1973 Supplement, sections [80C.01](#) to [80C.22](#); provided, that this part shall not bar the voluntary settlement of disputes.
- e. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J. Also, a court will determine if a bond is required.
- f. The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.
- g. Minnesota limits a service charge not to exceed \$30 for any dishonored check by the payee or holder of the check. See Minn. Rules 604.113.
- h. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Minnesota law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

[SUBLESSOR:

_____,

By: _____
[Name, Title]

FRANCHISEE:

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF NORTH DAKOTA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF NORTH DAKOTA) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

NORTH DAKOTA LAW MODIFICATIONS

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota Law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 through 51-19-17 (1993). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchisee is required in the Franchise Documents to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the North Dakota Franchise Investment Law, and such acknowledgements shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term and upon termination or expiration of the Franchise Agreement are enforceable only under certain conditions according to North Dakota Law. If the Agreement contains a covenant not to compete which is inconsistent with North Dakota Law, the covenant may be unenforceable.
- c. If the Franchise Documents require litigation to be conducted in a forum other than the State of North Dakota, the requirement is void with respect to claims under the North Dakota Franchise Investment Law.
- d. If the Franchise Documents require that it be governed by a state's law, other than the State of North Dakota, to the extent that such law conflicts with the North Dakota Franchise Investment Law, the North Dakota Franchise Investment Law will control.
- e. If the Franchise Documents require mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the

North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon prior to the arbitration or if the parties cannot agree on a location, the location will be determined by the arbitrator.

- f. If the Franchise Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.
- g. Section 51-19-08 of the North Dakota Franchise Investment Law requires Franchisor to give you a copy of the Franchise Disclosure Document at the earlier of: (i) seven days prior to signing the Franchise Agreement; or (ii) seven days prior to Franchisor's receipt of any consideration.
- h. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. THE SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (NDCC SECTION 51-19-09):

- A. Restrictive Covenants: Franchise disclosure documents which disclose the existence of covenants restricting competition contrary to NDCC Section 9-08-06, without further disclosing that such covenants will be subject to the statute.
- B. Situs of Arbitration Proceedings: Franchise agreements providing that the parties must agree to the arbitration of disputes at a location that is remote from the site of the franchisee's business.
- C. Restrictions on Forum: Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.
- D. Liquidated Damages and Termination Penalties: Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.
- E. Applicable Laws: Franchise agreements which specify that they are to be governed by the laws of a state other than North Dakota.
- F. Waiver of Trial by Jury: Requiring North Dakota Franchises to consent to the waiver of a trial by jury.
- G. Waiver of Exemplary & Punitive Damages: Requiring North Dakota Franchisees to consent to a waiver of exemplary and punitive damage.
- H. General Release: Franchise Agreements that require the franchisee to sign a general release upon renewal of the franchise agreement.

- I. Limitation of Claims: Franchise Agreements that require the franchisee to consent to a limitation of claims. The statute of limitations under North Dakota law applies.
- J. Enforcement of Agreement: Franchise Agreements that require the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona limited liability company

By: _____
[Name, Title]

FRANCHISEE:

By: _____
[Name, Title]

[SUBLESSOR:

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF NEW YORK)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF NEW YORK) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ ("Sublessor")] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents

NEW YORK LAW MODIFICATIONS

1. The New York Department of Law requires that certain provisions contained in franchise documents be amended to be consistent with New York law, including the General Business Law, Article 33, Section 680 through 695 (1989). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchisee is required in the Franchise Documents to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the General Business Law, regulation, rule or order under the Law, such release shall exclude claims arising under the New York General Business Law, Article 33, Section 680 through 695 and the regulations promulgated thereunder, and such acknowledgements shall be void. It is the intent of this provision that non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.
- b. If the Franchise Documents requires that it be governed by a state's law, other than the State of New York, the choice of law provision shall not be considered to waive any rights conferred upon the Franchisee under the New York General Business Law, Article 33, Sections 680 through 695.
- c. If the Franchisee is required in the Franchise Documents to waive compliance with General Business Law or rule under the Law, such condition, stipulation or provision shall be void.
- d. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchisee

seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of New York General Business Law, with respect to each such provision are met.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the New York law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth above, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

[SUBLESSOR:

By: _____
[Name, Title]]

FRANCHISEE:

_____,

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF RHODE ISLAND)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF RHODE ISLAND) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ ("Sublessor")] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

RHODE ISLAND LAW MODIFICATIONS

1. The Rhode Island Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R.I. Gen. Law. ch. 395 Sec. 19-28.1-1 – 19-28.1-34. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchise Documents restricts jurisdiction or venue to a forum other than the State of Rhode Island, the requirement is void under Rhode Island Franchise Investment Act Sec. 19-28.1-14.
- b. If the Franchise Documents requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that such law conflicts with Rhode Island Franchise Investment Act it is void under Sec. 19-28.1-14.
- c. If the Franchisee is required in the Franchise Documents to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, such release shall exclude claims arising under the Rhode Island Franchise Investment Act, and such acknowledgements shall be void with respect to claims under the Act.
- d. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision

supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met.

3. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

FRANCHISEE:

_____,

By: _____
[Name, Title]

By: _____
[Name, Title]

[SUBLESSOR:

_____,
a[n]

By: _____]
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS

(FOR THE STATE OF SOUTH DAKOTA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF SOUTH DAKOTA) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ ("Sublessor")] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

SOUTH DAKOTA LAW MODIFICATIONS

1. The Director of the South Dakota Division of Securities requires that certain provisions contained in franchise documents be amended to be consistent with South Dakota law, including the South Dakota Franchise Investment Law, South Dakota Codified Laws, Title 37, Chapter 37-5B, Sections 37-5B-1 through 37-5B-53 (2008). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchisee is required in the Franchise Documents to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the South Dakota Franchise Investment Law, and such acknowledgements shall be void with respect to claims under the Law.
- b. Covenants not to compete upon termination or expiration of the Franchise Agreement are generally unenforceable in the state of South Dakota, except in certain limited instances as provided by law. If the Agreement contains a covenant not to compete which is inconsistent with South Dakota Law, the covenant may be unenforceable.
- c. Regardless of the terms of the Franchise Agreement concerning termination, if Franchisee fails to meet performance and quality standards or fails to make any royalty payments under the Franchise Agreement, Franchisee will be afforded thirty (30) days' written notice with an opportunity to cure the default before termination.

- d. If the Franchise Documents require payment of liquidated damages that are inconsistent with South Dakota law, the liquidated damage clause may be void under SDCL 53-9-5.
- e. If the Franchise Documents require litigation to be conducted in a forum other than the State of South Dakota, the requirement is void with respect to any cause of action otherwise enforceable under South Dakota Law.
- f. If the Franchise Documents require that it be governed by a state's law, other than the State of South Dakota, matters regarding franchise registration, employment, covenants not to compete, and other matters of local concern will be governed by the laws of the State of South Dakota; but as to contractual and all other matters, the Agreement and all provisions of this Addendum will be and remain subject to the application, construction, enforcement, interpretation under the governing law set forth in the Agreement.
- g. If the Franchise Documents require that disputed between Franchisor and Franchisee be mediated/arbitrated at a location that is outside the State of South Dakota, the mediation/arbitration will be conducted at a location mutually agreed upon by the parties. If the parties cannot agree on location for the mediation/arbitration, the location shall be determined by the mediator/arbitrator selected.
- h. Any condition, stipulation or provision in the Franchise Documents requiring Franchisee to waive compliance of a provision under the South Dakota Franchise Investment Law may be void.
- i. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the South Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

FRANCHISEE:

_____,

By: _____
[Name, Title]

By: _____
[Name, Title]

[SUBLESSOR:

_____,
a[n]

By: _____]
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF VIRGINIA)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF VIRGINIA (“Addendum”) dated _____ (“Addendum Effective Date”) to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, “Franchise Documents”) between _____ (“Franchisee”) and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company (“Franchisor”) [and LEASING ENTITY, a[n] _____ “Sublessor”] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

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

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Virginia Retail Franchising Act applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

[SUBLESSOR:

_____,
a[n]

By: _____]
[Name, Title]

FRANCHISEE:

_____,

By: _____
[Name, Title]

By: _____
[Name, Title]

ADDENDUM TO THE FRANCHISE DOCUMENTS
(REQUIRED BY THE STATE OF WASHINGTON)

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

1. If any provisions governing termination or non-renewal disclosed herein are inconsistent with Washington law, then Washington law shall apply. The applicable law reads as follows:

Section 19.100.180. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

(2) For the purpose of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and violation of this chapter for any person to:

(a) Restrict or inhibit the right of the franchisees to join an association of franchisees.

(b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.

(c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is: (i) Reasonable, (ii) based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time, or is based on other proper and justifiable distinctions considering the purposes of this chapter, and (iii) is not arbitrary. However, nothing in (c) of this subsection precludes negotiation of the terms and conditions of a franchise at the initiative of the franchisees.

(d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.

(e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.

(f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor

to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.

(g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter, except as otherwise permitted by RCW [19.100.220](#).

(h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.

(i) Refuse to renew a Franchise Agreement without fairly compensating the franchisee for the fair market value, at the time of expiration of the Franchise Agreement, or the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchised business: PROVIDED, that compensation need not be made to a franchisee for good will if: (i) the franchisee has been given one year's notice of nonrenewal; and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to franchisor.

(j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, that after three willful and material breaches of the same term of the Franchise Agreement occurring within a twelve month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the Franchise Agreement upon any subsequent month period without providing notice or opportunity cure: PROVIDED FURTHER, that a franchisor may terminate a Franchise Agreement without prior notice or opportunity to cure a default if the franchisee: (i) is adjudicated bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchised business; (iii) voluntarily abandons the franchised business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchised business. Upon termination for good cause the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of: (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchised business; and (iii) if the franchisee is to retain control of the premises of the franchised business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, that a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor."

(k) No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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

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

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

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

Each provision of this Addendum to Franchise Documents shall be effective only to the extent that the jurisdictional requirements of the Washington law applicable to the provision are met independent of this Addendum. This Addendum to Franchise Documents shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum to Franchise Documents, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum to the Franchise Documents on _____.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

FRANCHISEE:

By: _____
[Name, Title]

By: _____
[Name, Title]

[SUBLESSOR:

_____,
a[n]

By: _____]
[Name, Title]

ADDENDUM TO FRANCHISE DOCUMENTS
(FOR THE STATE OF WISCONSIN)

This ADDENDUM TO FRANCHISE DOCUMENTS (FOR THE STATE OF WISCONSIN) ("Addendum") dated _____ ("Addendum Effective Date") to the [Franchise Agreement[, as amended], [Consent to Transfer and Release Agreement,] [General Release,] [Promissory Note and Security Agreement] [Sublease] [each] dated _____, and including any and all exhibits attached thereto (individually and collectively, "Franchise Documents") between _____ ("Franchisee") and KAHALA FRANCHISING, L.L.C., an Arizona limited liability company ("Franchisor") [and LEASING ENTITY, a[n] _____ "Sublessor"] hereby amends the Franchise Documents by the addition of the following language, which shall be considered an integral part of the Agreement. To the extent this Addendum contains terms and conditions that differ from those contained in the Franchise Documents, this Addendum shall control. The parties agree that a concept or principle covered in this Addendum shall apply and be incorporated into all other provisions of the Franchise Documents in which the concept or principle is also applicable, notwithstanding the absence of any specific cross-reference thereto. All capitalized terms not otherwise defined in this Addendum will have the same meanings ascribed to such terms in the Franchise Documents.

WISCONSIN LAW MODIFICATIONS

1. The Securities Commissioner of the State of Wisconsin requires that certain provisions contained in franchise documents be amended to be consistent with Wisconsin Fair Dealership Law, Wisconsin Statutes, Chapter 135 ("Fair Dealership Law") and the Wisconsin Franchise Investment Law, Chapter 553. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Wisconsin Fair Dealership Law, among other things, grants you the right, in most circumstances, to 90 days' prior written notice of non-renewal and 60 days within which to remedy any claimed deficiencies. If the Franchise Agreement contains a provision that is inconsistent with the Wisconsin Fair Dealership Law, the provisions of the Agreement shall be superseded by the Law's requirements and shall have no force or effect.
- b. The Wisconsin Fair Dealership Law, among other things, grants you the right, in most circumstances, to 90 days' prior written notice of termination and 60 days within which to remedy any claimed deficiencies. If the Franchise Agreement contains a provision that is inconsistent with the Wisconsin Fair Dealership Law, the provisions of the Agreement shall be superseded by the Law's requirements and shall have no force or effect.
- c. If the Franchise Documents require that they be governed by a state's law, other than the State of Wisconsin, to the extent that any provision of the Franchise Documents conflicts with the Wisconsin Fair Dealership Law such provision shall be superseded by the law's requirements.
- d. Any condition, stipulation or provision in the Franchise Documents requiring Franchisee to waive compliance with any provision under the Wisconsin Franchise Investment law may be void.

- e. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Wisconsin law applicable to the provision are met independent of this Addendum. This Addendum shall have no force or effect if such jurisdictional requirements are not met. Except as set forth in this Addendum, the terms and provisions of the Franchise Documents shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto, by and through its respective representative with full rights, power and authority to enter into and bind his or her respective party without further consent or approval of any kind, have duly executed and delivered this Addendum as of the Addendum Effective Date.

FRANCHISOR:

KAHALA FRANCHISING, L.L.C., an Arizona
limited liability company

By: _____
[Name, Title]

FRANCHISEE:

_____,

By: _____
[Name, Title]

By: _____
[Name, Title]

SUBLESSOR:

_____,
a[n]

By: _____]
[Name, Title]

EXHIBIT T

TO THE FRANCHISE DISCLOSURE DOCUMENT

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Operations Manual

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EXHIBIT U

TO THE FRANCHISE DISCLOSURE DOCUMENT

List of Franchise Owners

Cold Stone Creamery Franchise List as of November 30, 2022

The name of the franchisee, store address and telephone numbers of the stores are listed below:

| Franchise Company | Owners | Address | City | State | Zip | Phone |
|--------------------------|--|-----------------------------|--------------|--------------|------------|--------------|
| Chugach Creamery, Inc. | Catharine Persinger, Gregory Persinger | 1830 E Parks Hwy | Wasilla | AK | 99654 | 9073572653 |
| Chugach Creamery, Inc. | Gregory Persinger, Catharine Persinger | 11432 Business Blvd | Eagle River | AK | 99577 | 9076963441 |
| KH2 Corporation | Kim Hwang, Kevin Hwang | 12350 Industry Way | Anchorage | AK | 99515 | 9078681030 |
| | Kevin Hwang, Kim Hwang | 7731 E Northern Lights Blvd | Anchorage | AK | 99504 | 9073372044 |
| Chugach Creamery, Inc. | Catharine Persinger, Gregory Persinger | 930 Old Steese Hwy | Fairbanks | AK | 99701 | 9074561624 |
| Manner, Inc | Bushra Elsayed, Hisham Zeinelabdin | 2750 Carl T Jones Dr SE | Huntsville | AL | 35802 | 2568836868 |
| Four Star Creamery, LLC | Dana DePew | 1430 Gadsden Hwy | Trussville | AL | 35235 | 2056553776 |
| MPM Company, L.L.C. | Phillip Kitchens, Marsha Kitchens | 4871 Montgomery Hwy | Dothan | AL | 36303 | 3346710041 |
| Sweet Dreams, Inc. | Mauricio Aguilar | 12800 Chenal Pkwy | Little Rock | AR | 72211 | 5012257000 |
| AR Hearts Ice Cream, LLC | Melody Meersman, Michael Meersman | 3301 S Market St | Rogers | AR | 72758 | 4792718530 |
| AR Hearts Ice Cream, LLC | Michael Meersman, Melody Meersman | 160 E Joyce Blvd | Fayetteville | AR | 72703 | 4795829050 |
| Sweet Dreams, Inc. | Mauricio Aguilar | 1120 E Oak St, Suite 101 | Conway | AR | 72032 | 5013586800 |

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|--|--|------------------------|----------|----|-------|------------|
| Positive Plus, LLC | Rupesh Patel, Chandravadan Patel, Shailja Patel | 3330 S McClintock Dr | Tempe | AZ | 85282 | 4804911331 |
| Wild Spirit Ice Cream University, LLC | John.Daniel, Dawn.Daniel | 1927 E Speedway Blvd | Tucson | AZ | 85719 | 5207957576 |
| Anya LLC | Jigar Saraiya, Rina Saraiya | 8215 W Bell Rd | Peoria | AZ | 85382 | 6233345016 |
| Kavish Investments LLC | Jinal Parikh, Palak Parikh, Jigar Saraiya | 1949 E Camelback Rd | Phoenix | AZ | 85016 | 6022489250 |
| J'S Desserts, LLC | Jessica Ritchie | 12625 N Tatum Blvd | Phoenix | AZ | 85032 | 6027650591 |
| Ice Realms, LLC | Rick Miller, Scarlett Miller | 7131 W Ray Rd | Chandler | AZ | 85226 | 4809618099 |
| Columba Ess, LLC | Thomas Kim | 2501 W Happy Valley Rd | Phoenix | AZ | 85085 | 6238699469 |
| Chaudhry L.L.C. | Sameera Chaudhry, Humayun Chaudhry | 440 E Bell Rd | Phoenix | AZ | 85022 | 6024049202 |
| Lowers AZ Creameries, LLC | Jon Lowers, Douglas Lowers, Kimberly Lowers | 1959 S Power Rd | Mesa | AZ | 85206 | 4803257422 |
| Tasty Treats LLC | Rupesh Patel, Nayan Patel | 2915 S Alma School Rd | Chandler | AZ | 85286 | 4807868506 |
| Chaudhry L.L.C. | Humayun Chaudhry, Sameera Chaudhry | 3301 N Litchfield Rd | Goodyear | AZ | 85338 | 6239357878 |
| Wild Spirit Ice Cream Old Spanish Trail, LLC | Dawn.Daniel, John.Daniel | 9565 E 22nd St | Tucson | AZ | 85748 | 5207218488 |
| Rare Cone Creamery, L.L.C. | Somasekhara (Soma) Yarrapureddy, Indrathi Nallapareddy | 1649 S Stapley Dr | Mesa | AZ | 85204 | 4805076424 |
| Willis & Willis Investments, Inc. | Fred Willis, Donna Willis | 21001 N Tatum Blvd | Phoenix | AZ | 85050 | 4805857952 |
| Willis & Willis Investments, Inc. | Fred Willis, Donna Willis | 10210 W McDowell Rd | Avondale | AZ | 85392 | 6239329205 |

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|--------------------------|---|---------------------------------|-------------|----|-------|------------|
| CS Core L.L.C. | Chung Keun Kang,Angela Kyung Sook Kang | 455 N 3rd St | Phoenix | AZ | 85004 | 6022525572 |
| VE Enterprises LLC | Indravathi Nallapareddy,Alekhya Reddy,Suma Yarrapureddy,Somasekhara (Soma) Yarrapureddy,Indravathi Nallapareddy,Alekhya Reddy,Suma Yarrapureddy,Somasekhara (Soma) Yarrapureddy | 2815 W Peoria Ave | Phoenix | AZ | 85029 | 6023710144 |
| V.W. Enterprises L.L.C. | Somasekhara (Soma) Yarrapureddy,Indravathi Nallapareddy | 14858 N Frank Lloyd Wright Blvd | Scottsdale | AZ | 85260 | 4804515996 |
| Radha Krishna LLC | Harsh Patel,Trushna Patel | 2170 E Baseline Rd | Phoenix | AZ | 85042 | 6022437837 |
| B5 DISTRIBUTING, INC. | Brett Schoenhardt,Patricia Schoenhardt | 1829 N Power Rd | Mesa | AZ | 85205 | 4803967544 |
| CSCR - Corp | Rochan Goswami,Rochan Goswami | 2080 S Milton Rd | Flagstaff | AZ | 86001 | 9287792856 |
| Tasty Treats LLC | Rupesh Patel,Nayan Patel | 2970 E Germann Rd | Chandler | AZ | 85286 | 4808211570 |
| Kolnick, Laura | Laura Kolnick | 7507 S Power Rd | Queen Creek | AZ | 85142 | 4808403300 |
| Radha Krishna LLC | Harsh Patel,Trushna Patel | 20022 N 67th Ave | Glendale | AZ | 85308 | 6235669400 |
| Desert Sun Creamery, LLC | Kevin Stanhope,B. Lea Stanhope | 1317 S Palms Pkwy | Yuma | AZ | 85365 | 9287837202 |
| Osborne Ventures LLC | Pamela Osborne,Jeff Osborne | 101 N State Route 89A | Sedona | AZ | 86336 | 9282037700 |

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|---|---|---|---------------|----|-------|------------|
| Wild Spirit Ice Cream Tanque Verde, LLC | Dawn.Daniel,John.Daniel | 7113 E Tanque Verde Rd | Tucson | AZ | 85715 | 5202900229 |
| Canyon Son LLC | Bill Egler,Gwen McCourt Egler,Bill Egler,Gwen McCourt Egler | 9380 W Westgate Blvd | Glendale | AZ | 85305 | 6238771580 |
| Osborne Ventures LLC | Jeff Osborne,Pamela Osborne | 9918 W Happy Valley Rd | Peoria | AZ | 85383 | 6235661400 |
| Arizona Ice Cream Company, Inc. | Rodney Lands | 480 North AZ 90, Suite #A-4 | Sierra Vista | AZ | 85635 | 5204591854 |
| Arizona Ice Cream Company, Inc. | Rodney Lands | 5435 S Calle Santa Cruz | Tucson | AZ | 85706 | 5208894770 |
| Arizona Ice Cream Company, Inc. | Rodney Lands | 475 W Wetmore Rd | Tucson | AZ | 85705 | 5208873131 |
| Finest Creamery LLC | Angel Carlo,Timothy Guerra | 1752 S Signal Butte Rd | Mesa | AZ | 85209 | 4809844063 |
| Willis & Willis Investments, Inc. | Donna Willis,Fred Willis | 2000 E Rio Salado Pkwy | Tempe | AZ | 85281 | 4809681255 |
| Megha Group LLC | Jay Megha,Purvi Megha | 3699 Highway 95 | Bullhead City | AZ | 86442 | 9287636500 |
| Lowers AZ Creameries, LLC | Douglas Lowers,Kimberly Lowers,Jon Lowers | 3641 E Baseline Rd | Gilbert | AZ | 85234 | 4806325517 |
| Wild Spirit Ice Cream Broadway, LLC | Dawn.Daniel,John.Daniel | 5870 E Broadway Blvd | Tucson | AZ | 85711 | 5207901003 |
| Willis & Willis Investments, Inc. | Fred Willis,Donna Willis | 13681 N Litchfield Rd | Surprise | AZ | 85379 | 6235848180 |
| S&J Foods LLC | Jennifer Leon | 1877 East Williams Field Rd., Suite 105 | Gilbert | AZ | 85295 | 4803076990 |

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|--|--|--------------------------|--------------|----|-------|------------|
| Sweet Cream of Sherman Oaks, Inc. | Faramarz Talehakimi,Haleh Roshan-Kashani | 14622 Ventura Blvd | Sherman Oaks | CA | 91403 | 8189072702 |
| R&J GLOBAL, INC. | Curtis Chang,Margaret Chang | 2950 Johnson Dr | Ventura | CA | 93003 | 8056581129 |
| Moon River Pacific, Inc | Young Park,Sun Park,Edward Park | 5718 Calle Real | Goleta | CA | 93117 | 8056921598 |
| Idyllic Eateries, LLC | Michael Conboy,Amy Conboy | 6145 El Cajon Blvd | San Diego | CA | 92115 | 6195833361 |
| Martin, Corey and Hari Demissie-Martin | Corey Martin,Hari Demissie-Martin | 4705 Clairemont Dr | San Diego | CA | 92117 | 8582705552 |
| Smita Parida, Inc. | Smita Parida | 14797 Pomerado Rd | Poway | CA | 92064 | 8587489340 |
| A & R Creamery, Inc. | Alan Arabo,Renae Arabo | 2963 Jamacha Rd | El Cajon | CA | 92019 | 6196605151 |
| YMS Enterprise Inc | Yooseok Kim | 2967 Carlsbad Blvd | Carlsbad | CA | 92008 | 7607202974 |
| Reyes International Enterprises, Inc. | Alberto Reyes Hernandez | 374 E H St | Chula Vista | CA | 91910 | 6194202064 |
| Tang, Kia | Kia Tang | 757 E El Camino Real | Sunnyvale | CA | 94087 | 4087394420 |
| Feist Family Enterprises LLC | William P Feist,Jeannette Feist | 155 S Palm Canyon Dr | Palm Springs | CA | 92262 | 7609802011 |
| RAYN DRZR Corporation | Dilawar Khan,Rabia Khan | 4920 Dublin Blvd | Dublin | CA | 94568 | 9258751333 |
| Sajj Enterprises Inc. | Stephen Johnson,Xiao Hua (Aisha) Johnson | 412 Sycamore Valley Rd W | Danville | CA | 94526 | 9258374080 |
| Jera Investments, Inc. | Esther Wong,Joe Lin | 409 Mission Ave | Oceanside | CA | 92054 | 7607220880 |
| Mesa Creations LLC | Gaurav Sharma,Roohi Sharma | 5500 Grossmont Center Dr | La Mesa | CA | 91942 | 6196976521 |

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|---------------------------------------|--|------------------------|------------------------|----|------------|------------|
| Jera Investments, Inc. | Esther Wong,Joe Lin | 1158 W San Marcos Blvd | San Marcos | CA | 92078 | 7605109347 |
| Alvarez International Inc | Luis Alvarez,Elizabeth Perez | 101 W Main St | Alhambra | CA | 91801 | 6262828886 |
| Coburn, Steven | Steve C Coburn | 60 Crescent Dr | Pleasant Hill | CA | 94523 | 9252880388 |
| AAG Enterprises, LLC | Ahsan Qazi,Nawazish Qazi,Ahsan Qazi Jr. | 40688 Winchester Rd | Temecula | CA | 92591-5504 | 9517193151 |
| Santa Barbara Dreams, LLC | Edward Colton,Susan Colton | 504 State Street | Santa Barbara | CA | 93101 | 8058829128 |
| Ice Star Foods, LLC | Gulizar Yildiz | 416 Olive Avenue | Huntington Beach | CA | 92648 | 7143746744 |
| ICWON, CORP. | John Chung,Teresa Chung | 14370 Culver Dr | Irvine | CA | 92604 | 9498570430 |
| Smita Parida, Inc. | Smita Parida | 10716 Westview Pkwy | San Diego | CA | 92126 | 8586959771 |
| Benevedes, Inc. | Annette Benevedes | 5076 N Palm Ave | Fresno | CA | 93704 | 5592250437 |
| A.F.F. Holding Corporation | Asad Jalil,Muhammad Wadood,Muhammad Haque | 19500 Plummer St | Northridge | CA | 91324 | 8187001443 |
| CHENGLI CORPORATION | Cathryn Cheng,Guwei Zhang,Kevin Lei,Wendy Li | 426 Great Mall Drive | Milpitas | CA | 95035 | 4082631600 |
| Maestro Choco LLC | Yassine Harbaoui,Wafa Rebaaoui | 22342 El Paseo | Rancho Santa Margarita | CA | 92688 | 9498889160 |
| Humphrey & Reanesey Enterprises, Inc. | Reangsey Kok,Mom Kok,Franklin Hok | 1940 W Whittier Blvd | La Habra | CA | 90631 | 5626904922 |

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|-------------------------------|---|---------------------------|---------------|----|-------|------------|
| Aujla Ventures, LLC | Kevin Aujla | 1901 Junipero Serra Blvd | Daly City | CA | 94014 | 6509923889 |
| Business House of Moeens Inc. | Moeen Ul Haq,Ayesha Moeen | 131 E Palm Ave | Burbank | CA | 91502 | 8182389931 |
| Randhawa, Sandeep | Sandeep Randhawa | 1228 Galleria Blvd | Roseville | CA | 95678 | 9167804700 |
| Sood Delights LLC | Manish Sood,Kavita Sood | 2791 E Bidwell St | Folsom | CA | 95630 | 9168172776 |
| MJV Investments, Inc. | Jodi Vettese,Mark Vettese | 72840 Highway 111 | Palm Desert | CA | 92260 | 7608370071 |
| KHUSMEHR INC. | Prabhdeep Mann,Ramneek Singh | 4001 Woodcreek Oaks Blvd | Roseville | CA | 95747 | 9167897508 |
| Ferrell, Charles & Jeanne | Jeanne Ferrell,Charles Ferrell - DECEASED | 2448 San Diego Ave | San Diego | CA | 92110 | 6195439057 |
| Hephaistos Investments, Inc. | Junfang Sun,Chi Chen,Cindy Lu,Joseph Xie | 39085 Fremont Hub | Fremont | CA | 94538 | 5105050556 |
| Mix & Joy, Inc. | Tae Soon Lee,Jung Hyun Lee | 627 Spectrum Center Drive | Irvine | CA | 92618 | 9494539738 |
| Idyllic Eateries, LLC | Michael Conboy,Amy Conboy | 2169 Fenton Pkwy | San Diego | CA | 92108 | 6195216794 |
| Team Mohsin Ice Creams, Inc. | Siddiqa Mohsin,Muhammad Mohsin Shafi | 27071 McBean Pkwy | Santa Clarita | CA | 91355 | 6612534123 |
| Scoop This! LLC | Charlene Stueve,Jerry Stueve, Jr. | 9160 Rosedale Hwy | Bakersfield | CA | 93312 | 6615885707 |
| CSC Pelandale Enterprise | Sandeep Hans | 3801 Pelandale Ave | Modesto | CA | 95356 | 2095431751 |
| Spectra Hospitality Group | Daniel Ortiz,Carolina Leticia Barba-Ortiz | 9514 Culver Blvd | Culver City | CA | 90232 | 3102800100 |

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|---------------------------------------|-----------------------------------|-----------------------------|------------------|----|-------|------------|
| KHUSMEHR INC. | Prabhdeep Mann,Ramneek Singh | 874 W Benjamin Holt Dr | Stockton | CA | 95207 | 2094751191 |
| DBGK LLC | Gulce Kabakci,Zerrin Baran | 7071 Warner Ave | Huntington Beach | CA | 92647 | 7143750859 |
| Dugum, Ramzi | Ramzi Dugum | 18740-A Soledad Canyon Road | Santa Clarita | CA | 91351 | 6612521300 |
| Benevedes, Inc. | Annette Benevedes | 7971 N Blackstone Ave | Fresno | CA | 93720 | 5594498155 |
| Benevedes, Inc. | Annette Benevedes | 1845 Herndon Ave | Clovis | CA | 93611 | 5592989301 |
| NK786 | Kashif Mirza | 431 W Main St | Merced | CA | 95340 | 2097259350 |
| Benevedes, Inc. | Annette Benevedes | 4128 S Mooney Blvd | Visalia | CA | 93277 | 5597130710 |
| R Brothers Enterprises, LLC | Ramneek Singh,Prabhdeep Mann | 115 W Elm St | Lodi | CA | 95240 | 2093691233 |
| Platinum Enterprises, Inc. | Duane Costa | 2866 W Monte Vista Ave | Turlock | CA | 95380 | 2096683737 |
| 1ST INFINITY ENTERPRISE | Sandeep Hans | 3501 McHenry Ave | Modesto | CA | 95356 | 2095214273 |
| Cooler West Enterprise | Karen Petrosyan,Raymond Zargaryan | 101 Main St | Seal Beach | CA | 90740 | 5626268151 |
| PKD Raj & Associates, Inc. | Punita Shah,Ajay Shah | 1201 1st St | Coronado | CA | 92118 | 6194376919 |
| Reyes International Enterprises, Inc. | Alberto Reyes Hernandez | 2295 Otay Lakes Rd | Chula Vista | CA | 91915 | 6194217172 |
| LKC Enterprises Inc | Lawrence Cassel,Krista Cassel | 26711 Aliso Creek Rd | Aliso Viejo | CA | 92656 | 9498311145 |
| King Kone & Herx, Inc. | Jorge Nava,Angelica Hernandez | 4869 S Bradley Rd | Orcutt | CA | 93455 | 8059349545 |
| RDL Capital, Inc. | Ron D. Lee | 25 Aquarium Way | Long Beach | CA | 90802 | 5626282343 |
| Shahalemi, Karima & Zakialla Rahimi | Karima Shahalemi,Zakialla Rahimi | 33215 Temecula Pkwy | Temecula | CA | 92592 | 9513020634 |

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|---|---------------------------------------|-----------------------|-------------|----|-------|------------|
| Roogee LLC | Gaurav Sharma,Roohi Sharma | 30 Main St | Vista | CA | 92083 | 7607588805 |
| KAMIZAK INC. | Maureen Kaczmariski,john kaczmariski | 25395 Madison Ave | Murrieta | CA | 92562 | 9513049777 |
| KB ZAK, Inc. | Stacy Gierczak,Rick Gierczak | 9868 Mission Gorge Rd | Santee | CA | 92071 | 6192582510 |
| M&L Enterprises (270448) Inc. | Rajwinder Singh | 1010 Court Street | San Rafael | CA | 94901 | 4152580105 |
| Sugar Bears, LLC | Li Yang Xiao,Nathan Liu | 11407 South St | Cerritos | CA | 90703 | 5628650088 |
| SGQ Inc. | Shan Qadeer,Syed Qadeer | 43440 10th St W | Lancaster | CA | 93534 | 6617264661 |
| Cool Creamery Petaluma, Inc | Boo Kay Chan,Gui Mei Cheng | 301 S McDowell Blvd | Petaluma | CA | 94954 | 7077621824 |
| CSC Del Monte LLC | Charles Lin,Eun Chan "Jacob" Park | 1470 Del Monte Ctr | Monterey | CA | 93940 | 8316491346 |
| Venkatesan, Shyamsundar & Thotta, Srivani | Shyamsundar Venkatesan,Srivani Thotta | 1584 Northridge Mall | Salinas | CA | 93906 | 8314492870 |
| SRA Venture Corporation | Saira Rizwan,Syed Rizwan | 600 Market Pl | San Ramon | CA | 94583 | 9253281014 |
| Scoop This! LLC | Charlene Stueve,Jerry Stueve, Jr. | 9000 Ming Ave | Bakersfield | CA | 93311 | 6616644950 |
| JNK Investments, Inc. | James P Mitchell,Karen Mitchell | 913 Dana Dr | Redding | CA | 96003 | 5307221070 |
| SSR Enterprises | Sandeep Randhawa,Navneet Randhawa | 9170 W Stockton Blvd | Elk Grove | CA | 95758 | 9166893446 |
| Coldscoop Carson LLC | Hamdi Harbaoui | 210 E Sepulveda | Carson | CA | 90745 | 4243640454 |

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| | | Bld | | | | |
| KHUSMEHR INC. | Prabhdeep Mann,Ramneek Singh | 1859 West 11th St | Tracy | CA | 95376 | 2098327461 |
| Ahluwalia, Ranjit | Ranjit Ahluwalia | 3401 Dale Rd | Modesto | CA | 95356 | 2095775500 |
| L&L National Investment LLC. | Lan Vo,Lap Nguyen | 4957 Katella Ave | Los Alamitos | CA | 90720 | 7142291860 |
| Doc McCreamy, Inc. | Min Wang,Vincent Chao | 13065 Peyton Dr | Chino Hills | CA | 91709 | 9099020015 |
| SPSTONE, CORP | So Young Yoon | 28154 S Western Ave | San Pedro | CA | 90732 | 3105193614 |
| Sinful Moo, Inc. | Vincent Chao,Min Wang | 5107 Candlewood Street | Lakewood | CA | 90712 | 5629251500 |
| MEGHA INVESTMENTS, LLC | Purvi Megha,Jay Megha | 215 Orangefair Mall | Fullerton | CA | 92832 | 7144499054 |
| MEGHA INVESTMENTS, LLC | Jay Megha,Purvi Megha | 5626 E La Palma Ave | Anaheim Hills | CA | 92807 | 7146937071 |
| Daisy's Ice Cream Bar Inc. | Luz Maria Contreras,Noel Chairez Contreras | 1515 N Mountain Ave | Ontario | CA | 91762 | 9099881881 |
| A.V. Ice Creamery, Inc. | Lory Axtman,Lacey Bilbruck | 1201 West Rancho Vista Blvd | Palmdale | CA | 93551 | 6612742650 |
| Rishtaa Inc. | Neha Patel,Niraj Patel | 2085 Vine St | El Dorado Hills | CA | 95762 | 9169336377 |
| All Profit Enterprises LLC | Wesley Kim | 12451 N Mainstreet | Rancho Cucamonga | CA | 91739 | 9093412420 |
| Ghumman, Umar | Umar Ghumman | 9385 Elk Grove Blvd | Elk Grove | CA | 95624 | 9167148720 |
| Chabi, Inc | Farhan Choudhery,Uzma Choudhery | 2252 Las Positas Rd | Livermore | CA | 94551 | 9253718290 |
| S.J. Dhillon Corporation | Sonu Dhillon,Jasvinder Kaur | 1449 E F St | Oakdale | CA | 95361 | 2098452459 |
| CSC Riverbank Enterprise | Sandeep Hans | 2213 Claribel Rd | Riverbank | CA | 95367 | 2098630176 |

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|-------------------------------|---|---------------------------|------------------|----|-------|------------|
| Shree Balaji Foods Inc | Mukesh Kumar,Rishabh Singh | 3934 Rivermark Plz | Santa Clara | CA | 95054 | 4086549137 |
| Ghayoor786, Inc. | Aisha Imtiaz,Ghayoor Ghumman | 1473 Fitzgerald Dr | Pinole | CA | 94564 | 5102233700 |
| Ghayoor786, Inc. | Ghayoor Ghumman,Aisha Imtiaz | 173 Plaza Dr | Vallejo | CA | 94591 | 7075532642 |
| AFK Ventures, Inc. | Muhammad Haque,Asad Jalil,Muhammad Wadood | 215A N Moorpark Rd | Thousand Oaks | CA | 91360 | 8055570600 |
| Chricol, Inc. | Chris Barwick,Colette Hill | 1009 W Arrow Hwy | San Dimas | CA | 91773 | 9093059368 |
| Zaman, Mohd & Sultana | Sultana Zaman,Mohad Zaman | 9867 Magnolia Ave | Riverside | CA | 92503 | 9516370920 |
| C M Roth, Inc. | Steven Weightman,Cynthia M. Roth | 4247 Atlantic Avenue | Long Beach | CA | 90807 | 5629971945 |
| CC&J Ventures LLC | John Evans | 1001 Heavenly Village Way | South Lake Tahoe | CA | 96150 | 5305412040 |
| Coldscope Garden Grove LLC | Hamdi Harbaoui | 9971 Chapman Ave | Garden Grove | CA | 92841 | 7145902188 |
| CSCDN Corp | Terry Kim,Minyoung Lee | 12024 Lakewood Blvd | Downey | CA | 90242 | 5628037848 |
| M&L Enterprises (270448) Inc. | Rajwinder Singh | 1586 Gateway Blvd | Fairfield | CA | 94533 | 7077594228 |
| Kido Investments, Inc. | Ara Kizirian | 130 E Grand Ave | El Segundo | CA | 90245 | 3106406149 |
| Cho Hahn Corporation | Kyung Chohahn,Hahn Cho,Byung Cho | 2916 Tapo Canyon Rd | Simi Valley | CA | 93063 | 8053061184 |
| Abelian, Rafik | Rafik Abelian | 1129 Pacific Avenue | Santa Cruz | CA | 95060 | 8314237015 |

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| SKR Investment, Inc | Balwinder Singh,Harpreet Singh,Raghvir Singh | 22503 Mission Blvd | Hayward | CA | 94541 | 5107271203 |
| Gill, Devinder and Brar, Ramanjit | Ramanjit Brar,Devinder Gill | 25960 Iris Ave | Moreno Valley | CA | 92551 | 9512475036 |
| Sripada Inc | Srivani Thotta,Shyamsundar Venkatesan | 636 San Antonio Road | Mountain View | CA | 94040 | 6509411222 |
| Lim, Dennis & Rona | Rona Lim,Dennis Lim | 2091 Harbison Dr | Vacaville | CA | 95688 | 7079995855 |
| S3A Oswal Enterprises, LLC | Sapna Oswal,Arvind Oswal | 8974 Trautwein Rd | Riverside | CA | 92506 | 9514131060 |
| Coldscoop West Hills LLC | Hamdi Harbaoui,Meriam Harbaoui | 22820 Vanowen St | West Hills | CA | 91307 | 8188870524 |
| Feng, Christine and Xue Yi | Christine Feng,Xue Yi Feng | 441 Rohnert Park Expy W | Rohnert Park | CA | 94928 | 7075841877 |
| AAG Enterprises, LLC | Ahsan Qazi,Nawazish Qazi,Ahsan Qazi Jr. | 1404 N Azusa Ave | Covina | CA | 91722 | 6263314449 |
| Alcheyayed, Mansour Andy & Anderiana | Andy Alcheyayed,Mansour Alcheyayed,Anderiana Alcheyayed | 5244 University Pkwy | San Bernardino | CA | 92407 | 9098806465 |
| Zulki Corporation | Zulqarnain (Isaac) Muhammad | 1065 Brea Mall | Brea | CA | 92821 | 7145291499 |
| DBGK LLC | Gulce Kabakci,Zerrin Baran | 43562 Christy Street | Fremont | CA | 94538 | 5106513500 |
| Nasser, Nader | Nader Nasser | 3540 Riverside Plaza Dr | Riverside | CA | 92506 | 9517799595 |
| Jera Investments, Inc. | Esther Wong,Joe Lin | 4635 Frazee Rd | Oceanside | CA | 92057 | 7604338658 |

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| New Americana Inc. | Sergio Marmolejo,Gabriela Paniagua | 8536 Whittier Blvd | Pico Rivera | CA | 90660 | 5624631103 |
| RCJM Teamworks, INC. | Yaquelinda Martin,Juliana Martin | 7000 Eastern Ave | Bell Gardens | CA | 90201 | 3235622888 |
| RAJ & Associates | Ajay Shah,Punita Shah | 2401 Truxtun Rd | San Diego | CA | 92106 | 6192218291 |
| Feist Family Enterprises LLC | William P Feist,Jeannette Feist | 2465 E Palm Canyon Dr | Palm Springs | CA | 92264 | 7603254444 |
| Humphrey & Reanese Enterprises, Inc. | Reangsey Kok,Mom Kok,Franklin Hok | 2169 Pacific Coast Hwy | Lomita | CA | 90717 | 3105392284 |
| Cold Scoop Torrance LLC | Hamdi Harbaoui | 17362 Hawthorne Blvd | Torrance | CA | 90504 | 3102141123 |
| Sherry Maria Marketing Inc | Mary.Khalil,Mounir.Abd El Saiad | 505 N Grand Ave | Walnut | CA | 91789 | 9095951432 |
| MJ Global, Inc. | Myoung Jong O | 12569 Limonite Ave | Mira Loma | CA | 91752 | 9513600333 |
| Rabeh Associates, Inc | Atef Ben Rabeh | 2630 Tuscany St | Corona | CA | 92881 | 9515498444 |
| Good ARZ, LLC | Nouri Abtahi Motameni,Aazam Abtahi,Nosrat Abtahi,Fatemeh Abtahi | 27512 W Lugonia Ave | Redlands | CA | 92374 | 9097921556 |
| Talen Inc. | Michael Talen,Carole Talen | 832 11th St | Paso Robles | CA | 93446 | 8052269330 |
| M&O Alexandria LLC | Moustafa Elsayed,Omnia Elzeny | 15282 Rosecrans Ave | La Mirada | CA | 90638 | 7149949646 |
| Hamdi Harbaoui | Hamdi Harbaoui | 17270 Saticoy Street | Van Nuys | CA | 91406 | 8183429917 |
| CHENGLI CORPORATION | Wendy Li,Kevin Lei,Guowei Zhang,Cathryn Cheng | 1150 El Camino Real | San Bruno | CA | 94066 | 6508712882 |

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| Benevedes, Inc. | Annette Benevedes | 3047 E Campus Pointe Dr | Fresno | CA | 93710 | 5593221987 |
| Feist Family Enterprises LLC | Jeannette Feist,William P Feist | 78380 Highway 111 | La Quinta | CA | 92253 | 7607718242 |
| Pun, Melvin and Doris Pun | Melvin Pun,Doris Pun | 375 2nd Ave | San Mateo | CA | 94401 | 6503470500 |
| Benevedes, Inc. | Annette Benevedes | 186 N 12th Ave | Hanford | CA | 93230 | 5595839000 |
| Creamery Heaven, Inc. | Mandeep "Mike" Takhar,Baldev Singh | 15068 Summit Ave | Fontana | CA | 92336 | 9096469449 |
| Bella's Ice Cream LLC | Blanca Sanchez,Melissa Martinez | 121 W Foothill Blvd | Upland | CA | 91786 | 9099465808 |
| J.E. CH CORPORATION | Joon Young Kim | 261 W 5th St | Oxnard | CA | 93030 | 8053857201 |
| AQ & T Inc. | Kelley Bader | 4603 Mission Blvd | San Diego | CA | 92109 | 8588867575 |
| Dove Investments LLC | Arturo Vidaurri,Ignacio Haddad | 24000 Alicia Pkwy | Mission Viejo | CA | 92691 | 9497683715 |
| Demissie-Martin, Hari | Hari Demissie-Martin | 708 Center Dr | San Marcos | CA | 92069 | 7607437735 |
| Nesos, Inc. | Murat Solmaz,Arda Sari | 909 Prospect St | La Jolla | CA | 92037 | 8584542300 |
| Mira KH, Inc | Rachid Ayachi,Amira Ayachi | 10875 W Pico Blvd | Los Angeles | CA | 90064 | 3104701260 |
| Stata LLC | Rohit Patel,Maheshkumar Patel,Rohit Patel,Maheshkumar Patel | 2433 W Florida Ave | Hemet | CA | 92545 | 9516525400 |
| Srika Inc | Shyamsundar Venkatesan,Srivani Thotta | 611 Santa Cruz Ave | Menlo Park | CA | 94025 | 6503254500 |

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| Gierczak Investments, Inc. | Stacy Gierczak,Rick Gierczak | 655 Saturn Blvd | Imperial Beach | CA | 92154 | 6195755200 |
| Hsu, Jim | Jim Hsu | 4730 Natomas Blvd | Sacramento | CA | 95835 | 9162857211 |
| ANASANDZEEST LLC | Sharjeel Chaudhry,Mobeela Chaudhry | 36957 Cook St | Palm Desert | CA | 92211 | 7605651990 |
| Coldscoop North Hills LLC | Hamdi Harbaoui,Meriam Harbaoui | 9004 Sepulveda Blvd | North Hills | CA | 91343 | 8188916021 |
| Scoop This! LLC | Jerry Stueve, Jr.,Charlene Stueve | 2625 Mount Vernon Ave | Bakersfield | CA | 93306 | 6618716402 |
| C&J Global Inc. | Curtis Chang | 3388 W Century Blvd | Inglewood | CA | 90303 | 3106711010 |
| Takeg Enterprises, Inc. | Trudy A. Grabenauer,Kenneth Grabenauer | 2280 Mendocino Ave | Santa Rosa | CA | 95403 | 7075711888 |
| ESAS LLC | Mansoor Shaikh,Maddiha Payami | 5779 Lone Tree Way | Antioch | CA | 94531 | 9257764440 |
| Lani Kalima Enterprise, Inc | Catherine Nittayo,Brian Nittayo,Carol Nittayo | 3580 Rosemead Blvd | Rosemead | CA | 91770 | 6262806246 |
| MARESP Corporation | Marlan Cooper,Esperanza Ochoa | 3730 S Figueroa St | Los Angeles | CA | 90007 | 2137472744 |
| Balch Family Ice Cream, Inc. | Allison Iskenderian,Brian Balch,Cara Frazer,Christopher Balch,William Balch | 5022 W Avenue N | Palmdale | CA | 93551 | 6617223553 |
| Patel, Maheshkumar and Bharat | Bharat Patel,Maheshkumar Patel | 30628 Benton Rd | Winchester | CA | 92596 | 9519264654 |

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| FRENCH SUN, LLC | Mehdi Pourhassan,Ebrahim Pourhassan | 1824 Wilshire Blvd | Santa Monica | CA | 90403 | 3104537653 |
| Spectra Hospitality Group | Daniel Ortiz,Carolina Leticia Barba-Ortiz | 36 Washington Blvd | Marina del Rey | CA | 90292 | 3108232464 |
| Nice Creams, Inc. | Yolanda Castro | 2049 N Imperial Ave | El Centro | CA | 92243 | 7603533633 |
| Qare, Saliba | Saliba Qare | 1319 Linda Mar Shopping Center | Pacificca | CA | 94044 | 6503550419 |
| Cool Creation, Inc. | Anthony Wong,Boo Kay Chan,Gui Mei Cheng | 30985 Courthouse Drive | Union City | CA | 94587 | 5104779520 |
| Cooler G, Inc | Karen Petrosyan | 901 S Coast Dr | Costa Mesa | CA | 92626 | 7145598039 |
| Delicious Cream LLC | Sateesh Nivarthi,Mukundamala Tangirala | 2036 Newpark Mall | Newark | CA | 94560 | 5103205460 |
| Scalzo Hospitality, Inc. | Carmen Baird,Grace Lindsay,Patricia Durand,Patrick Durand | 1570 S Harbor Blvd | Anaheim | CA | 92802 | 7146357800 |
| Artur Hunanyan and Tereza Oganesyanyan | Tereza Oganesyanyan,Artur Hunanyan | 6801 Hollywood Blvd | Hollywood | CA | 90028 | 3239623199 |
| Murali Ramanathan | Murali Ramanathan,Murali Ramanathan | 6105 Sunrise Blvd | Citrus Heights | CA | 95610 | 9165369555 |
| Kanoni Family Inc. | Mustafa Ali,Idris Ali | 2112 E Florence Ave | Walnut Park | CA | 90255 | 3235858796 |
| Mira KH, Inc | Amira Ayachi,Rachid Ayachi | 408 S Myrtle Ave | Monrovia | CA | 91016 | 6263583359 |
| Jera Investments, Inc. | Joe Lin,Esther Wong | 358 W Valley Pkwy | Escondido | CA | 92025 | 7607815388 |

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| Leeshin, Inc | Daniel Won Lee | 2233 N Tustin St | Orange | CA | 92865 | 7146851715 |
| Rafiu, Inc. | Figen Incesu,Bora Incesu | 8300 La Palma Ave | Buena Park | CA | 90620 | 7145279955 |
| Rafiu, Inc. | Figen Incesu,Bora Incesu | 18641 Brookhurst Street | Fountain Valley | CA | 92708 | 7149630019 |
| MEGHA INVESTMENTS, LLC | Purvi Megha,Jay Megha | 2260 Callagan Hwy | San Diego | CA | 92136 | 6194879064 |
| A&Z Solutions, Inc. | Ahmad Zia,Noor Zia | 21712 Hawthorne Blvd | Torrance | CA | 90503 | 3107504166 |
| KHUSMEHR INC. | Prabhdeep Mann,Ramneek Singh | 1340 E Yosemite Ave | Manteca | CA | 95336 | 2096472482 |
| Meri Maa Investment Group, LLC | Ansheel.Raj,Sharon.Raj | 2055 Town Center Plaza | West Sacramento | CA | 95691 | 9163727992 |
| Benevedes, Inc. | Annette Benevedes,Jeffery.Benevedes Family Trust | 6493 N Riverside Dr | Fresno | CA | 93722 | 5593751068 |
| Diaz, Criselda | Criselda Diaz | 1689 Arden Way | Sacramento | CA | 95815 | 9169292500 |
| SRARJ, INC. | Ritesh.Patel,Monica.Patel | 1653 North Schnoor, STE #101 | Madera | CA | 93637 | 5593950015 |
| AAR Venture LLC | Syed Rizwan,Saira Rizwan | 3040 Bernal Avenue, Suite 310 | Pleasanton | CA | 94566 | 9253997323 |
| CALIFORNIA DESERT BUSINESS INVESTMENTS, LLC | Sarah.Aziz,Arshad Abid,Usman Aziz | 6485 Adobe Road | Twentynine Palms | CA | 92277 | 7603617777 |
| Diaz, Criselda | Criselda Diaz | 2855 Stevens Creek Blvd | Santa Clara | CA | 95050 | 4087539052 |
| Cheeny Mama LLC | Jonaid.Khan,Ijaz Khan | 48553 Morongo Trail | Banning | CA | 92230 | 9519222888 |
| NY&Z L.L.C. | Ilyas Khan,Faisal Saeed | 1036 Cherry Valley Blvd | Calimesa | CA | 92320 | 9097955755 |

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| Scoop This! LLC | Jerry Stueve, Jr.,Charlene Stueve | 3134 W. Balboa Blvd | Newport Beach | CA | 92663 | 9496522663 |
| Niagara Investments Company, L.L.C. | Jeraldine Fitzgerald, Mike Fitzgerald, Tim Fitzgerald | 8441 S Yosemite St | Lone Tree | CO | 80124 | 3037088771 |
| Ohana Enterprises Inc. | Allison (Wadsworth)Henderson, Jeff Wadsworth, Julie Kirkland | 14239 W Colfax Ave | Lakewood | CO | 80401 | 3032159364 |
| Backyard Breeze, Inc. | Karen E Weldon, Alan W Weldon | 17051 Lincoln Ave | Parker | CO | 80134 | 3038051888 |
| Sweet Investments, Inc. | Gene Bergmeier, Brandy Bergmeier | 3235 Cinema Pt | Colorado Springs | CO | 80922 | 7195914441 |
| ROK Springs, Inc. | Lynn Kozeliski, Steve Kozeliski | 7230 N Academy Blvd | Colorado Springs | CO | 80920 | 7193881997 |
| Triple "J" Management, LLC | Jeffrey Schifano | 7420 W Bowles Ave | Littleton | CO | 80123 | 3039481000 |
| Four Scoops Enterprises, Inc. | Randall Helm, Sandra Helm, Miranda Hunter | 1821 E Harmony Rd | Fort Collins | CO | 80528 | 9702041284 |
| OM Management, Inc. | Anjali Sarwal, Alok Sarwal | 14132 E Cedar Ave | Aurora | CO | 80012 | 3033408200 |
| Backyard Breeze, Inc. | Alan W Weldon, Karen E Weldon | 6770 S Cornerstar Way | Aurora | CO | 80016 | 3034001997 |
| You Scream, LLC | Kelli Turner, Jeremy (Petey) Helm | 5545 Wadsworth Byp | Arvada | CO | 80002 | 3034249900 |

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| KPOG, Inc | Kelli Turner,Jeremy (Petey) Helm | 1087 South Hover Street | Longmont | CO | 80501 | 3036825680 |
| Triple "J" Management, LLC | Jeffrey Schifano | 7850 W Alameda Ave | Lakewood | CO | 80226 | 3039885650 |
| N Lord Properties Inc. | Natalie Lord | 4626 Centerplace Dr | Greeley | CO | 80634 | 9703305426 |
| Rehoboth, LLC | Mesfin Alemu,Yemeserach Ketema | 7473 E 29th Pl | Denver | CO | 80238 | 3033201205 |
| OM IV Management Inc | Alok Sarwal,Anjali Sarwal | 4251 S Buckley Rd | Aurora | CO | 80013 | 3036808044 |
| Smith's Creamery Inc. | Dustin Smith,Linda Smith | 2474 Highway 6 And 50 | Grand Junction | CO | 81505 | 9702570100 |
| JAT Creamery, Inc. | Randy Adolf | 4200 N Freeway Rd | Pueblo | CO | 81008 | 7195447678 |
| Coral Bells Hospitality | Ariel Noreen,Joshua Noreen | 312 Metzler Dr | Castle Rock | CO | 80108 | 7207339971 |
| Colorado Cold Treats Inc | Joshua Noreen,Ariel Noreen | 9338 Dorchester St | Highlands Ranch | CO | 80129 | 3036833222 |
| I Scream, LLC | Jeremy (Petey) Helm,Kelli Turner | 10443 Town Center Dr | Westminster | CO | 80021 | 3034388727 |
| OM II Management Inc | Anjali Sarwal,Alok Sarwal | 6300 E Hampden Ave | Denver | CO | 80222 | 3037595454 |
| Rehoboth, LLC | Yemeserach Ketema,Mesfin Alemu | 15400 W 64th Ave | Arvada | CO | 80007 | 3034870505 |
| SSJ Enterprises, Corp. | Steve Selenke | 23973 E Prospect Ave | Aurora | CO | 80016 | 3036275465 |
| Sweet Success, Inc. | Lorie Haun,John Haun | 1281 E 120th Ave | Thornton | CO | 80233 | 3034509552 |
| Two Daughters Ice Cream, LLC | Brandon England,Brittney England | 598 Main Ave | Durango | CO | 81301 | 9702595052 |

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| D&C Maas, LLC | Casey Maas,Dustin Maas | 127 Justice Center Rd | Canon City | CO | 81212 | 7192761166 |
| JC Incorporated | Joseph Gardner,Carolyn Gardner | 245 Pavilions Pl | Brighton | CO | 80601 | 3036559002 |
| KPOG, Inc | Kelli Turner,Jeremy (Petey) Helm | 2412 Arapahoe Avenue | Boulder | CO | 80302 | 3034408915 |
| Rehoboth, LLC | Mesfin Alemu,Yemeserach Ketema | 8286 E Northfield Blvd | Denver | CO | 80238 | 3033730500 |
| Three2Pair, LLC | Trey Brusckke | 219 S 5th St | Montrose | CO | 81401 | 9702528014 |
| Oospecka LLC | Larry Yarbrough,Jeremy Yarbrough | 215 South Sligo Street | Cortez | CO | 81321 | 9705652725 |
| Lue Enterprises LLC | Joseph Luethmers,Andrea Luethmers | 1135 Eagle Dr | Loveland | CO | 80537 | 9707752236 |
| Lue Enterprises LLC | Joseph Luethmers,Andrea Luethmers | 1335 W Elizabeth St | Fort Collins | CO | 80521 | 9704843415 |
| OM III Management, Inc. | Anjali Sarwal,Alok Sarwal | 4906 N Tower Rd | Denver | CO | 80249 | 7204751403 |
| All In One S LLC | Patrick Smith Jr,Patrick Smith | 7 Glenwood Road | Clinton | CT | 06413 | 8606697025 |
| Chahal, Inc | Muhammad Ismail | 1109 High Ridge Road | Stamford | CT | 06905 | 2034877400 |
| All In One S LLC | Patrick Smith,Patrick Smith Jr | 909 Hartford Tpke | Waterford | CT | 06385 | 8604470530 |
| Chahal, Inc | Muhammad Ismail | 2323 Black Rock Tpke | Fairfield | CT | 06825 | 2033714111 |
| Z Creamery LLC | Usman Syed,Tehmina Syed | 28 Backus Avenue | Danbury | CT | 06810 | 2037436061 |

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| KH - Corp | Nirav Gandhi,Purvi Gandhi | 297 Boston Post Road | Orange | CT | 06477 | 2038918313 |
| All In One S LLC | Patrick Smith,Patrick Smith Jr | 490 S Broad St | Meriden | CT | 06450 | 2032350693 |
| Sweet Treats Corp | Olatunji.Umaru | 1201 Half St SE | Washington | DC | 20003 | 2028639000 |
| CostaGuys LLC | Sireesh.Chigurupati,J agadeep Tatineni,Naga.Sai Anil Kumar Veeramachaneni | 3501 Connecticut Avenue NW, Unit 12A | Washington | DC | 20008 | 2025975705 |
| H&R Group, Inc. | Haythum Issa | 2470 Pulaski Hwy | Newark | DE | 19702 | 3028382992 |
| M&N Dover Investments Inc | Mohamed Elghandour | 1051 N Dupont Hwy | Dover | DE | 19901 | 3026784782 |
| Shivstone Inc | Neeru Chaudhari,Dhairya R Chaudhari | 3822 W Newberry Rd | Gainesville | FL | 32607 | 3522717437 |
| Dr. Ice LLC | Ahmed Elsehimy | 2312 S Kirkman Rd | Orlando | FL | 32811 | 4075632181 |
| Toledano Trade LLC | Yael Halimi,Daniel Toledano | 10240 Forest Hill Blvd | Wellington | FL | 33414 | 5617988737 |
| MSS & Associates LLC | Muhammad Sikandar,Shezan Sikandar | 9059 S Dixie Hwy | Miami | FL | 33156 | 3057400995 |
| Spiegel Investment PL Company | Frederick Spiegel,Queila Spiegel,Ruth Spiegel,Stephen Spiegel | 819 N Nob Hill Rd | Plantation | FL | 33324 | 9544765747 |
| JKCI VALRICO CORPORATION | Kelly Cook,Joshua Cook | 250 N Atlantic Ave | Daytona Beach | FL | 32118 | 3862545111 |

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| IC Naples, Inc. | Terri Gravett,Anthony Gravett | 740 N Collier Blvd | Marco Island | FL | 34145 | 2393930046 |
| AARAV Creamery, Inc. | Hitesh Barvaliya | 6420 Naples Blvd | Naples | FL | 34109 | 2395921600 |
| D&Y Partners, LLC | Yael Halimi,Daniel Toledano | 15641 Sheridan St | Davie | FL | 33331 | 9548800014 |
| Shivstone Inc | Neeru Chaudhari,Dhairya R Chaudhari | 3443 SW Archer Rd | Gainesville | FL | 32608 | 3523777520 |
| Hassan, Tahira | Tahira Hassan | 1501 SE 17th St | Fort Lauderdale | FL | 33316 | 9548472006 |
| Spiegel Investment Company | Ruth Spiegel,Frederick Spiegel | 10343 Royal Palm Blvd | Coral Springs | FL | 33065 | 9547575557 |
| Dragon House, LLC | Jennifer Dragovich,Michael Dragovich,Geraldine Dragovich | 1787 N Congress Ave | Boynton Beach | FL | 33426 | 5617395353 |
| JKCI VALRICO CORPORATION | Kelly Cook,Joshua Cook | 3426 Lithia Pinecrest Rd | Valrico | FL | 33596-6301 | 8136812223 |
| DW Operations, LLC | Daniel Wegweiser | 2024 Badlands Dr | Brandon | FL | 33511 | 8136898873 |
| Ice Cream SRQ, LLC | Sam Stinehelfer,Jeanna Stinehelfer | 1900 Main St | Sarasota | FL | 34236 | 9413301880 |
| Insei, Inc. | Edwin Woon | 4535 Weston Rd | Weston | FL | 33331 | 9546591988 |
| The Creamery of Lake Mary Inc. | Hojin Bryant Kang,Charlie Kang | 944 Colonial Grand Lane | Lake Mary | FL | 32746 | 4078330320 |
| Spiegel Investment CC Company | Stephen Spiegel,Ruth Spiegel,Frederick Spiegel,Queila Spiegel | 4425 Lyons Rd | Coconut Creek | FL | 33073 | 9549779555 |

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| Bawa & Preeti, Inc. | Tejinder Singh,Amanpreet Singh | 13711 S Tamiami Trl | Fort Myers | FL | 33912 | 2399850888 |
| Satyawati, INC | Tejinder Singh | 2311 Santa Barbara Blvd | Cape Coral | FL | 33991 | 2395731006 |
| Meyer Franchises, LLC | Julie Hurstfield-Meyer | 3261 Hollywood Blvd | Hollywood | FL | 33021 | 9548949044 |
| Tropical Scoops, Inc. | Dawn Lopez,Ralph Lopez,Adriana Campa Lopez | 2937 SW 160th Avenue | Miramar | FL | 33027 | 9544361990 |
| P&Z Partners, LLC | Daniel Toledano,Yael Halimi | 8747 Stirling Road | Cooper City | FL | 33328 | 9548800160 |
| 786 Nazneen 2 LLC | Masudali Saiyed,Subhasis Misra | 1615 Town Center Drive | Lakeland | FL | 33803 | 8636861813 |
| S.M.A.K. Creamery, LLC | Stanley Wright,Mildred Wright | 3810 W Neptune St | Tampa | FL | 33629 | 8132586269 |
| Ice Cream BRD, LLC | Sam Stinehelfer,Jeanna Stinehelfer | 7476 Cortez Rd W | Bradenton | FL | 34210 | 9417613252 |
| S.M.A.K. Creamery, LLC | Mildred Wright,Stanley Wright | 2774 E Fowler Ave | Tampa | FL | 33612 | 8139750102 |
| Viera Creamery Incorporated | Susan Kellett,Bernard Kellett | 2250 Town Center Ave | Viera | FL | 32940 | 3216371450 |
| Seaside Creamery, LLC | Kathryn Durham,Richard Beaudoin | 2 5th Ave | Indialantic | FL | 32903 | 3219843292 |
| G&L Creamery, Inc. | George Koukourinis,Lucy Perez-Koukourinis | 14226 SW 8th Street | Miami | FL | 33184 | 3052261234 |
| Old Cutler Creamery LLC | Minali Patel,Rajan Patel | 20571 Old Cutler Road | Cutler Bay | FL | 33189 | 3052323232 |
| Talya and Alp LLC | Serkan Uyan,Ebru Uyan | 18225 Biscayne Blvd | Aventura | FL | 33160 | 3054666626 |

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| Gaboozo, LLC. | Daniel Toledano,Miryam Toledano | 6230 Coral Ridge Dr | Coral Springs | FL | 33076 | 9543418033 |
| Spiegel Investment ML Company | Frederick Spiegel,Stephen Spiegel,Ruth Spiegel,Queila Spiegel | 6723 Main Street | Miami Lakes | FL | 33014 | 7866390004 |
| 786 Nazneen 1 LLC | Masudali Saiyed,Subhasis Misra | 17519 Preserve Walk Lane | Tampa | FL | 33647-3244 | 8139770024 |
| DHC Ventures, LLC | Joshua Davis,Amber Davis | 808 Sadler Road | Fernandina Beach | FL | 32034 | 9044918227 |
| Dattani, Hasmukh and Biren Dattani | Hasmukh Dattani,Biren Dattani | 2701 SW College Rd | Ocala | FL | 34474 | 3528610590 |
| Andreams Corp | Andrea Kashtan | 35607 US Highway 19 N | Palm Harbor | FL | 34684 | 7277851300 |
| JKCI VALRICO CORPORATION | Joshua Cook,Kelly Cook | 1444 W Tennessee St | Tallahassee | FL | 32304 | 8504251150 |
| Spiegel Investment PS Company | Frederick Spiegel,Stephen Spiegel,Queila Spiegel,Ruth Spiegel | 2101 N Federal Hwy | Pompano Beach | FL | 33062 | 9547834200 |
| Diverse Ventures of Miami, LLC | Minali Patel,Rajan Patel | 8448 SW 8th St | Miami | FL | 33144 | 7862758888 |
| Silver Scoops, Inc. | Ralph Lopez,Adriana Campa Lopez,Dawn Lopez | 12124 Miramar Pkwy | Miramar | FL | 33027 | 9544415350 |
| Sundae Pleasure, LLC | Sonia Amber,William Buttler | 3619 NW Federal Hwy | Jensen Beach | FL | 34957 | 7722329399 |
| GMKBD Inc | Divyesh Shah,Binaben Shah | 2189 SE Federal Hwy | Stuart | FL | 34994 | 7722883030 |
| GHP of Florida LLC | Hitesh Barvaliya | 10035 Gulf Center Dr | Fort Myers | FL | 33913 | 2394542653 |

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| Dattani, Hasmukh and Biren Dattani | Biren Dattani, Hasmukh Dattani | 3310 Daniels Rd | Winter Garden | FL | 34787 | 4078773744 |
| Kendall Creamery, LLC | Rajan Patel | 13624 SW 88th Street | Miami | FL | 33186 | 3053870550 |
| Dragon House, LLC | Jennifer Dragovich, Michael Dragovich, Geraldine Dragovich | 6346 Lantana Rd | Lake Worth | FL | 33463 | 5619683515 |
| ArchTowne, LLC | Tom Archbold, Sheila Archbold | 7220 US Highway 19 N | Pinellas Park | FL | 33781 | 7275227840 |
| DHC Ventures, LLC | Joshua Davis, Amber Davis | 9960 Southside Blvd | Jacksonville | FL | 32256 | 9045383870 |
| Kandhy3 Creamery, Inc | Natasha Kalipersaud, Tanisha Kalipersaud, Tanisha Kalipersaud | 6607 S Semoran Blvd | Orlando | FL | 32822 | 4078164260 |
| S.M.A.K. Creamery II, LLC | Mildred Wright, Stanley Wright | 9214 Anderson Road | Tampa | FL | 33634 | 8138864714 |
| Cold Creations LLC | Conrad Hauca | 10710 State Road 54 | New Port Richey | FL | 34655 | 7278169696 |
| Andam Inc. | Andrea Kashtan | 100 Main St | Safety Harbor | FL | 34695 | 7277253696 |
| MKN Largo Inc | Ricardo. Nadal | 2923 W Bay Dr | Belleair Bluffs | FL | 33770 | 7272707010 |
| JKCI VALRICO CORPORATION | Joshua Cook, Kelly Cook | 5543 S Williamson Blvd | Port Orange | FL | 32128 | 3864925941 |
| Dattani, Hasmukh and Biren Dattani | Hasmukh Dattani, Biren Dattani | 229 E Altamonte Dr | Altamonte Springs | FL | 32701 | 4078349900 |
| Innerwealth Group Inc. | Jerson Daganzo | 11565 University Blvd | Orlando | FL | 32817 | 4072432362 |
| Blue Ice Cream, Inc. | Angela Kim, Sara_ Kim | 13586 Village Park Dr | Orlando | FL | 32837 | 4074389169 |
| Rasaus LLC | Adnan Sultan | 840 Nautica Dr | Jacksonville | FL | 32218 | 9047570637 |

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| Blue Ice Cream, Inc. | Angela Kim,Sara_ Kim | 15 Blake Blvd | Kissimmee | FL | 34747 | 4075668651 |
| Host International, Inc. | Jennifer Ritenour | 9000 Airport Blvd | Orlando | FL | 32701 | 4078252854 |
| Dattani Creamery Inc. | Vijay.Dattani | 8145 International Dr | Orlando | FL | 32819 | 4079300936 |
| Dattani Sarasota Inc. | Vijay.Dattani | 140 University Town Center Dr | Sarasota | FL | 34243 | 9412560441 |
| Dattani Creamery Inc. | Vijay.Dattani | 3292 Margaritaville Blvd | Kissimmee | FL | 34747 | 4075073045 |
| Doral Creamery,LLC | Rajan Patel | 2000 NW 87th Ave | Doral | FL | 33172 | 3054778711 |
| RJ NADAL INVESTMENTS CORP | Ricardo.Nadal | 18228 SW 147th Ave | Miami | FL | 33187 | 7867012173 |
| Miraculous Delights, LLC | Ruben.Aldridge,Carla. Aldridge | 14035 Beach Blvd | Jacksonville | FL | 32250 | 9043795632 |
| JKCI VALRICO CORPORATION | Kelly Cook,Joshua Cook | 12970 S Hwy 301 | Riverview | FL | 33578 | 8132107329 |
| DHC Ventures, LLC | Joshua Davis,Amber Davis | 20 Homegrown Way | Yulee | FL | 32097 | 9045486193 |
| CSC FMBeach LLC | Mitul Chothani,Hitesh Barvaliya,Nikunj Patel | 1028 5th St | Ft Myers Beach | FL | 33931 | 2392244190 |
| KESHAVJIVANS COLD SERVES AND DESSERTS LLC | Divyan Patel | 52 Tuscan Way | St Augustine | FL | 32092 | 9045472540 |
| KESHAVJIVANS COLD SERVES AND DESSERTS LLC | Divyan Patel | 2570 Race Track Rd | Fruit Cove | FL | 32259 | 9044299669 |
| MM Kash Inc. | Andrea Kashtan | 7724 113th Street N | Seminole | FL | 33772 | 7278733992 |
| Chinonso Corporation | Confidence.Ekeanyanwu,Kenechukwu.Okoro | 2222 Ocoee Apopka Rd | Ocoee | FL | 34761 | 4076143890 |

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| CSC MERCHANTS CROSSING LLC | Mitul Chothani,Hitesh Barvaliya,Nikunj Patel | 15201 N Cleveland Ave | North Fort Myers | FL | 33903 | 2396523181 |
| Hari Krishna Creamery LLC | Mitul Chothani,Chandrakan t C Patel,Nikunj Kumar Rabadiya | 14365 N Dale Mabry Highway | Tampa | FL | 33618 | 8139361410 |
| DHC Ventures, LLC | Joshua Davis,Amber Davis | 4495 Roosevelt Blvd | Jacksonville | FL | 32210 | 9045183357 |
| RS Foods LLC | Rajni Sethi,Dharminder Sethi,Chahat Sethi | 5900 Sugarloaf Pkwy | Lawrenceville | GA | 30043 | 6788475927 |
| PRAYOM LLC | Hemen Patel,Sunny Patel | 210 Robert C Daniel Jr Pkwy | Augusta | GA | 30909-0807 | 7066670260 |
| Ultimate Creations Conyers LLC | Terrence Jenkins | 1522 Dogwood Dr SE | Conyers | GA | 30013 | 7709186981 |
| M D Spirit, Inc | Paulomi Patel,Mitesh Bhatt | 640 Johnson Ferry Rd | Marietta | GA | 30068 | 6782362653 |
| Nishiguru Inc | Paulomi Patel,Mitesh Bhatt | 875 N Main St | Alpharetta | GA | 30009 | 7707772183 |
| Krishna Delight Inc | Harshaben Sarvaiya,Radhika Pallaganti | 9700 Medlock Bridge Rd | Duluth | GA | 30097 | 7704760292 |
| Om Sweets LLC | Mukesh Korat,Parmeshwor Acharya | 5500 Abercorn St | Savannah | GA | 31405 | 9126920035 |
| MHD Barrett, Inc. | Minesh Daya | 2500 Cobb Place Ln NW | Kennesaw | GA | 30144 | 7704206532 |
| SHREE LAABH KARINI INC | Monika Patel | 2911 Chapel Hill Rd | Douglasville | GA | 30135 | 6788389400 |
| Vinings Creamery LLC | Roshan Patel,Param Shah | 2850 Paces Ferry Rd SE | Atlanta | GA | 30339 | 7704327973 |

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| RK United LLC | Dhimant Shukla,Manishkumar Patel | 2628 Watson Blvd | Warner Robins | GA | 31093 | 4789226868 |
| Santosh & Son L.L.C. | Roshan Patel | 4910 Jimmy Lee Smith Pkwy | Hiram | GA | 30141 | 7709438870 |
| AMS Magic Stone LLC | Mahfuza Dhamaskar | 1270 Ashford Xing | Atlanta | GA | 30346 | 7708042534 |
| UBS Holdings, LLC | Terrence Jenkins, Terrence Jenkins | 234 Newnan Crossing Byp | Newnan | GA | 30265 | 7705027800 |
| RK United LLC | Dhimant Shukla,Manishkumar Patel | 112 Vilseck Rd | Fort Stewart | GA | 31314 | 9123700077 |
| Cold at Morrow LLC | Amir Tejane,Faisal Hussain | 6309 Jonesboro Rd | Morrow | GA | 30260 | 7707038609 |
| Maze, Derek | Derek.Maze | 4225 Wade Green Rd NW | Kennesaw | GA | 30144 | 7704299821 |
| Sweet Cream LLC | Suleman (Sunny) Jiwani,Salima.Jiwani,S anih.Jiwani | 1565 Church St., Suite 540 | Decatur | GA | 30030 | 6785153260 |
| Huan Nguyen, Individual | Huan.Nguyen | 626 Mullins Colony Dr | Evans | GA | 30809 | 7063644229 |
| SSN LLC | Mehul.Lad,Bipinkumar .Patel,Ambrish.Patel | 2501 Whittlesey Blvd | Columbus | GA | 31909 | 7065075248 |
| Mukesh Korat and Rima Patel Individuals | Rima.Patel,Mukesh Korat | 7804 Abercorn St FC1 | Savannah | GA | 31406 | 9124659919 |
| 1105 Restaurant LLC | Param Shah,Roshan Patel | 1105 Woodstock Rd | Roswell | GA | 30075 | 6785828960 |
| White, Richard Dow & Shu-Yuan Chen | Richard Dow White,Shu-Yuan Chen | 225 Piikea Ave | Maui - Kihei | HI | 96753 | 8088758811 |
| Cordes Creamery, Inc. | Kenneth Cordes | 4701 1st Avenue SE | Cedar Rapids | IA | 52402 | 3192942600 |

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| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 806 Wacker Dr | Dubuque | IA | 52002 | 5635566766 |
| JRF, Inc. | Scott Otis,Janet Otis | 101 Jordan Creek Pkwy | West Des Moines | IA | 50266 | 5152231227 |
| Cordes Creamery, Inc. | Kenneth Cordes | 921 25th Avenue | Coralville | IA | 52241 | 3193417900 |
| Chicago Scoops, LLC | Antonio Gracias,Kyle Welch,Jonathan Shulkin,Tim Watkins | 1310 S Duff Ave | Ames | IA | 50010-8153 | 5152333911 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 6421 University Ave | Cedar Falls | IA | 50613 | 3192661605 |
| Chicago Scoops, LLC | Antonio Gracias,Jonathan Shulkin,Kyle Welch,Tim Watkins | 4706 Utica Ridge Rd | Davenport | IA | 52807 | 5633596371 |
| Huckleberry Ice Cream Co. LLC | Gary.Hoyer | 3001 Winegard Drive | Burlington | IA | 52601 | 3192378787 |
| Tasty Treats, LLC | Andrew.Martin,Dawn. Martin | 1631 SW Main Street, Suite 102 | Ankeny | IA | 50023 | 5152645565 |
| Cordes Creamery, Inc. | Kenneth Cordes | 2437 Adventureland Dr | Altoona | IA | 50009 | 5159578814 |
| Ultimate Scoop, LLC | Nancy Lee,Conrad Lee,Kent Lee | 1400 N Eagle Rd | Meridian | ID | 83642 | 2088958336 |
| Temple Group, Inc. | Jeremiah Temple,Kassie Temple | 2019 South 25th E | Ammon | ID | 83406 | 2085223347 |

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| Temple Group, Inc. | Jeremiah Temple,Kassie Temple | 475 Yellowstone Ave | Pocatello | ID | 83201 | 2082334312 |
| Temple Group, Inc. | Kassie Temple,Jeremiah Temple | 485 N 2nd E | Rexburg | ID | 83440 | 2083592244 |
| Ultimate Scoop, LLC | Kent Lee,Nancy Lee,Conrad Lee | 1238 Caldwell Blvd | Nampa | ID | 83651 | 2084673375 |
| Magic Stone Creamery, LLC | Kent Lee,Nancy Lee | 799 Cheney Dr | Twin Falls | ID | 83301 | 2087364656 |
| Unlimited Possibilities, Inc. | Mary J. Hansen,James Hansen | 2396 N Old Mill Loop | Coeur d'Alene | ID | 83814 | 2086769151 |
| Ultimate Scoop, LLC | Conrad Lee,Kent Lee,Nancy Lee | 1028 S Vista Ave | Boise | ID | 83705 | 2088070407 |
| Ultimate Scoop, LLC | Nancy Lee,Kent Lee,Conrad Lee | 7546 West State St Suite 130 | Boise | ID | 83714 | 2086066164 |
| DEV KUSH, INC | Raman Patel | 7080 Mannheim Rd | Rosemont | IL | 60018 | 8478246670 |
| Mandros Corp. | Mitchell Andros | 339 N Randall Rd | Lake in the Hills | IL | 60156 | 8478547525 |
| Scoops N Sweets LLC | Lawrena Colombo,David Smith | 20330 N Deer Park Blvd | Deer Park | IL | 60010 | 8477262663 |
| Sweet Possibility Company | Linda Querrey | 23 W Jefferson Ave | Naperville | IL | 60540 | 6303695646 |
| Chicago Scoops, LLC | Antonio Gracias,Kyle Welch,Jonathan Shulkin,Tim Watkins | 1316 S Halsted St | Chicago | IL | 60607 | 3122262800 |
| Alaqmar, Inc. | Ahmed Zakiuddin,Yusuf Vajihuddin | 3520 Seven Bridges Dr | Woodridge | IL | 60517 | 6303229640 |
| Seatea, Inc. | Essam Abdullah | 5120 W 95th St | Oak Lawn | IL | 60453 | 7082299000 |

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| Seatea, Inc. | Essam Abdullah | 76 S La Grange Rd | La Grange | IL | 60525 | 7083542600 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 134 N Marion St | Oak Park | IL | 60301 | 7083833400 |
| Thomas Restaurant Investments 1 LLC | Johnathan Thomas | 1611 Sherman Ave | Evanston | IL | 60201 | 8474249000 |
| Green Stone, LLC | Issam Alsharif | 653 S Perryville Rd | Rockford | IL | 61108 | 8153942113 |
| U B FAMILY, INC. | Jemin Lee | 281 W Townline Rd | Vernon Hills | IL | 60061 | 8472470773 |
| Kold Kreation LLP | Udayan Dave Shah,Bela Shah | 5 Woodfield Mall | Schaumburg | IL | 60173 | 8476190799 |
| Alaqmar, Inc. | Ahmed Zakiuddin,Yusuf Vajihuddin | 72 S Weber Rd | Romeoville | IL | 60446 | 8158865714 |
| J&J Sweet Tooth, LLC | Joyce Pecina,Judy Pecina | 3228 Green Mount Crossing Drive | Shiloh | IL | 62269 | 6186220044 |
| Kahala Restaurants | Amjad Makhamreh, Maher (Mike) Farahat | 301 S Veterans Pkwy | Normal | IL | 61761 | 3098072945 |
| Kahala Restaurants | Fady Abdallah,Alel abdallah | 7728 N Grand Prairie Dr | Peoria | IL | 61615 | 3093404860 |
| Sweet Mix Parlor INC | Wesam (Sam) Abdel Razek | 18717 Dixie Hwy | Homewood | IL | 60430 | 7086479812 |
| Sweet Cream Parlor Inc | Wesam (Sam) Abdel Razek | 16135 S La Grange Rd | Orland Park | IL | 60467 | 7082264981 |
| Alaqmar, Inc. | Ahmed Zakiuddin,Yusuf Vajihuddin | 1153 Brookforest Ave | Shorewood | IL | 60431 | 8156091893 |

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| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 124 S 6th St | Springfield | IL | 62701 | 2175236666 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 2100 Troy Rd | Edwardsville | IL | 62025 | 6186551480 |
| Alaqmar, Inc. | Ahmed Zakiuddin,Yusuf Vajihuddin | 16527 W 159th St | Lockport | IL | 60441 | 8158383600 |
| CU Scoops, LLC | Ryan Elwell | 505 E Green St | Champaign | IL | 61820 | 2173675555 |
| Chicago Scoops, LLC | Jonathan Shulkin,Kyle Welch,Antonio Gracias,Tim Watkins | 20 W Ohio St | Chicago | IL | 60611 | 3128775773 |
| Issac's Creamery Inc. | Kareem.Abdallah | 7105 Grand Avenue Unit 2C | Gurnee | IL | 60031 | 8476724339 |
| Aqsa Creamery, Inc. | Samad.Khan | 2348 N Lincoln Ave | Chicago | IL | 60614 | 7736662244 |
| Chicago Scoops, LLC | Jonathan Shulkin,Kyle Welch,Antonio Gracias,Tim Watkins | 4150 W Jefferson Blvd | Fort Wayne | IN | 46804 | 2604341010 |
| M&J Nice Cream, LLC | Dan Huang,Yan Ding | 5025 E 82nd St | Indianapolis | IN | 46250 | 3175969620 |
| Sweet Land 2016 LLC | Chi Man Ko,Zhou Hua You | 55 S Raceway Rd | Indianapolis | IN | 46231 | 3172712501 |

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| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Antonio Gracias,Tim Watkins | 620 W Edison Rd | Mishawaka | IN | 46545 | 5742135250 |
| M&N's Joy LLC | Jing Yu,Jianliang Yu | 14550 Clay Terrace Blvd | Carmel | IN | 46032 | 3175697170 |
| MAC Mo LLC | Maclaine Morris | 6401 E Lloyd Expy | Evansville | IN | 47715 | 8124372653 |
| Benipal, Kulwant | Kulwant Benipal | 6010 W 86th St | Indianapolis | IN | 46278 | 3174718378 |
| Linton Grange LLC | Hui Zhang | 789 US Highway 31 N | Greenwood | IN | 46142 | 3178822501 |
| Cool Treats LLC | Sheik Sabir Hussain | 338 State St | West Lafayette | IN | 47906 | 7652505184 |
| Jolly Group Valpo, LLC | Russell Dewes,Michael Jorden,Candace Jorden | 71 Silhavy Rd | Valparaiso | IN | 46383 | 2194763430 |
| Jolly Group, LLC | Michael Jorden,Candace Jorden,Russell Dewes | 11 West 112th Ave | Crown Point | IN | 46307 | 2196639010 |
| MBAB Bilotto Inc. | Michael Bilotto,Amanda Bilotto | 883 Joliet St | Dyer | IN | 46311 | 2198659733 |
| Liu, Ben and Fang Qin Qiu | Fang Qin Qiu,Ben Liu | 13170 Harrell Pkwy | Noblesville | IN | 46060 | 3177708220 |
| Chen & Q Incorporated | Yiping Chen,Chen Qiao | 840 Broad Ripple Avenue | Indianapolis | IN | 46220 | 3172532303 |
| We All Scream, LLC | Sheik Sabir Hussain | 2049 Veterans Memorial Parkway | Lafayette | IN | 47909 | 7652505603 |
| Kamilia, LLC | Eric Tan,Kami Tan | 1013 Jeffersonville Commons Dr | Jeffersonville | IN | 47130 | 8129130034 |
| Foods In The Ville, L.L.C. | Robert Hayes | 1225 Moro St. | Manhattan | KS | 66502 | 7855395336 |
| Wessco Enterprises, Inc | Douglas Wessley,Rhonda Wessley | 2441 N Maize Rd | Wichita | KS | 67205 | 3167294245 |

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| FM DRYM LLC | Mohamed Salamoun | 1865 Village West Pkwy | Kansas City | KS | 66111 | 9137889784 |
| Mission Investment Company | Allan Emerly | 647 Massachusetts St | Lawrence | KS | 66044 | 7858430990 |
| Sonny & Boua Baccam, Inc. | Boua Baccam, Santhiphone Sonny Baccam | 14941 W. 119th St. | Olathe | KS | 66062 | 9137824815 |
| Wessco Enterprises, Inc | Douglas Wesley, Rhonda Wesley | 3000 N Rock Rd | Wichita | KS | 67226 | 3166361857 |
| P&H Ventures LLC | Paul Houser, Heather Houser | 1227 SW Wanamaker Rd | Topeka | KS | 66604 | 7852158807 |
| Wessco Enterprises, Inc | Douglas Wesley, Rhonda Wesley | 7325 W Taft St | Wichita | KS | 67209 | 3168691823 |
| QUICK PICK, INC | Nageeb Alhaj | 2019 Central Ave | Dodge City | KS | 67801 | 6203717223 |
| NOTL, LLC | Anil (Andy) Patel, Mahesh Naik, Sanmukh Patel | 1 Levee Way | Newport | KY | 41071 | 8592915380 |
| Lickety Split Frozen Goodness LLC | Ken Sharp | 2817 Dixie Hwy | Crestview Hills | KY | 41017 | 8593414430 |
| Kamilia, LLC | Kami Tan, Eric Tan | 2015 S. Hurstbourne Pkwy. | Louisville | KY | 40220 | 5024997750 |
| GABS LLC | Kuljinder Khakh, Gayla Martin, Balwinder Singh | 5140 Frederica Street | Owensboro | KY | 42301 | 2706836570 |
| HamburgLex CSC LLC | Bhavesh Patel | 2337 Sir Barton Way | Lexington | KY | 40509 | 8597851815 |
| B & M Scoops, LLC | Richard Lentz, Tammy Lentz | 451 Jordan Dr | Paducah | KY | 42001 | 2704431117 |
| Manasvi, LLC | Mahesh. Gajawada | 671 E Main St | Frankfort | KY | 40601 | 5023522390 |
| Jai Shree Laxmi Inc. | Pravin. Patel | 3801 Mall Rd | Lexington | KY | 40503 | 8592802264 |

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| Kamilia, LLC | Eric Tan,Kami Tan | 976 Breckenridge Lane | Louisville | KY | 40207 | 5028946292 |
| SCS KY, LLC | Bunnarath.Mao,Sokun thea.Chun | 201 N 12th St | Murray | KY | 42071 | 2708732311 |
| Shri Modheshwari - Louisiana, L.L.C. | Jagruti Kamlesh Modi,Ratnakar Mody,Kamlesh Hiralal Modi | 420 Boardwalk Blvd | Bossier City | LA | 71111 | 3187465055 |
| Wanju Gauthe | Wanju Gauthe | 7539 Corporate Blvd | Baton Rouge | LA | 70809 | 2254562069 |
| Elmwood Treats LLC | Bush Wrighton,Shameen Wrighton,Eric Rey,Bianca Khoury | 1130 S Clearview Pkwy | Elmwood | LA | 70123 | 5047365037 |
| CS786 Creamery Corp. | Mustaque Ahmed,Bipul Kumar Saha,Mohammed Ali Razai,Akm Masud Hasan | 70 Worcester Providence Tpke | Millbury | MA | 01527 | 5088658165 |
| HOF786 Creamery Corp | Akm Masud Hasan,Mustaque Ahmed,Mohammed Ali Razai | 1000 W Columbus Ave | Springfield | MA | 01105 | 4137366060 |
| O' Happy Foods Corp | Khyati Dave,Sonal Khakhar | 154 Turnpike Rd | Southborough | MA | 01772 | 5084851150 |

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| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 158 Colony Place Rd | Plymouth | MA | 02360 | 5087467737 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 2 Wayside Road | Burlington | MA | 01803 | 7812702621 |
| Chicago Scoops, LLC | Jonathan Shulkin,Kyle Welch,Tim Watkins,Antonio Gracias | 94 Belvidere St | Boston | MA | 02115 | 6172620251 |
| Chicago Scoops, LLC | Jonathan Shulkin,Tim Watkins,Kyle Welch,Antonio Gracias | 61 Station Lndg | Medford | MA | 02155 | 7813505532 |
| Sweet Tooth LLC | Meenakshi Rathore,Ashwani Rathor | 280 School St | Mansfield | MA | 02048 | 7747192314 |
| Chicago Scoops, LLC | Jonathan Shulkin,Tim Watkins,Antonio Gracias,Kyle Welch | 83C Faunce Corner Mall Rd | Dartmouth | MA | 02747 | 5089912337 |
| Sweet Tooth LLC | Ashwani Rathor,Meenakshi Rathore | 176 South Franklin Street | Holbrook | MA | 02343 | 7817674100 |
| MOTIACH COLLEGE PARK LLC | Sadda Pallavi | 7314 Baltimore Avenue | College Park | MD | 20740 | 3012772229 |

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| MCK, LLC | Christopher Blazevich,Kelli Blazevich,Mark Pringle | 1310 Main Chapel Way | Gambrills | MD | 21054 | 4104514272 |
| SYDLEY Frederick, LLC | Anthony Dayyani | 1700 Kingfisher Dr | Frederick | MD | 21701 | 3016635030 |
| Sonshine Creamery, LLC | Kelli Blazevich,Christopher Blazevich,Mark Pringle | 7645 Arundel Mills Blvd | Hanover | MD | 21076 | 4432967058 |
| Shreenath Jabu LLC | Aklima Begum,Romil Mehta | 18105 Village Center Dr | Olney | MD | 20832 | 3015705639 |
| MVP Group, Inc | Maruti Kambhampati,Praveen Bobbasani,Satyashyam Gaddam | 6711 Ritchie Hwy | Glen Burnie | MD | 21061 | 4107609390 |
| Chicago Scoops, LLC | Antonio Gracias,Kyle Welch,Jonathan Shulkin,Tim Watkins | 1200 Agora Dr | Bel Air | MD | 21014 | 4108360130 |
| Gassama Scoops LLC | Sidiki Gassama | 2657 N Salisbury Blvd | Salisbury | MD | 21801 | 4108606935 |
| Our Creamery Waldorf,Inc. | Waliul Chowdhury,Arshad Khwaja,Dilafoz Ahmed,Zahir Mahmud | 3063 Waldorf Market Pl | Waldorf | MD | 20603 | 3018853400 |
| Hongxia, LLC | Hongxia Cui | 19847 Century Blvd | Germantown | MD | 20874 | 3019165353 |
| CREARY & PARTNERS, LLC | Andron Creary | 15 Lee Airpark Dr | Edgewater | MD | 21037 | 4109561100 |
| His Grace Creamery, LLC | Mark Pringle,Kelli Blazevich,Christopher Blazevich | 15754 Annapolis Road | Bowie | MD | 20715 | 3014649790 |

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| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 2500 Boston St | Baltimore | MD | 21224 | 4105220353 |
| Our Creamery Inc | Dilafoz Ahmed,Waliul Chowdhury,Zahir Mahmud,Arshad Khwaja | 84 Main St | Gaithersburg | MD | 20878 | 3015900009 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 10015 York Rd | Cockeysville | MD | 21030 | 4106288001 |
| Hoof and Paw, LLC | Tao Tia Xie | 3201 Saint Paul St | Baltimore | MD | 21218 | 4102351544 |
| Rashid CSC 1903, Inc | Mohammad Rashid | 13600 Baltimore Ave | Laurel | MD | 20707 | 3017766770 |
| M&M Ventures Inc | Michelle Engermann | 821 Ellsworth Drive | Silver Spring | MD | 20910 | 3015881230 |
| Millennium Stars LLC | Sandy Cheng,Qingbin Lin | 1809 Reisterstown Rd | Pikesville | MD | 21208 | 4104843030 |
| Baker Enterprises 1, LLC | Joel J. Baker | 8137 Honeygo Blvd | White Marsh | MD | 21236 | 4109312104 |
| TURMAN INVESTMENT GROUP LLC | Leondra Turman,Stephen Turman | 5705 Richards Valley Rd | Ellicott City | MD | 21043 | 4104656009 |
| Security Creamery LLC | Asad.Jabbar,Abdul.Jabbar | 6901 Security Blvd | Windsor Mill | MD | 21244 | 4434292465 |
| PS & MS VENTURES LLC | Srinadh Chowdary.Kandru,Sambasivarao Bellam | 10101 Twin Rivers Rd. | Columbia | MD | 21044 | 4435455041 |
| Jingobell Cakes & Ice Creams LLC | Jingo Jingo | 2985 Plaza Drive | Dunkirk | MD | 20754 | 4436462140 |

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| La Plata Creamery LLC | Syed Saif Ul Islam Shah,Numaan Shah | 105 Drury Drive | La Plata | MD | 20646 | 2407764441 |
| BMKY, INC | Mary Mi Ok Kim,Bong Yoo | 2319-I Hanover Pike | Hampstead | MD | 21074 | 4103743303 |
| Dastani Enterprises, Inc. | Keikhosrow Dastani | 2700 Campus Way North | Lanham | MD | 20706 | 3013243888 |
| SUN TOUCH INC | Sun.Choi | 825 Dulaney Valley Rd | Towson | MD | 21404 | 4108230393 |
| Syed Shah & Numaan Shah, Individuals | Syed Saif Ul Islam Shah,Numaan Shah | 44980 St. Andrews Church Rd. | California | MD | 20619 | 2402378296 |
| Udaya Kadali and Swapna Gubbala Individuals | Udaya.Kadali,Swapna. Gubbala | 12175 Clarksville Pike | Clarksville | MD | 21029 | 6672402925 |
| Chicago Scoops, LLC | Antonio Gracias,Tim Watkins,Jonathan Shulkin,Kyle Welch | 2121 Celebration Dr NE | Grand Rapids | MI | 49525 | 6163639140 |
| Y&J LLC | Mi Hun Yi | 200 Mac Ave | East Lansing | MI | 48823 | 5173379550 |
| Chicago Scoops, LLC | Tim Watkins,Jonathan Shulkin,Kyle Welch,Antonio Gracias | 3427 Century Center Street SW | Grandville | MI | 49418 | 6162499480 |
| DJTT, LLC | Tony Funderburk,Tiffany Funderburk,David Carter,Jannica Carter | 42761 Woodward Ave | Bloomfield Hills | MI | 48302 | 2483323014 |
| Sweet Creamery Inc | Hitesh Barvaliya | 33175 Grand River Ave | Farmington | MI | 48336 | 2486159099 |
| LUCAS & LANDON ICE CREAM OF COMMERCE, INC. | Francis Arabo,Muntadher Arabo | 1741 Haggerty Hwy | Commerce Township | MI | 48390 | 2489265767 |

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| Second Half Ice Cream Corp. | Todd Frerichs | 3026 Walton Blvd | Rochester Hills | MI | 48309 | 2483756000 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 50496 Schoenherr Road | Shelby Township | MI | 48315 | 5866852663 |
| Nilkanth Creamery Inc | Induben Kotadiya,Ketan Kotadiya,Jinal Patel,Samir Patel | 3597B Washtenaw Ave | Ann Arbor | MI | 48104 | 7349759110 |
| HLR Scoopers, LLC | James Melluish | 6800 South Westnedge Avenue | Portage | MI | 49002 | 2693274674 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 50756 Gratiot Ave | Chesterfield | MI | 48051 | 5869497800 |
| Scoops & Apples, Inc. | Faizi Haque,Narmeen Haque | 31961 Gratiot Avenue | Roseville | MI | 48066 | 5862942013 |
| G.W. Sweis Investments, LLC | Gassab Sweis | 510 Monroe St | Detroit | MI | 48226 | 3139642715 |
| H&M Consulting, Inc. | Faizi Haque,Narmeen Haque | 32389 John R Road | Madison Heights | MI | 48071 | 2485779861 |
| HLR Scoopers, LLC | James Melluish | 4540 W Main St | Kalamazoo | MI | 49006 | 2693430940 |
| Reign Luxury Brands, LLC | Caleb Foster | 35732 Van Dyke Avenue | Sterling Heights | MI | 48312 | 5864469130 |
| W.G. Sweis Investments, LLC | Gassab Sweis,William Sweis | 16823 Kercheval Ave | Grosse Pointe | MI | 48230 | 3138864020 |
| Mauck Investments, LLC | Kirk Mauck | 50409 Independence St | Canton | MI | 48188 | 7343944000 |
| The Sweis Group - Allen Park LLC | Gassab Sweis,William Sweis | 23009 Outer Drive | Allen Park | MI | 48101 | 3137928430 |

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| FRANKIE'S ICE CREAM OF NOVI, INC. | Muntadher Arabo,Francis Arabo | 44175 W 12 Mile Rd | Novi | MI | 48377 | 2484659091 |
| Maple Iced Delight LLC | Meghna Patel,Rakesh Patel | 7765 Main St N | Maple Grove | MN | 55369 | 7634949161 |
| Cool Scoops, LLC | Bruce Peltz,Angela Peltz | 3959 2nd St S | St. Cloud | MN | 56301 | 3202583590 |
| VENSAI LLC | Rajashekar Bachigari | 582 Prairie Center Dr | Eden Prairie | MN | 55344 | 9529439538 |
| PJs Creamery, Inc | Patty Kolbo,James Kolbo | 7455 Currell Blvd | Woodbury | MN | 55125 | 6512511112 |
| Yang, Shuxia and Hong Xie | Shuxia Yang,Hong Xie | 3461 River Rapids Dr NW | Coon Rapids | MN | 55448 | 7634278816 |
| Knep Bros., Inc. | Doug Knepper,Scott Knepper | 382 S Avenue | Bloomington | MN | 55425 | 9528510623 |
| T P & J Creamery LLC | Jashil Lad,Pinkal Mistry,Tripti Mistry | 1600 Warren St | Mankato | MN | 56001 | 5073448152 |
| Lorven Inc | Rajashekar Bachigari,Narendar Ande,Kumud Kumar Atluri | 15100 Cedar Ave | Apple Valley | MN | 55124 | 9524323739 |
| Hanuma Sai LLC | Kumud Kumar Atluri,Sirisha Atluri | 768 Mainstreet | Hopkins | MN | 55343 | 9527461970 |
| Signature Scoops LLC | Thomas Simonson,Caroline Simonson | 2700 39th Ave NE | St. Anthony | MN | 55421 | 6127881599 |
| Ya3 Enterprises, LLC | Josephine Opong-Vaughn Opong-Vaughn | 9010 Quantrelle Avenue NE | Otsego | MN | 55330 | 7632740101 |
| Deep Roots Fargo, Inc. | Justin Turnquist | 15175 Edgewood Dr | Baxter | MN | 56425 | 2188240016 |

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| CU Tomorrow, LLC | Paul McNamee,Daniel Stoltz,Amy McNamee,Robin Stoltz | 10400 Baltimore St NE | Blaine | MN | 55449 | 7637843630 |
| LiKe Enterprises, LLC | Lisa Edwards,Keith Edwards | 1220 Susan Dr | Marshall | MN | 56258 | 5073372653 |
| Chicago Scoops, LLC | Tim Watkins,Jonathan Shulkin,Antonio Gracias,Kyle Welch | 1017 W Central Entrance | Duluth | MN | 55811 | 2187222366 |
| Ennis Enterprises LLC | Joseph Betthausen,Wayne Ennis | 720 Main St Hwy | Mendota Heights | MN | 55118 | 6514546001 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 349 Canal Park Drive | Duluth | MN | 55802 | 2187225086 |
| Haque, Asif | Asif Haque | 1264 Town Centre Dr | Eagan | MN | 55123 | 6514525700 |
| Cool Scoops, LLC | Bruce Peltz | 1733 Pinecone Road, STE 500 | Sartell | MN | 56377 | 3202815556 |
| Knep Bros., Inc. | Scott Knepper,Doug Knepper | 134 East Broadway | Bloomington | MN | 55425 | 9528541005 |
| MJM Enterprise Company LLC | Satyan Bakhai | 7251 NW 86th PI | Kansas City | MO | 64153 | 8165871628 |
| MJM Enterprise Company LLC | Satyan Bakhai | 20140 E Jackson Dr | Independence | MO | 64057 | 8167951340 |
| Ramoun LLC | Mohamed Salamoun | 114 W 47th St | Kansas City | MO | 64112 | 8167537664 |

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| Yummy Delights, Inc. | Ravinder Bhatnagar | 14013 New Halls Ferry Road | Florissant | MO | 63033 | 3149215300 |
| Garrett, Elizabeth | Elizabeth Garrett | 12418 Olive Blvd | Creve Coeur | MO | 63141 | 3145763945 |
| MJ Ice Cream, LLC | Marcus Johnson,Michael Johnson | 900 E Battlefield St | Springfield | MO | 65807 | 4178834222 |
| S&S Branson Investments LLC | Julie Samford,David Samford | 1615 W 76 Country Blvd | Branson | MO | 65616 | 4172390801 |
| J & J Sweet Tooth IV, LLC | Joyce Pecina,Judy Pecina | 7 Ronnies Plz | St. Louis | MO | 63126 | 3148434646 |
| S&S Branson Investments LLC | David Samford,Julie Samford | 482 Branson Landing Blvd | Branson | MO | 65616 | 4173206417 |
| Yummy Delights, Inc. | Ravinder Bhatnagar | 6281 Ronald Reagan Drive | Lake St. Louis | MO | 63367 | 6365617871 |
| Scott, Omer Buddy | Omer Scott | 610 Wildwood Drive | Jefferson City | MO | 65109 | 5736362653 |
| On The Spectrum, LLC | Robert.Ryffel,Krista Ryffel | 1270 Jeffco Blvd | Arnold | MO | 63010 | 6363332060 |
| MJM Enterprise Company LLC | Satyan Bakhai | 9300 NE 83rd Terrace | Kansas City | MO | 64158 | 8167364015 |
| Olson, Ryan | Ryan Olson | 1531 W Main St | Bozeman | MT | 59715 | 4065227006 |
| Gruntowicz Enterprises, Inc. | Sebrina Gruntowicz,Daniel Gruntowicz | 3275 N Reserve St | Missoula | MT | 59808 | 4069266677 |
| Gruntowicz Enterprises, Inc. | Daniel Gruntowicz,Sebrina Gruntowicz | 896 S 29th St W | Billings | MT | 59102 | 4069692274 |
| Project Howe, LLC | Renee M Howe,Nicole R Howe,Monty L Howe | 110 Hutton Ranch Rd | Kalispell | MT | 59901 | 4067522653 |
| Gruntowicz Enterprises, Inc. | Sebrina Gruntowicz,Daniel Gruntowicz | 1601 Market Place Dr | Great Falls | MT | 59404 | 4064540000 |

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| TRACKS Investments, LLC | Rodney Shoaf,Sheryl Shoaf | 1626 Highwoods Blvd | Greensboro | NC | 27410 | 3362920321 |
| Rock and Ricky LLC | Ricky Garcia | 325 Crossroads Blvd | Cary | NC | 27518 | 9198587754 |
| TRACKS Investments, LLC | Rodney Shoaf,Sheryl Shoaf | 3105 Northline Avenue | Greensboro | NC | 27408 | 3362946100 |
| Whitmore, Josie & Brad | Josie Whitmore,Brad Whitmore | 8111 Concord Mills Blvd | Concord | NC | 28027 | 7049795061 |
| Scott Kehiaian Enterprises, Inc. | Abbass Abbass,Essam Abdelrhman | 4203 W Wendover Ave | Greensboro | NC | 27407 | 3362180060 |
| RRG Creamery LLC | Ricky Garcia | 688 Bluefield Rd | Mooresville | NC | 28117 | 7047996022 |
| SNS Ventures LLC | Devang Shah,Falguni Shah | 131 E Franklin St | Chapel Hill | NC | 27514 | 9199146193 |
| MKH Creamery, Inc. | Karen Harmon | 951 International Drive | Wilmington | NC | 28405 | 9102565226 |
| Bains LLC | Narinder Singh,Harvinder Singh | 164 Shenstone Ln | Garner | NC | 27529 | 9192394075 |
| CSR Incorporated | Abbass Abbass,Essam Abdelrhman | 960 S Main St | Kernersville | NC | 27284 | 3369922525 |
| Six Dips, LLC | G Loy Ehlers,Melissa Ehlers | 518 Greenville Blvd SE | Greenville | NC | 27834 | 2524392653 |
| UB Ricky LLC | Ricky Garcia,Robert Menard | 5075 Morganton Road | Fayetteville | NC | 28314 | 9108684323 |
| ACM Ventures, Inc. | Andrew Martinez,Christie Martinez | 2700 W Mallard Creek Church Rd | Charlotte | NC | 28262 | 7045489650 |
| ACM Ventures, Inc. | Andrew Martinez,Christie Martinez | 14126 Rivergate Pkwy | Charlotte | NC | 28273 | 7045833828 |
| Six Dips Jacksonville, LLC | G Loy Ehlers,Melissa Ehlers | 1250 Building L3 Western Blvd. | Jacksonville | NC | 28546 | 9109892653 |

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| Rajnishi LLC | Bhargav Parikh,Bhavi Parikh | 150 S Equity Dr | Smithfield | NC | 27577 | 9199381300 |
| SNS Ventures LLC | Devang Shah,Falguni Shah | 2050 Creekside Landing Drive | Apex | NC | 27502 | 9196294031 |
| Decadent Mixes, LLC | Traci Williams,Bradley Williams | 343 Faith Rd | Salisbury | NC | 28146 | 7046360800 |
| ACM Ventures, Inc. | Andrew Martinez,Christie Martinez | 9820 Rea Rd | Charlotte | NC | 28277 | 7043410100 |
| Parikh Creamery LLC | Bhavi Parikh,Bhargav Parikh | 5811 Poyner Village Pkwy | Raleigh | NC | 27616 | 9199007007 |
| Nitin LLC | Suketu Parikh,Bhavik Parikh | 1209 N Berkeley Blvd | Goldsboro | NC | 27534 | 9192881300 |
| TRACKS Investments, LLC | Sheryl Shoaf,Rodney Shoaf | 124 Hanes Mall Cir | Winston-Salem | NC | 27103 | 3367748585 |
| Rock and Ricky LLC | Ricky Garcia | 11088 US Highway 15/501 | Aberdeen | NC | 28315 | 9106929440 |
| Cooler South Enterprises, LLC | Chad Eads | 30 Town Square Blvd. | Asheville | NC | 28803 | 8286503013 |
| Creamery at the Crossing, LLC | Trent Reisberger,Erica Reisberger | 3160 Walden Lane | Burlington | NC | 27215 | 3365381338 |
| Nishi LLC | Bhargav Parikh,Bhavi Parikh | 7840 Alexander Promenade Pl | Raleigh | NC | 27617 | 9199572653 |
| CSR Incorporated | Essam Abdelrhman,Abbass Abbass | 3875 John Gordon Ln | High Point | NC | 27265 | 3368822653 |
| RCP Investments LLC | Misty Phillips,Rhudy Phillips | 3571 Butner Rd | Fort Bragg | NC | 28307 | 9104910608 |
| PK Realty & Investments, LLC | Prakash.Sridharan,Sa ngeetha.Prakash | 1170 Parkside Main St | Cary | NC | 27519 | 9196945461 |

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| KASAEI LLC | Romina.Jalili,Yousef.J alili | 1040 Forestville Rd | Wake Forest | NC | 27587 | 9195003972 |
| Latonia & King Parks | Latonia.Parks,King.Parks | 3350 Footbridge Lane | Hope Mills | NC | 28348 | 9102638021 |
| PK Realty & Investments, LLC | Prakash.Sridharan,Sangeetha.Prakash | 258 Grande Heights | Cary | NC | 27513 | 9196501737 |
| CSC of Lumberton LLC | Harry.Jhala,Kusum.Jhala | 140 Wintergreen Dr | Lumberton | NC | 28358 | 9106744041 |
| Deep Roots FGO, Inc. | Justin Turnquist | 4501 15th Ave S | Fargo | ND | 58103 | 7013658515 |
| Deep Roots GF, Inc. | Anthony Mooney | 3551 32nd Ave S | Grand Forks | ND | 58201 | 7017382350 |
| Raylan Inc. | Rhett Benning | 1219 W Century Ave | Bismarck | ND | 58501 | 7017512472 |
| The Stone of Minot DS, INC. | Troy Bartsch | 1420 24th St Southwest | Minot | ND | 58701 | 7018391810 |
| Jonas and Bonnita McKenzie Individuals | Jonas.McKenzie,Bonni ta.McKenzie | 3210 27th St W | Williston | ND | 58801 | 7015724415 |
| Gheateam, Inc. | Janet Otis,Scott Otis | 2910 Pine Lake Rd | Lincoln | NE | 68516 | 4024202999 |
| WILLIAMS A LA MODE, INC. | Cindy Williams,Shawn Williams | 17304 Davenport St | Omaha | NE | 68118 | 4025054192 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cindy Williams | 2055 N 120th St | Omaha | NE | 68164 | 4025022775 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cindy Williams | 3220 Farnam St | Omaha | NE | 68131 | 4023591719 |
| J & M Group LLC | Katherine Yu,Jia Chi "Fred" Yu | 206 Wilmar Ave | Grand Island | NE | 68803 | 3083847866 |
| TKL Witte, LLC | Charles Lalanne,Tammara Lalanne | 402 E Leota St | North Platte | NE | 69101 | 3085345429 |
| WILLIAMS A LA MODE, INC. | Shawn Williams,Cynthia.Williams | 12746 Westport Parkway | La Vista | NE | 68138 | 4029052897 |

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| WILLIAMS A LA MODE, INC. | Shawn Williams,Cynthia.Williams | 2110 S 67th St | Omaha | NE | 68106 | 5314667619 |
| YL Creamery LLC | Yi Ju (Angela) Liao | 180 Route 35 | Eatontown | NJ | 07724 | 7323892653 |
| Silver Scoop Creamery LLC | Nishantha Vithana,Shermila Vithana | 960 Cedar Bridge Avenue | Brick | NJ | 08723 | 7329205656 |
| Silver Scoop Limited Liability Company | Nishantha Vithana | 3 Sloan Street | South Orange | NJ | 07079 | 9737621835 |
| Hoboken First Joe LLC | Joseph Tanagho | 116 Washington St | Hoboken | NJ | 07030 | 2012223233 |
| K32 LLC | Pankaj Trivedi,Dharmesh Trivedi | 495 Prospect Ave | West Orange | NJ | 07052 | 9737311592 |
| Fun Rockaway, Inc. | Gayan Ondaatjie | 321 Mount Hope Ave | Rockaway | NJ | 07866 | 9735378200 |
| Living Well Creamery, LLC | Gyu Jeong,Michelle Soomi Jeong | 227 Bellevue Ave | Montclair | NJ | 07043 | 9736551170 |
| YAVA CREAMERY LIMITED LIABILITY COMPANY | Purvi Gandhi,Nirav Gandhi | 4270 Dearborn Circle | Mount Laurel | NJ | 08054 | 8562221806 |
| Amazins, Inc. | Insiya Dhrolia,Mazahar Dhrolia | 67 US Highway 9 | Morganville | NJ | 07751 | 7326172889 |
| GPBR LLC | Rajeshkumar Patel | 348 Ryders Ln | Milltown | NJ | 08850 | 7324320300 |
| Gopal & Prince LLC | Rajeshkumar Patel,Bhartiben Patel | 163 E Broad St | Westfield | NJ | 07090 | 9085180044 |
| Suk Tae Choi and Yelin Derflinger | Yelin Derflinger,Suk Tae Choi | 441 Broadway | Westwood | NJ | 07675 | 2017220272 |

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| Ice Cream Investments South Brunswick, LLC | Joyce Hatter,Donald Hatter | 3562 Route 27 | Kendall Park | NJ | 08824 | 7329512023 |
| DT RS LLC | David Topolewski | 2111 State Route 35 | Holmdel | NJ | 07733 | 7326710606 |
| Riyas Creamery Limited Liability Company | Purvi Gandhi | 72 Princeton Hightstown Rd | East Windsor | NJ | 08520 | 6094261509 |
| MACAG Bedminster Partners LLC | Scott MacMillan,Richard Agnolet | 428B Route 202-206 | North Bedminster | NJ | 07921 | 9082342727 |
| Silver Scoop Chocolate LLC | Nishantha Vithana,Shermila Vithana | 1930 State Route 57 | Hackettstown | NJ | 07840 | 9088509901 |
| Wallach and Higgins Limited Partnership | Seymour J. Wallach,Iris P Wallach,Jeffrey R. Wallach | 304 Greentree Rd | Sewell | NJ | 08080 | 8565822300 |
| MACAG Flemington Partners LLC | Richard Agnolet,Scott MacMillan | 325 US Highway 202 | Flemington | NJ | 08822 | 9087880770 |
| LTC Foods, LLC | LTC FOODS, LLC | 651 Kapkowski Rd | Elizabeth | NJ | 07201 | 9085587335 |
| Aburomi, Mohammed and Ziyad | Ziyad Aburomi,Mohammed Aburomi | 5 Washington St | Morristown | NJ | 07960 | 9736561700 |
| F Z Woodbridge Center LLC | Jack Zimmerman | 250 Woodbridge Center Drive | Woodbridge Township | NJ | 07095 | 7326022400 |
| GURPAR GROUP INC | LTC FOODS, LLC | 1701 W Edgar Rd | Linden | NJ | 07036 | 9085835146 |
| J&J Association LLC | Jimmy.Barreau,Jefferson.Lazo | 1101 Morris Ave | Union | NJ | 07083 | 9083553407 |
| Oospecka LLC | Jeremy Yarbrough,Larry Yarbrough,Jeremy Yarbrough,Larry Yarbrough | 4917 E Main St | Farmington | NM | 87402 | 5053255858 |

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| Willis Investment Corporation | Tom Willis DECEASED,Christine Willis | 8100 Wyoming Blvd NE | Albuquerque | NM | 87113 | 5057975552 |
| Willis Investment Corporation | Christine Willis,Tom Willis DECEASED | 3222 Central Ave SE | Albuquerque | NM | 87106 | 5052653150 |
| Rio Grande Creamery and Foods, Inc. | Cynthia Morales,Ricardo Morales | 2821 N Telshor Blvd | Las Cruces | NM | 88011 | 5755223038 |
| Willis Investment Corporation | Tom Willis DECEASED,Christine Willis | 4959 Pan American Fwy NE | Albuquerque | NM | 87109 | 5053454178 |
| Willis Investment Corporation | Tom Willis DECEASED,Christine Willis | 3703 Ellison Rd NW | Albuquerque | NM | 87114 | 5058999500 |
| MGB Enterprises, LLC | Eugene Bush,Mercedes Baca Bush | 2270 Main St NW | Los Lunas | NM | 87031 | 5058657779 |
| Willis Investment Corporation | Tom Willis DECEASED,Christine Willis | 1121 Unser Blvd SE | Rio Rancho | NM | 87124 | 5058910550 |
| SARGON A Inc | Rainey Adam,Nadia Adam | 1829 W Craig Rd | North Las Vegas | NV | 89032 | 7024568407 |
| Thomas-Rose LLC | Devon Aurich,Matthew Maltese | 9350 W Sahara Ave | Las Vegas | NV | 89117 | 7026845731 |
| MEGHA INVESTMENTS, LLC | Purvi Megha,Jay Megha | 9785 S Maryland Pkwy | Las Vegas | NV | 89183 | 7024926811 |
| Megha LLC | Purvi Megha,Jay Megha | 7435 S Durango Dr | Las Vegas | NV | 89113 | 7024633262 |
| Ro, Jang Keun | Jang Keun Ro | 5841 E Charleston Blvd | Las Vegas | NV | 89142 | 7024320022 |
| Bibbings, LLC | Harry Bibbings | 1311 W Sunset Rd | Henderson | NV | 89014 | 7028989563 |
| Bibbings, LLC | Harry Bibbings | 6640 N Durango Dr | Las Vegas | NV | 89149 | 7026854228 |

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| Shoppers C.S., Inc. | Chris Reynolds | 273 E Plumb Ln | Reno | NV | 89502 | 7753223110 |
| R J Adams Group, INC. | Rainey Adam,Nadia Adam | 75 E Horizon Ridge Pkwy | Henderson | NV | 89015 | 7028689150 |
| Karr Food & Entertainment, LLC | Audrey Karr,Jonathan Karr | 346 Silver Street | Elko | NV | 89801 | 7757383926 |
| LN Place LLC | Nadia Adam | 1121 S Decatur Blvd | Las Vegas | NV | 89102 | 7028222378 |
| SIP Empire Corporation | Justin Brigandi,Melissa Brigandi | 9655 Carousel Ctr | Syracuse | NY | 13290 | 3157012840 |
| Queens Ice Cream Parlor, Inc. | Marilina DeNuptiis,Alfonso Valoroso,Ernest J. DeNuptiis,Susan Valoroso | 17660 Union Tpke | Flushing | NY | 11366 | 7185915800 |
| Anmab Stone, Inc. | Rizwan Basit | 3535 Hempstead Tpke | Levittown | NY | 11756 | 5167963500 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 993 Central Park Avenue | Scarsdale | NY | 10583 | 9144720825 |
| R & B Stone, Inc. | Rizwan Basit | 6 Broadway | Lynbrook | NY | 11563 | 5168875077 |
| Golden Ice Cream LLC | Hui Wang Louie,Hui (Ann) Yan Shi Cregan | 2341 Richmond Avenue | Staten Island | NY | 10314 | 7189835700 |
| Q and Q Unlimited, Inc | Abid A. Qureshi | 1315 Middle Country Rd | Centereach | NY | 11720 | 6314519301 |
| Long Island Creamery, Inc | Ernest J. DeNuptiis,Marilina DeNuptiis,Alfonso Valoroso,Susan Valoroso | 984 Franklin Avenue | Garden City | NY | 11530 | 5167423656 |

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| FNMM Creamery Corp. | Bipul Kumar Saha | 3165 Harkness Avenue | Brooklyn | NY | 11235 | 7188911114 |
| OUR FIRST CREAMERY INC. | Waliul Chowdhury,Arshad Khwaja | 15714 Crossbay Boulevard | Howard Beach | NY | 11414 | 7188436977 |
| JMR Creamery, LLC | Steven Choi | 25 Mamaroneck Avenue | White Plains | NY | 10601 | 9142200160 |
| South Shore Creamery, Inc. | Andre Espinola | 255 Deer Park Avenue | Babylon | NY | 11702 | 6315397570 |
| MMM786 Creamery Corp | Mohammed Ali Razai,Akm Masud Hasan,Mustaque Ahmed | 1475 Western Ave | Albany | NY | 12203 | 5185142003 |
| CSC Webster LLC | Allan (Lanny) Auchter | 1028 Ridge Road | Webster | NY | 14580 | 5856456445 |
| James Hosung Lee | James Hosung Lee | 499 N Service Rd | Patchogue | NY | 11772 | 6312072174 |
| Dolce Gusto, LLC | Roberto Coppolecchia | 80 Route 6 | Somers | NY | 10505 | 9146210201 |
| Endeavorinside LLC | Usman Syed,Syed Khalid Rizvi | 11 Merritt Blvd | Fishkill | NY | 12524 | 8458960200 |
| Belstar Ice Cream Co., LLC | Michael Belvedere | 2598 Steinway St | Long Island City | NY | 11103 | 3473965251 |
| Zileli LLC | Feridun Zilelioglu | 64 Washington Ave | Pleasantville | NY | 10570 | 9144094959 |
| Endeavorinside LLC | Usman Syed,Syed Khalid Rizvi | 2020 South Road | Poughkeepsie | NY | 12601 | 8452972027 |
| KH - Corp | Dan Carriero | 3464 Amelia Drive | Orchard Park | NY | 14127 | 7168210800 |
| Zareen786 Corp. | Bipul Kumar Saha,Mohammed Ali Razai,Akm Masud Hasan,Mustaque Ahmed | 8028 Cooper Avenue | Glendale | NY | 11385 | 7183863835 |

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| AKG Enterprise LLC | Ahmed Hassan,Amr Sherif | 4700 Vestal Pkwy E | Vestal | NY | 13850 | 6072177126 |
| Chicago Scoops, LLC | Tim Watkins,Antonio Gracias,Kyle Welch,Jonathan Shulkin | 88-01 Queens Blvd | Elmhurst | NY | 11373 | 7187600800 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 139 Flatbush Avenue | Brooklyn | NY | 11217 | 7187892903 |
| A & E Stone Inc | Rizwan Basit | 750 W Sunrise Hwy | Valley Stream | NY | 11581 | 5168413525 |
| Ice Cream Empire LLC | Ken Sharp | 1053 Miamisburg Centerville Rd | Dayton | OH | 45459 | 9374330120 |
| Riffle Legendairy Creameries, LLC | Jessica Riffle,Andrew Riffle,Kalie Sanders,Adam Riffle | 3700 Rigby Road | Miamisburg | OH | 45342 | 9372475658 |
| Dayton Creamery Inc. | Faisal Hemani | 135 Jasper Street | Dayton | OH | 45409 | 9379526000 |
| KAT ENTERPRISES, LLC | Kathryn Harr,Andrea Watros | 1718 Hill Road North | Pickerington | OH | 43147-8880 | 6148689801 |
| Marsella LLC | James Markino,Michael Biasella | 479 W Dussel Dr | Maumee | OH | 43537 | 4194826610 |
| D&S;SMK LLC | Dime Milenkovski,Slavica Milenkovski | 1089 Polaris Pkwy | Columbus | OH | 43240-2004 | 6145058999 |
| Total Accounting and Consulting LLC | Hazem Najjar,Ahmad Shaheen | 7038 Hospital Drive | Dublin | OH | 43016 | 6147180333 |
| Randhawa United LLC | Navbir Randhawa,Jasbir Randhawa | 4826 Ridge Rd | Brooklyn | OH | 44144 | 2163510223 |

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| Marsella LLC | James Markino,Michael Biasella | 4966 Portage St NW | North Canton | OH | 44720 | 3304943600 |
| Sweet Treats 4 U, LLC | Ronald Burk,Julie Burk | 714 N Clinton St | Defiance | OH | 43512 | 4197822700 |
| Marsella LLC | James Markino,Michael Biasella | 48 Park Lane | Hudson | OH | 44236 | 3306552990 |
| Marsella LLC | James Markino,Michael Biasella | 3900 Medina Rd | Fairlawn | OH | 44333 | 3306654466 |
| Hulme Family Creamery, LLC | Christine Hulme,Mike Hulme | 1187 Experiment Farm Rd | Troy | OH | 45373 | 9373395769 |
| D&S SMK LLC | Dime Milenkovski,Slavica Milenkovski | 762 N State St | Westerville | OH | 43082 | 6148189031 |
| DM Creamery LLC | Dimitar Jovanoski,Maja Jovanoski | 101 Mill St | Gahanna | OH | 43230-3013 | 6144758393 |
| R D Lucky, LLC | Mingdeng Zhong,Ziyi "Emily" Zhong | 1776 Stringtown Road | Grove City | OH | 43123 | 6148831710 |
| Sarmiento Enterprises, Ltd. | Kimberly Sarmiento,Mark Sarmiento | 4038 Talmadge Rd | Toledo | OH | 43623 | 4192921925 |
| Bison Creamery LLC | Christopher "Brett" Neely,Holly Neely | 6815 Miller Ln | Dayton | OH | 45414 | 9372649758 |
| R Sweet Revenge, Inc. | Michelle (Suzi) Kinn,Sandra Gray,Judy Chester | 1050 Interstate Ct | Findlay | OH | 45840 | 4194245995 |
| Hershy Enterprise, Ltd | Haribhakti Patel | 3425 Princeton Rd | Hamilton | OH | 45011 | 5138950687 |

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| Riffle Legendairy Creameries, LLC | Kalie Sanders,Adam Riffle,Jessica Riffle,Andrew Riffle | 84 Chestnut Street | Dayton | OH | 45440 | 9373209950 |
| Marsella LLC | James Markino,Michael Biasella | 1924 Niles Cortland Rd SE | Warren | OH | 44484 | 3304695009 |
| C&P Ice Cream LLC | Patti Hamm,Charles Hamm | 1197 E 2nd St | Edmond | OK | 73034 | 4053305878 |
| A&K Ventures LLC | Omar Elkerdany,Ahmed Hassan | 315 S MacArthur Blvd | Oklahoma City | OK | 73128 | 4057820738 |
| Twin Scoop, L.L.C. | Rick Cruz,Rob Cruz | 2227 NW 185th Ave | Hillsboro | OR | 97124 | 5036458959 |
| BA Enterprises, LLC | Blair Sundell-Bahrd,Ashleigh Sundell-Bahrd | 635 Medford Ctr | Medford | OR | 97504-6002 | 5417737963 |
| The Haugen Corp. | Imelda Haugen,Troy Haugen | 1044 NW Civic Dr | Gresham | OR | 97030 | 5034915920 |
| Twin Scoop, L.L.C. | Rob Cruz,Rick Cruz | 3910 Center Street NE | Salem | OR | 97301 | 5035852525 |
| Twin Scoop, L.L.C. | Rick Cruz,Rob Cruz | 7656 SW Nyberg St | Tualatin | OR | 97062 | 5036922775 |
| Rockport International Investment Corp. | Mumtaz Jaffer,Saleem Jaffer | 2350 NW 9th St | Corvallis | OR | 97330 | 5412864962 |
| Woosh LLC | Kolap Ung,James Frank | 4157 NW Highway 101 | Lincoln City | OR | 97367 | 5419965500 |
| Twin Scoop, L.L.C. | Rick Cruz,Rob Cruz | 12288 SW Scholls Ferry Rd | Tigard | OR | 97223 | 5035907766 |
| Tipster, LLC | Virginya Cook | 1380 SW Canal Blvd | Redmond | OR | 97756 | 5419239836 |

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| Twin Scoop, L.L.C. | Rick Cruz,Rob Cruz | 2355 SE Tualatin Valley Hwy | Hillsboro | OR | 97123 | 5035976038 |
| TKEJ, LLC | Julie Johnsen,Eric Johnsen | 6509 Robinson Center Dr | Pittsburgh | PA | 15205 | 4127888380 |
| Satyam and Poorna Creamery Inc | Jyothsna Chunduri,Balaji Chunduri | 5072 Jonestown Rd | Harrisburg | PA | 17112 | 7176711516 |
| KP Chamsari LLC | Seung D. Kim,Jong Hee Kim-Park | 321 E Beaver Ave | State College | PA | 16801 | 8142726585 |
| RKMCSC1 LLC | Ranjeet Mullick | 5800 Forbes Avenue | Pittsburgh | PA | 15217 | 4124222291 |
| KK FOOD LLC | Kevin Kalaria,Subhash Kalaria | 160 N Gulph Rd | King of Prussia | PA | 19406 | 6103377571 |
| Stivali Inc | Matthew Baiada | 1001 Baltimore Pike | Springfield | PA | 19064 | 6103287600 |
| Waheguru Ji Inc | Jasvir Kaur | 2747 Papermill Rd | Reading | PA | 19610 | 6106852780 |
| KGN Stores Inc | Subhash Diwan,Shipra Diwan | 110 Easton Road | Warrington | PA | 18976 | 2153438925 |
| RKMCSC2 LLC | Ranjeet Mullick | 1035 Freeport Rd | Pittsburgh | PA | 15238 | 4127814710 |
| Lady Luck Creamery LLC | Elizabeth Zawilla | 360 Millcreek Plz | Erie | PA | 16565 | 8148642310 |
| Eden's Magic Scoop Inc | Tony Truong,Eden Truong | 3001 W Cheltenham Ave | Wyncote | PA | 19095 | 2158850560 |
| T.J.E.L Investment Group, LLC | Tony Truong,Tony Truong | 4013 Welsh Road | Willow Grove | PA | 19090 | 2677817226 |
| KRK Retail, Inc. | Ketan Patel,Rajiv Patel | 656 Neshaminy Mall | Bensalem | PA | 19020 | 2153572201 |
| Nirav Gandhi & Purvi Gandhi | Purvi Gandhi,Nirav Gandhi | 140 E Street Rd | Feasterville Trevose | PA | 19053 | 2153572225 |
| Brown, Daniel W. | Dan Brown | 2300 E Lincoln Hwy | Langhorne | PA | 19047 | 2157021999 |
| Two Sisters Creamery LLC | Nirav Gandhi | 3 Montage Mountain Rd | Moosic | PA | 18507 | 5704140330 |

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| Rowan, Mary | Mary Rowan | 2530 Aramingo Ave | Philadelphia | PA | 19125 | 2157394168 |
| ESM Creamery Corporation | Bernard Rodgers,Susan Rodgers | 2530 Greengate Centre Circle | Greensburg | PA | 15601 | 7242193629 |
| R & C Creamery, Inc. | Carlos Perez,Ricardo Perez,Miguel Perez | Highway PR-52 Bo. Canabon, Las Catalinas Cinemas Mall | Caguas | PR | 00725 | 7872861770 |
| Stone of Grace, Inc. | Manuel Baez Perez,Kayra Rivera Martinez | 19 Olympic Plaza Shopping Ctr | Las Piedras | PR | 00771 | 7877337777 |
| Ramos, Jose A. and Jose E. | Jose A Ramos,Jose E Ramos | 245 Manati Gdns | Manati | PR | 00674 | 7878849696 |
| The Creamery Shop Corporation | John Torres Alvarez,Marilyn Molina | 1046 Avenida Hostos | Ponce | PR | 00716 | 7872903400 |
| R & C Creamery, Inc. | Ricardo Perez,Carlos Perez,Miguel Perez | Caribbean Cinema Bldg, Bo Los Frailes, Calle D y E, Plaza Guaynabo | Guaynabo | PR | 00969 | 7877902829 |
| Betancourt, Ismael | Ismael Betancourt | 65 De Infanteria Ave, Store 8, Escorial Shopping Village | Carolina | PR | 00924 | 7877683723 |
| JR Acquisition Corp. | Jose A Ramos,Jose E Ramos | Condominio Reina de Castilla, Paseo Portuario Old San Juan | San Juan | PR | 00901 | 7877212653 |
| O.B.Y. Creamery, Inc. | Osvaldo Pavon Colon,Yvonne Morales | Building 1, Suite 1, Plaza Rio Hondo Shopping Center | Bayamon | PR | 00921 | 7877951100 |

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| R & C Creamery, Inc. | Miguel Perez,Carlos Perez,Ricardo Perez | Carr. 2, Km 54.6, Int Carr 140, Bo. Manati Abajo | Barceloneta | PR | 00617 | 7878462233 |
| O.B.Y. Creamery, Inc. | Osvaldo Pavon Colon,Yvonne Morales | 6150 Ave Isla Verde #2 | Carolina | PR | 00979 | 7875256954 |
| Esmeraldas Ice Cream Inc. | Ismael Betancourt | Carretera 3, Local 8 Los Colobos, Monte Real Shopping Center | Carolina | PR | 00979 | 7872571652 |
| GBP Creamery, Inc. | Jose Martinez,Nydia Martinez | Carr. 2, Km 158, Plaza Sultana Shopping Center | Mayaguez | PR | 00680 | 7878062653 |
| The Creamery Brothers Corp. | Jose E Ramos,Jose A Ramos | 506 Calle Truncado | Hatillo | PR | 00659 | 7878816262 |
| The Creamery Parlor Corporation | John Torres Alvarez,Marilyn Molina | BO FELIXIA Carr #153, Bo Felixia 2, Int Carr 542, Plaza Del Prado Shopping Center | Santa Isabel | PR | 00757 | 7878451352 |
| JR Acquisition Corp. | Jose A Ramos,Jose E Ramos | Montehiedra Town Center, Local FC0109 Ave. | San Juan | PR | 00926 | 7877202653 |
| Chicago Scoops, LLC | Antonio Gracias,Jonathan Shulkin,Kyle Welch,Tim Watkins | 1000 Chapel View Blvd | Cranston | RI | 02920 | 4019431172 |
| BHIG's ICE CREAM, LLC | Rebecca Haik,Ian Greene | 143 Franklin Street | Westerly | RI | 02891 | 4015962653 |
| Sir Scoop-A-Lot, LLC | Jason Hill,Jessica Hill | 1939 W Palmetto St | Florence | SC | 29501 | 8436615911 |

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|-----------------------------|---------------------------------------|------------------------|------------------|----|-------|------------|
| Pellegrino & Sons LLC | Elizabeth Pellegrino,David Pellegrino | 1130 Celebrity Cir | Myrtle Beach | SC | 29577 | 8436267801 |
| Jeffcoat Creamery LLC | Brandon Jeffcoat,Bryon Jeffcoat | 914 N Lake Dr | Lexington | SC | 29072 | 8039512353 |
| Jeffcoat Creamery LLC | Brandon Jeffcoat,Bryon Jeffcoat | 7250 Rivers Ave | North Charleston | SC | 29406 | 8438182218 |
| Pellegrino & Sons LLC | Elizabeth Pellegrino,David Pellegrino | 10740 Kings Road | Myrtle Beach | SC | 29572 | 8432130100 |
| Cooler Upstate, LLC | Chad Eads | 1125 Woodruff Rd | Greenville | SC | 29607 | 8642882464 |
| Atkinson, Edward | Edward Atkinson | 285 Columbiana Dr | Columbia | SC | 29212 | 8037326226 |
| Pellegrino & Sons LLC | David Pellegrino,Elizabeth Pellegrino | 4008 Deville St | Myrtle Beach | SC | 29577 | 8432382663 |
| A&F LLC | Arooj.Akram,Raja.Akram | 1329 Broadcloth Street | Fort Mill | SC | 29715 | 8035473102 |
| Huan Nguyen, Individual | Huan.Nguyen | 1223 Knox Ave | North Augusta | SC | 29841 | 8036136053 |
| Colonial Creamery, Inc. | Cindy Reesman,Edward Reesman | 2425 S Shirley Ave | Sioux Falls | SD | 57106 | 6052750085 |
| Black Hills Creamery, Inc. | Ronald Kirkpatrick | 1925 W Main St | Rapid City | SD | 57702 | 6057160999 |
| Madeeda, LLC | Hisham Zeinelabdin | 782 Old Hickory Blvd | Brentwood | TN | 37027 | 6156618876 |
| Sweet Dreams, LLC | Rita McCay | 100 Chestnut Street | Chattanooga | TN | 37402 | 4232670888 |
| Naturally Fun Creations LLC | James Hendrick,Annette Hendricks | 1780-C Tiny Town Rd | Clarksville | TN | 37042 | 9316470202 |
| Naturally Fun Creations LLC | James Hendrick,Annette Hendricks | 1839 Madison St | Clarksville | TN | 37043 | 9319192919 |

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| P & K Investments, LLC | Philip Knutson,Kristen Knutson | 1408 Texas Ave S | College Station | TX | 77840 | 9796931702 |
| D&P Ice Cream, L.L.C. | Debbie Deininger,Paul Deininger | 11851 Bandera Rd | Helotes | TX | 78023 | 2103729730 |
| SHRI Modheshwari Corp Inc. | Jagruti Kamlesh Modi,Kamlesh Hiralal Modi | 2115 Summer Lee Dr | Rockwall | TX | 75032 | 9727222589 |
| KANISHKA ENTERPRISES LLC | Ashutosh Paul,Anita Gambhir,Nishma Bains | 4062 N US Highway 75 | Sherman | TX | 75090 | 9038913832 |
| B.C.E. Enterprises, LLC | Gwen Referente,Jonas Referente | 10645 Broadway St | Pearland | TX | 77584 | 7134369989 |
| CSCreamery Cypress, LLC | Luis Alberto Ruiz Guerrero,Ileana Contreras Garcia | 17337 Spring Cypress Rd | Cypress | TX | 77429 | 2812567735 |
| Nobe Enterprises LLC | Natasha Dowd | 4228 Saint Michael Dr | Texarkana | TX | 75503 | 9038382653 |
| Moca Creamery, Ltd. | Jesus Leonel ("Leo") Moreno,Delia Moreno | 7017 N 10th St | McAllen | TX | 78504 | 9569929101 |
| V&L Creamery, LLC | Lorena Vidaurri,Victor Vidaurri | 8215 University Ave | Lubbock | TX | 79423 | 8067487000 |
| Sasnak LLC | Greg Cropp | 1830 North Zaragosa Rd | El Paso | TX | 79936 | 9158567722 |
| D&P Ice Cream, L.L.C. | Debbie Deininger,Paul Deininger | 17503 La Cantera Pkwy | San Antonio | TX | 78257 | 2105612776 |
| Seven Star R USA LLC | Mohammed Tleib,Hanan Tleib | 7917 Pat Booker Road | Live Oak | TX | 78233 | 2109469700 |

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| Sasnak LLC | Greg Cropp | 7040 N Mesa St | El Paso | TX | 79912 | 9155813993 |
| Gregory Cropp | Greg Cropp | 10555 Gateway Blvd W | El Paso | TX | 79925 | 9155907700 |
| RKTAUS, LLC | syed ahmed | 4249 Southwest Dr | Abilene | TX | 79606 | 3256919337 |
| V&L Creamery, LLC | Lorena Vidaurri,Victor Vidaurri | 2333 S Georgia St | Amarillo | TX | 79109 | 8063318032 |
| Shri Modheshwari-Allen, Inc. | Kamlesh Hiralal Modi,Ratnakar Mody,Ankita Mehta | 190 E Stacy Rd | Allen | TX | 75002 | 9726782852 |
| Moriarty Creamery, LLC | Tim Moriarty,Kathleen Moriarty | 3900 Arlington Highlands Blvd | Arlington | TX | 76018 | 8174657111 |
| Moriarty Creamery ATC, LLC | Tim Moriarty,Kathleen Moriarty | 2948 Texas Sage Trl | Fort Worth | TX | 76177 | 8177419007 |
| MAAC International LLC | Vincent Neal Tyner,Preetkamal Tyner,Aldo Zamora | 3340 Pablo Kisel Blvd | Brownsville | TX | 78520 | 9566211050 |
| Northeast Asia Investment Management, LLC | Qian Wang,Liang "Leo" Kong,Tiehui.Wang | 28902 Hwy 290 | Cypress | TX | 77433 | 2817894963 |
| Northeast Asia Investment Management, LLC | Qian Wang,Liang "Leo" Kong,Tiehui.Wang | 2162 Spring Stuebner Rd. | Spring | TX | 77389 | 2817715999 |
| Martha Robbins and David De La Paz | Martha.Robbins,David .De-La-Paz | 620 US Hwy 287 N Frontage Rd | Mansfield | TX | 76063 | 4698229390 |
| RHEY-CSC, LLC | Vinay.Calyampoondi,P adma Venkatrangan | 410 W Southlake Blvd | Southlake | TX | 76092 | 8174103872 |

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| DAWNTODUSKCOFFEE LLC | Vijayabalan.Babu,Chitra.Babu | 6561 Riverside | Irving | TX | 75039 | 2144960781 |
| Cold Co LLC | Greggory Peck,Melanie Leishman | 2302 N University Pkwy | Provo | UT | 84604 | 8013734703 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 7040 S Union Park Avenue | Midvale | UT | 84047 | 8015691009 |
| Price, Lane & Jana Jenson | Lane A. Price,Jana Jenson-Price | 273 W 500 S | Bountiful | UT | 84010 | 8012942750 |
| FAMA Enterprises, LLC | Fabio DeMelo | 10493 S Redwood Rd | South Jordan | UT | 84095 | 3853371010 |
| Stone Cold Confections - Logan, LC | Josh Christensen,Eldon Haacke | 505 E 1400 N | Logan | UT | 84341 | 4357533339 |
| DCS Creamery, LC | Donald (Seth) Paxman | 62 E 12300 S | Draper | UT | 84020 | 8015530802 |
| Sweet Indulgence, INC | Stephen Bracken,Joy Bracken | 575 University Mall | Orem | UT | 84057 | 3852412182 |
| WEBB GROUP I, LLC | Tamara Webb,Donald Webb | 456 E State Rd | American Fork | UT | 84003 | 8017637540 |
| Chicago Scoops, LLC | Jonathan Shulkin,Tim Watkins,Antonio Gracias,Kyle Welch | 320 N Main St | Spanish Fork | UT | 84660 | 8017942558 |
| The Sweet Place LLC | Dalton Place,Bart Place,Jolyn Place,Chase Place,Audra Place | 936 North Main Street | Layton | UT | 84041 | 8014440701 |
| GOBOGH, Inc. | DeWayne Glazier,Jared Glazier | 3781 West Center Park Drive | West Jordan | UT | 84084 | 8012803054 |

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|---------------------------|--|-------------------------|------------------|----|-------|------------|
| Glazier, Jared & DeWayne | DeWayne Glazier, Jared Glazier | 5287 South State Street | Murray | UT | 84107 | 8012700801 |
| Sunset Breaks LLC | Matthew Jacobson | 245 Red Cliffs Dr | St. George | UT | 84790 | 4356889609 |
| Chicago Scoops, LLC | Kyle Welch, Jonathan Shulkin, Tim Watkins, Antonio Gracias | 6030 Market St | Park City | UT | 84098 | 4355750287 |
| RBC Ice Cream, LLC | Robin Christensen, Becky Christensen | 1191 E Main St | Price | UT | 84501 | 4356132653 |
| Chicago Scoops, LLC | Kyle Welch, Jonathan Shulkin, Tim Watkins, Antonio Gracias | 1197 N Main St | Tooele | UT | 84074 | 4352280120 |
| GOBOGH, Inc. | DeWayne Glazier, Jared Glazier | 9335 South State Street | Sandy | UT | 84070 | 8018784888 |
| RKPearson Enterprises LLC | Russell Pearson, Karilynne Pearson | 1820 West Highway 40 | Vernal | UT | 84078 | 4357816349 |
| WEBB GROUP I, LLC | Donald Webb, Tamara Webb | 1376 North Redwood Rd | Saratoga Springs | UT | 84045 | 8013418470 |
| Chicago Scoops, LLC | Jonathan Shulkin, Tim Watkins, Kyle Welch, Antonio Gracias | 2126 S Highland Dr | Salt Lake City | UT | 84106 | 8014851203 |
| Chicago Scoops, LLC | Tim Watkins, Kyle Welch, Antonio Gracias, Jonathan Shulkin | 11585 S District Dr | South Jordan | UT | 84095 | 8017901010 |

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| C-Stone Properties, L.L.C. | Paul.Norman,Darcy.W ride,Chris.Kesler,Kevin.Kesler | 175 25th St | Ogden | UT | 84401 | 8016106946 |
| The Sweet Place LLC | Dalton Place,Bart Place,Jolyn Place,Chase Place,Audra Place | 1917 W 1800 N | Clinton | UT | 84015 | 3853937071 |
| Rashid CSC Inc. | Mohammad Rashid | 550 Oyster Point Rd | Newport News | VA | 23602 | 7572690550 |
| Ramji LLC | Hinaben Patel,Shital Patel | 11952L Fair Oaks Mall | Fairfax | VA | 22033 | 7032183445 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 5860 Harbour View Blvd | Suffolk | VA | 23435 | 7576869010 |
| Coleh Investments, LLC | Jennifer Rider,James Rider | 1169 Nimmo Pkwy | Virginia Beach | VA | 23456 | 7575638288 |
| Ace of Spades, L.L.C. | Phillip Combest | 228 Central Park Avenue | Virginia Beach | VA | 23462 | 7574977555 |
| Jeff Roth, Inc. | Jeffrey M. Roth | 13261 Rittenhouse Dr | Midlothian | VA | 23112-6245 | 8047447999 |
| Cool Delights LLC | Melva Pinn-Bingham,Leon Bingham | 1986 Power Plant Pkwy | Hampton | VA | 23666 | 7578262190 |
| Park, Soon Chun | Soon Chun Park | 11800 W Broad St | Richmond | VA | 23233 | 8043643330 |
| Donald Investment Corporation | Jeffrey Donald,Clara Donald | 2077 Lynnhaven Pkwy | Virginia Beach | VA | 23456 | 7574716400 |
| Shah Ventures LLC | Syed Saif Ul Islam Shah,Numaan Shah | 9982 Brook Rd | Glen Allen | VA | 23059-6501 | 8042625490 |
| Country Treats Incorporated | Heather McGuinness,Michael McGuinness | 8113 Sudley Road | Manassas | VA | 20109 | 7033307722 |

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| Nashwan Cleaner Inc | Nashwan Talib | 205 Maple Ave E | Vienna | VA | 22180 | 7035398121 |
| Kennvi LLC | Pavan Pendyala,Venkata Yeramati,Madhusudhan Gorantla,Sudha Narra | 1013 Edwards Ferry Rd NE | Leesburg | VA | 20176 | 7037719060 |
| SK1, LLC | Sanjay Kapoor | 836 Eden Way N | Chesapeake | VA | 23320 | 7573533222 |
| SKS Norfolk, LLC | Keval Shah,Sanjay Patel,Amy Mitchell,Lucas Mitchell | 520 W 21st St | Norfolk | VA | 23517 | 7577472000 |
| Captain Bobs Ice Cream Extravaganza, LLC | Su Fischer | 1220 Alverser Plz | Midlothian | VA | 23113 | 8044232653 |
| AXM Investments LLC | Ajaz Shaikh,Almas Hasan,Mobin Sayed | 239 Swamp Fox Rd | Alexandria | VA | 22314 | 7033294066 |
| SYDLEY Christiansburg, LLC | Anthony Dayyani | 2445 N Franklin St | Christiansburg | VA | 24073 | 5402514024 |
| Quality Creamery LLC | Terrance Knight | 939 W Broad St | Richmond | VA | 23220 | 8043426006 |
| Country Treats Incorporated | Michael McGuinness,Heather McGuinness | 7372 Atlas Walk Way | Gainesville | VA | 20155 | 7037531143 |
| Rusvey Corporation | Michael "Mike" Harvey,Blanche Harvey | 147 Alexandria Pike | Warrenton | VA | 20186 | 5403498077 |
| Onemil Development, LLC | Anthony Dayyani | 2200 Crystal Dr | Crystal City | VA | 22202 | 7034182223 |
| JL Woodbridge, LLC | James Shiao | 2449 Prince William Pkwy | Woodbridge | VA | 22192 | 7034999980 |
| PPS Incorporated | Sadda Pallavi,Satyashyam Gaddam,Praveen Bobbasani | 13027 Worldgate Drive | Herndon | VA | 20170 | 7034816501 |

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|----------------------------|--|---------------------------|-----------------|----|-------|------------|
| NJ Creamery, LLC | Niraj Hemrajani | 8190 Strawberry Ln | Falls Church | VA | 22042 | 7039929805 |
| Kennvi LLC | Madhusudhan Gorantla,Sudha Narra,Venkata Yeramati,Pavan Pendyala | 22025 Dulles Retail Plaza | Dulles | VA | 20166 | 7034446723 |
| Shyam Creamery, LLC | Niraj Hemrajani,Gopal Pardasani | 42385 Ryan Rd | Ashburn | VA | 20148 | 7033275595 |
| Park, Soon Chun | Soon Chun Park | 9320 W Broad St | Richmond | VA | 23294 | 8042179555 |
| Light of Life, LLC | Chris Howard Andrew | 9917 Southpoint Pkwy | Fredericksburg | VA | 22407 | 5408340595 |
| JMB Holdings, LLC | James Bates,Dana Bates | 3911 Wards Rd | Lynchburg | VA | 24502 | 4342378383 |
| Everbloom LLC | Ji Young Min | 7702B Richmond Hwy | Alexandria | VA | 22306 | 7037170781 |
| DCA Treasure, LLC | Jean Kim,John Kim | 5705 Burke Centre Pkwy | Burke | VA | 22015 | 7032503002 |
| Parkhead Assets Inc. | Michael McGuinness,Heather McGuinness | 45999 Regal Plz | Sterling | VA | 20165 | 5713232777 |
| B.K.J. Food LLC | Jun Li,Baihe Tian | 1709 Emmet St N | Charlottesville | VA | 22901 | 4345296834 |
| Asma and Fawad Ashraf | Asma.Ashraf,Fawad.Ashraf | 4615 Monitcello Ave | Williamsburg | VA | 23188 | 7578086521 |
| CSC Woodinville LLC | Raj Dhrolia,Jagdishkumar Patel | 17848 Garden Way NE | Woodinville | WA | 98072 | 4253989821 |
| Timberline Cool Treats LLC | Justin Kennedy,Stephanie Kennedy | 15600 NE 8th St | Bellevue | WA | 98008 | 4259570333 |

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| Unlimited Possibilities, Inc. | Mary J. Hansen, Mary J. Hansen, James Hansen | 9502 N Newport Hwy | Spokane | WA | 99218 | 5094661699 |
| Timberline Cool Treats LLC | Justin Kennedy, Stephanie Kennedy | 7345 164th Ave NE | Redmond | WA | 98052 | 4254978484 |
| Lee & Cho LLC | Brandon Cho, Soon Jai Cho Oh | 17304 Southcenter Pkwy | Tukwila | WA | 98188 | 2539813566 |
| Unlimited Possibilities, Inc. | Mary J. Hansen, James Hansen | 3011 E 29th Ave | Spokane | WA | 99223 | 5095367199 |
| RS Creations LLC | Rajinder Rai, Kamaljit Sekhon, Taranjit Sekhon, Parminder Rai | 6100 E Lake Sammamish Pkwy SE | Issaquah | WA | 98029 | 4254272723 |
| EKO Enterprises LLC | Gagandeep Oberoi | 3000 184th St SW | Lynnwood | WA | 98037 | 4256731484 |
| Stauros Enterprises, Inc. | Timothy Shelton, Karen Shelton | 13333 Meridian Avenue E | Puyallup | WA | 98373 | 2538452000 |
| 11 LLC | Jagdishkumar Patel, Raj Dhrolia | 15415 Main St | Mill Creek | WA | 98012 | 4253373200 |
| Oh Mokpo LLC | Steve Oh | 2430 S 319th Pl | Federal Way | WA | 98003 | 2538399400 |
| CSC Lakewood LLC | Jagdishkumar Patel, Raj Dhrolia | 10417 Gravelly Lake Dr SW | Lakewood | WA | 98499 | 2535898646 |
| CSC Factoria LLC | Jagdishkumar Patel, Raj Dhrolia | 3910 Factoria Blvd SE | Bellevue | WA | 98006 | 4255622700 |
| Chill Out LLC | Jeremy Annillo, Sarah Annillo | 17017 SE 270th Pl | Covington | WA | 98042 | 2536380880 |
| Rinck Enterprises, Inc. | Angela Rinck | 16010 SE Mill Plain Blvd | Vancouver | WA | 98684 | 3602601211 |

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| CSC Lacey LLC | Jagdishkumar Patel,Raj Dhrolia | 1350 Marvin Rd NE | Lacey | WA | 98516 | 3604563640 |
| RS Creations LLC | Kamaljit Sekhon,Taranjit Sekhon,Parminder Rai,Rajinder Rai | 16822 Twin Lakes Ave | Marysville | WA | 98271 | 3606521732 |
| Mickelberry Ice Cream 2, LLC | Phillip Batch,Melissa Batch | 9601 Mickelberry Rd NW | Silverdale | WA | 98383 | 3606927719 |
| Chill Out LLC | Jeremy Annillo,Sarah Annillo | 504 Ramsay Way | Kent | WA | 98032 | 2538540122 |
| CYTJ Creamery Corp | Charles Cho,Yu Kyung Cho | 900 Front St | Leavenworth | WA | 98826 | 5095487500 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 6935 75th St | Kenosha | WI | 53142 | 2629488112 |
| A&Y Group LLC | Ahmed Hassan,Mohamed Amin Mohamed Elhelw | 2101 S Oneida St | Green Bay | WI | 54304 | 9204299992 |
| JOYFUL GOODS INC. | Cheryl Gerow | 326 State Highway 13 | Wisconsin Dells | WI | 53965 | 6082532220 |
| Chicago Scoops, LLC | Kyle Welch,Jonathan Shulkin,Tim Watkins,Antonio Gracias | 2928 Market Pl | Onalaska | WI | 54650 | 6087831381 |
| Casual Cuisine Concepts, LLC | Ellen Brown,Duane Brown,Cynthia Wetzel | 3420 E Calumet St | Appleton | WI | 54914 | 9209549865 |
| Four Dips, LLC | Scott Knepper | 4613 Keystone Xing | Eau Claire | WI | 54701 | 7158318482 |

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| Chicago Scoops, LLC | Kyle Welch, Tim Watkins, Antonio Gracias, Jonathan Shulkin, Kyle Welch, Jonathan Shulkin, Tim Watkins, Antonio Gracias | 2935 S 108th St | West Allis | WI | 53227 | 4145413888 |
| Chicago Scoops, LLC | Antonio Gracias, Kyle Welch, Jonathan Shulkin, Tim Watkins | 2900 Deerfield Dr | Janesville | WI | 53546 | 6083050489 |
| Point Creamery LLC | Joseph Lamb | 3546 Washington Ave | Sheboygan | WI | 53081 | 9204584777 |
| Griffiths Sundaes & Cones LLC | Brian Griffiths, Nicole Griffiths | 859 W Main St | Lake Geneva | WI | 53147 | 2622494900 |
| Point Creamery LLC | Joseph Lamb | 101 Division Street | Stevens Point | WI | 54481 | 7153412880 |
| Chicago Scoops, LLC | Jonathan Shulkin, Kyle Welch, Tim Watkins, Antonio Gracias | 1005 Pearson Drive | Hudson | WI | 54016 | 7153819899 |
| Betwin Associates, LLC | Xiaohu Tiger Wang, Baozhi Yuan, Xiaohu Tiger Wang, Baozhi Yuan | 1650 Deming Way | Middleton | WI | 53562 | 6088310332 |
| Double Jade, LLC | Yunhong Zan, Jilin He | 2970 Cahill Main | Fitchburg | WI | 53711 | 6082770769 |
| AK TRADE LLC | Omar Elkerdany, Amr Eleish | 356 High Street | Morgantown | WV | 26505 | 3042922653 |

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|------------------------|-------------------------------------|----------------------|------------|----|-------|------------|
| AB Holdings Group, LLC | Allan Bevans | 10 Pullman Square | Huntington | WV | 25701 | 3045226640 |
| Shia Enterprise, Inc. | Tracy Shia,Jackie Shia | 44 Fort Henry Road | Wheeling | WV | 26059 | 3045479292 |
| BZ Creamery LLC | Steven Yasulevicz,Brenda Yasulevicz | 2316 Dell Range Blvd | Cheyenne | WY | 82009 | 3076389293 |
| T.L.C. Creamery LLC | David Medlock,Jill Medlock | 939 E 2nd St | Casper | WY | 82601 | 3072373960 |

Cold Stone Creamery Franchisees who have signed Franchise Agreements but whose stores were not open as of November 30, 2022:

| Franchise Company | Owners | Address | City | State | Zip | Phone |
|-----------------------------|--|-----------------------------|------------------|-------|-------|---|
| KH2 Corporation | Kevin Hwang,Kim Hwang | 1300 W Northern Lights Blvd | Anchorage | AK | 99503 | hwang_kevin@hotmail.com,kh2corp@gmail.com |
| Wild Spirit Ice Cream LLC | Dawn.Daniel,John.Daniel | 9210 S Houghton Rd | Tucson | AZ | 85747 | 520-245-0546 |
| CPS ENTERPRISE LLC | Sunil.Annapureddy,Praveen.Pati,Chandan.Samireddy | 1969 W Ray Rd | Chandler | AZ | 85224 | (413) 262-9669 |
| Parikh, Palak & Jinal | Palak Parikh,Jinal Parikh | | Phoenix | AZ | | parikhjinal@gmail.com |
| Chaudhry, Humayun & Sameera | Humayun Chaudhry,Sameera Chaudhry | | Buckeye | AZ | | humayunsameera@yahoo.com |
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| CSC Mountain House Enterprise | Sandeep Hans | | Mountain House | CA | | s_hans@hotmail.com |
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| Wu'nderful Creations Corporation | Awawu Umaru | 2430 Market St | Washington | DC | 20018 | 202-413-7521 |
| MEYER & GREGORIO FRANCHISES LLC | Jose.Gregorio Jr.,Julie Hurstfield-Meyer | TBD | Coral Gabels | FL | | 305-747-5254 |
| Large Capital LLC | Ehab.Hosny | TBD | Orlando | FL | | 813-220-1589 |
| Kamal Hossain Individual | Kamal.Hossain | | Lake Nona | FL | | 313-6320257 |
| Chapel Creamery Inc | Deepal.Patel,Ji tendra.Patel | 1646 Bruce B Downs Blvd | Wesley Chapel | FL | 33543 | 508-345-1117 |
| Lutz Creamery Inc | Deepal.Patel,Ji tendra.Patel | TBD | Lutz | FL | | 508-345-1117 |
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EXHIBIT V

TO THE FRANCHISE DISCLOSURE DOCUMENT

Financial Statements

Consolidated financial statements of MTY Franchising USA, Inc.

For the years ended November 30, 2022, 2021 and 2020

| | |
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| Independent auditor's report | 1-2 |
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| Consolidated statements of changes in stockholder's equity | 4 |
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Report of Independent Auditors

To the Management and Stockholder of MTY Franchising USA, Inc.

Opinion

We have audited the accompanying consolidated financial statements of MTY Franchising USA, Inc. and its subsidiaries (the "Company"), which comprise the consolidated balance sheets as of November 30, 2022, 2021 and 2020, and the related consolidated statements of operations and comprehensive income (loss), of changes in stockholder's equity and of cash flows for the years then ended, including the related notes (collectively referred to as the "consolidated financial statements").

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Company as of November 30, 2022, 2021 and 2020, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (US GAAS). Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Consolidated Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Emphasis of Matter

As discussed in Note 3 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in 2022. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date the consolidated financial statements are available to be issued.

PricewaterhouseCoopers LLP
1250 René-Lévesque Boulevard West, Suite 2500, Montréal, Quebec, Canada H3B 4Y1
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Auditors' Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with US GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with US GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

PricewaterhouseCoopers LLP¹

Montréal, Quebec, Canada
February 6, 2023

¹ CPA auditor, public accountancy permit No. A123475

MTY Franchising USA, Inc.

Consolidated statements of operations and comprehensive income (loss)

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

| | Notes | 2022 | 2021 | 2020 |
|---|-------------|----------------|-----------------|-----------------|
| | | \$ | \$ | \$ |
| | | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Revenue | 22 | 263,686 | 216,655 | 192,657 |
| Costs and expenses | | | | |
| Operating expenses | 3 & 23 | 194,664 | 141,877 | 141,386 |
| Depreciation – property, plant and equipment | 9 | 2,480 | 1,057 | 1,415 |
| Amortization – intangible assets | 11 | 14,631 | 13,888 | 14,174 |
| Impairment charge – property, plant and equipment | 9 & 13 | 338 | 27 | 579 |
| Impairment charge – operating lease right-of-use assets | 3 & 8 | 247 | 42 | 774 |
| Impairment charge – intangible assets and goodwill | 11, 12 & 13 | 5,643 | 2,862 | 62,143 |
| Interest expense | 24 | 18,135 | 16,264 | 16,764 |
| Management fees charged by parent company | 27 | 2,928 | 1,733 | 1,830 |
| | | 239,066 | 177,750 | 239,065 |
| Other income (expenses) | | | | |
| Interest income | | 2,256 | 1,536 | 683 |
| Gain (loss) on disposal of property, plant and equipment and assets held for sale | | 92 | 1,986 | (276) |
| Gain on extinguishment of holdback | | — | 27 | — |
| Gain on de-recognition/lease modification of operating lease liabilities | 3 & 8 | 20 | 793 | 475 |
| | | 2,368 | 4,342 | 882 |
| Income (loss) before income taxes | | 26,988 | 43,247 | (45,526) |
| Income tax expense (recovery) | 3 & 25 | | | |
| Current | | 9,911 | 12,727 | 3,076 |
| Deferred | 3 | (2,496) | (168) | (11,779) |
| | | 7,415 | 12,559 | (8,703) |
| Net income (loss) and comprehensive income (loss) | 3 | 19,573 | 30,688 | (36,823) |

The accompanying notes are an integral part of these consolidated financial statements.

MTY Franchising USA, Inc.**Consolidated statements of changes in stockholder's equity**

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars, except number of common stock issued)

| | Common stock issued | Common stock value | Retained earnings | Total stockholder's equity |
|---|--------------------------------|-------------------------------|------------------------------|---|
| | | \$ | \$ | \$ |
| | | | <i>Adjusted (Note 3)</i> | <i>Adjusted (Note 3)</i> |
| Balance as at November 30, 2019 | 15 | 179,154 | 45,152 | 224,306 |
| Adjustment on adoption of ASC 842 (Note 3) | — | — | (1,786) | (1,786) |
| Balance as at December 1, 2019 | 15 | 179,154 | 43,366 | 222,520 |
| Net loss and comprehensive loss | — | — | (36,823) | (36,823) |
| Balance as at November 30, 2020 | 15 | 179,154 | 6,543 | 185,697 |
| Net income and comprehensive income | — | — | 30,688 | 30,688 |
| Balance as at November 30, 2021 | 15 | 179,154 | 37,231 | 216,385 |
| Net income and comprehensive income | — | — | 19,573 | 19,573 |
| Balance as at November 30, 2022 | 15 | 179,154 | 56,804 | 235,958 |

The accompanying notes are an integral part of these consolidated financial statements.

MTY Franchising USA, Inc.

Consolidated balance sheets

As at November 30, 2022, 2021 and 2020

(In thousands of US dollars)

| | | 2022 | 2021 | 2020 |
|--|---------|------------------|-----------------|-----------------|
| | Notes | \$ | \$ | \$ |
| | | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Assets | | | | |
| Current assets | | | | |
| Cash | | 23,059 | 17,868 | 16,017 |
| Restricted cash | | 504 | 361 | 361 |
| Accounts receivable | 5 | 24,961 | 17,207 | 19,559 |
| Inventories | | 6,164 | 2,462 | 2,296 |
| Assets held for sale | 6 & 9 | 1,563 | — | — |
| Current portion of loans receivable | 7 | 461 | 551 | 690 |
| Receivable from company under common control | 16 | 3 | 3 | 11 |
| Receivable from ultimate parent | 16 & 27 | 126,323 | 100,926 | 58,895 |
| Prepaid expenses and deposits | | 7,728 | 4,324 | 3,585 |
| Other current assets | | 3,167 | 1,918 | 1,030 |
| Income taxes receivable | 25 | 2,827 | 2,367 | — |
| | | 196,760 | 147,987 | 102,444 |
| Loans receivable | 7 | 543 | 561 | 919 |
| Contract cost asset | | 3,127 | 2,749 | 2,291 |
| Other assets | 3 | 1,492 | 1,291 | 825 |
| Property, plant and equipment | 9 | 54,458 | 2,989 | 2,741 |
| Operating lease right-of-use assets | 3 & 8 | 165,641 | 100,872 | 124,217 |
| Intangible assets | 11 | 522,400 | 409,147 | 425,894 |
| Goodwill | 12 | 238,060 | 185,576 | 185,576 |
| | | 1,182,481 | 851,172 | 844,907 |
| Liabilities | | | | |
| Current liabilities | | | | |
| Accounts payable | | 16,650 | 9,980 | 12,225 |
| Accrued liabilities | 3 | 29,565 | 19,293 | 23,270 |
| Gift card liability | 14 | 91,453 | 76,097 | 70,571 |
| Promotional funds payable | | 16,303 | 16,521 | 10,589 |
| Current portion of operating lease liabilities | 3 & 8 | 35,431 | 25,033 | 29,017 |
| Current portion of deferred revenue and deposits | 15 | 7,571 | 6,358 | 5,894 |
| Income taxes payable | 25 | — | — | 11,904 |
| Advance from parent company | 16 & 27 | 2,928 | 1,733 | 1,830 |
| Advance from ultimate parent | | 198,801 | — | — |
| Advances from companies under common control | 16 & 27 | 42 | 184 | 184 |
| Current portion of holdbacks payable | 18 | — | 7,076 | 3,810 |
| | | 398,744 | 162,275 | 169,294 |

The accompanying notes are an integral part of these consolidated financial statements.

MTY Franchising USA, Inc.**Consolidated balance sheets (continued)**

As at November 30, 2022, 2021 and 2020

(In thousands of US dollars)

| | | 2022 | 2021 | 2020 |
|--|--------|------------------|-----------------|-----------------|
| | Notes | \$ | \$ | \$ |
| | | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Liabilities (continued) | | | | |
| Long-term loan from company under common control | 17 | 299,850 | 299,850 | 299,850 |
| Other liabilities | | 412 | 804 | — |
| Operating lease liabilities | 3 & 8 | 132,285 | 76,877 | 97,862 |
| Deferred revenue and deposits | 15 | 23,288 | 21,669 | 18,725 |
| Deferred income taxes | 3 & 25 | 91,944 | 73,312 | 73,479 |
| | | 946,523 | 634,787 | 659,210 |
| Stockholder's equity | | | | |
| Common stock | 20 | 179,154 | 179,154 | 179,154 |
| Retained earnings | 3 | 56,804 | 37,231 | 6,543 |
| | | 235,958 | 216,385 | 185,697 |
| | | 1,182,481 | 851,172 | 844,907 |

Approved by the Board on February 6, 2023

_____, Director

MTY Franchising USA, Inc.

Consolidated statements of cash flows

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

| | | 2022 | 2021 | 2020 |
|---|-------------|---------------|-----------------|-----------------|
| | Notes | \$ | \$ | \$ |
| | | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Operating activities | | | | |
| Net income (loss) and comprehensive income (loss) | 3 | 19,573 | 30,688 | (36,823) |
| Items not affecting cash, restricted cash: | | | | |
| Depreciation – property, plant and equipment | 9 | 2,480 | 1,057 | 1,415 |
| Amortization – intangible assets | 11 | 14,631 | 13,888 | 14,174 |
| Interest expense | 24 | 18,135 | 16,264 | 16,764 |
| (Gain) loss on disposal of property, plant and equipment and assets held for sale | | (92) | (1,986) | 276 |
| Impairment charge – property, plant and equipment | 9 & 13 | 338 | 27 | 579 |
| Impairment charge – operating lease right-of-use assets | 3 & 8 | 247 | 42 | 774 |
| Impairment charge – intangible assets and goodwill | 11, 12 & 13 | 5,643 | 2,862 | 62,143 |
| Gain on extinguishment of holdback | | — | (27) | — |
| Gain on de-recognition/lease modification of operating lease liabilities | 3 & 8 | (20) | (793) | (475) |
| Deferred income tax recovery | 3 | (2,496) | (168) | (11,779) |
| | | 58,439 | 61,854 | 47,048 |
| Interest paid | | (16,192) | (16,192) | (16,192) |
| Changes in non-cash working capital items | | | | |
| Accounts receivable | | (213) | 450 | (4,344) |
| Inventories | | 151 | (166) | (1,006) |
| Prepaid expenses and deposits | | (2,997) | (2,336) | 1,487 |
| Loans receivable | | 329 | 497 | (236) |
| Other current assets | | (574) | (888) | (1,030) |
| Income taxes | | (1,048) | (5,276) | 25 |
| Accounts payable | | (2,511) | (2,245) | 3,080 |
| Accrued liabilities | | (6,759) | (4,075) | (2,662) |
| Promotional funds payable | | (218) | 5,932 | 6,297 |
| Gift card liability | | 7,747 | 5,526 | 2,474 |
| Deferred revenue and deposits | | 2,831 | 3,408 | 5,009 |
| Other | 3 | 74 | (645) | (760) |
| Net cash provided from operating activities | | 39,059 | 45,844 | 39,190 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

| | | 2022 | 2021 | 2020 |
|--|-------|------------------|--|--|
| | Notes | \$ | \$ <i>Adjusted</i> <i>(Note 3)</i> | \$ <i>Adjusted</i> <i>(Note 3)</i> |
| Investing activities | | | | |
| Net cash outflow on acquisition | 4 | (207,083) | — | — |
| Net cash acquired through business acquisition | 4 | 10,431 | — | — |
| Additions to property, plant and equipment | 9 | (1,830) | (2,338) | (1,273) |
| Additions to intangible assets | 11 | (2,950) | (3) | (68) |
| Proceeds on disposal of property, plant and equipment | | 326 | 4,339 | 300 |
| Proceeds on disposal of assets held for sale | | — | — | 8,405 |
| Net cash (used in) provided from investing activities | | (201,106) | 1,998 | 7,364 |
| Financing activities | | | | |
| Net advance from (to) ultimate parent and parent company | | 174,599 | (42,128) | (53,125) |
| Net advance (to) from companies under common control | | (142) | 8 | (105) |
| Repayment of holdbacks payable | 18 | (7,076) | (3,871) | (1,433) |
| Net cash provided from (used in) financing activities | | 167,381 | (45,991) | (54,663) |
| Net increase (decrease) in cash, restricted cash | | 5,334 | 1,851 | (8,109) |
| Cash, restricted cash, beginning of year | | 18,229 | 16,378 | 24,487 |
| Cash, restricted cash, end of year | | 23,563 | 18,229 | 16,378 |

Supplemental cash flow information

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The accompanying notes are an integral part of these consolidated financial statements.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

1. Nature of operations

MTY Franchising USA, Inc. (the “Company” or “MTY USA”) was incorporated on March 14, 2001. The Company develops and franchises restaurants under a multitude of different banners in the United States of America (the “US”).

2. Significant accounting policies

Basis of presentation

The accounting policies of the Company are in accordance with accounting principles generally accepted in the US (“US GAAP”). The Company uses the US dollar as its functional and reporting currency, and tabular amounts are rounded to the nearest thousand (\$000) except when otherwise indicated. MTY USA is a wholly owned subsidiary of MTY Food Group Inc.

The preparation of the consolidated financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Presented below are those policies considered particularly significant:

Basis of consolidation

The consolidated financial statements reflect the financial position and operating results of the Company, including wholly owned subsidiaries and investees that we control.

The principal subsidiaries of the Company are as follows:

| <u>Principal subsidiaries</u> | <u>Percentage of equity interest</u> |
|-------------------------------|--------------------------------------|
| | % |
| BF Acquisition Holdings, LLC | 100 |
| Built Franchise Systems, LLC | 100 |
| CB Franchise Systems, LLC | 100 |
| Kahala Brands Ltd. | 100 |
| Papa Murphy’s Holdings Inc. | 100 |
| BBQ Holdings, Inc. (Note 4) | 100 |

Revenues and expenses of subsidiaries are included in the consolidated statement of operations and comprehensive income from the effective date of acquisition. The subsidiaries are consolidated from the acquisition date until the date on which the Company ceases to control them.

All intercompany transactions, balances, revenues and expenses are eliminated in full upon consolidation.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Business combinations

The Company accounts for acquired businesses using the acquisition method of accounting in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 805, Business Combinations. The consideration transferred for the acquisition is the fair values of the assets transferred, the liabilities incurred, and the equity interest issued. The consideration transferred includes the fair value of any asset or liability resulting from a contingent consideration arrangement. Acquisition-related costs are expensed as incurred. Identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination are measured initially at their fair value at the acquisition date.

Goodwill is measured as the excess of the purchase price over the estimated fair values of the net assets acquired. If, after reassessment, the net of the acquisition date amounts of the identifiable assets acquired and liabilities assumed exceeds the sum of the consideration transferred, the amount of any non-controlling interests in the acquiree and the fair value of the acquirer’s previously held interest in the acquiree (if any), the excess is recognized immediately in profit or loss as a bargain purchase gain.

Goodwill reflects how the acquisition will impact the Company’s ability to generate future profits in excess of existing profits. The consideration paid mostly relates to combined synergies, related mainly to revenue growth. These benefits are not recognized separately from goodwill as they do not meet the recognition criteria for identifiable intangible assets.

When the consideration transferred by the Company in a business combination includes assets or liabilities resulting from a contingent consideration arrangement, the contingent consideration is measured at its acquisition date fair value and included as part of the consideration transferred in a business combination.

When a business combination is achieved in stages, the Company’s previously held equity interest in the acquiree is remeasured to fair value at the acquisition date (i.e. the date when the Company obtains control) and the resulting gain or loss, if any, is recognized in profit or loss. Amounts arising from interests in the acquiree prior to the acquisition date that have previously been recognized in income and other comprehensive income are reclassified to profit or loss where such treatment would be appropriate if that interest were disposed of.

If the initial accounting for a business combination is incomplete by the end of the reporting period in which the combination occurs, the Company reports provisional amounts for the items for which the accounting is incomplete. Those provisional amounts are adjusted retrospectively during the measurement period or additional assets or liabilities are recognized, to reflect new information obtained about facts and circumstances that existed at the acquisition date that, if known, would have affected the amounts recognized at that date.

Goodwill

Goodwill represents the excess of cost over the net tangible assets and identifiable intangible assets of acquired businesses. Goodwill is carried at cost reduced by previous impairment losses, if any.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Functional currency

The functional currency of the Company and its subsidiaries is the US dollar. The Company translates monetary assets and liabilities that are denominated in currencies other than the US dollar at the exchange rates prevailing at the end of the reporting period; non-monetary assets denominated in foreign currencies are translated using the exchange rate prevailing at the transaction date; all revenue and expense items denominated in foreign currencies are translated at the exchange rate prevailing at the transaction date. All foreign exchange gains and losses are reported in profit or loss.

Revenue recognition

Revenue is recognized upon the transfer of control of promised goods or services to customer in an amount that reflects the consideration the Company expects to receive for those goods or services.

Revenue from franchise locations

- i) Royalties are based either on a percentage of gross sales as reported by the franchisees or on a fixed monthly fee. They are recognized on an accrual basis in accordance with the substance of the relevant agreement, as they are earned.
- ii) Promotional fund contributions are based on a percentage of gross sales as reported by the franchisees. Corresponding promotional fund transfers are presented directly on the consolidated balance sheets. The Company is not entitled to retain these promotional fund payments received and is obligated to transfer these funds to be used solely for use in promotional and marketing-related costs for specific restaurant banners. The Company sometimes charges a fee for the administration of the promotional funds.
- iii) Initial franchise fees are recognized on a straight-line basis over the term of the franchise agreement as the performance obligation relating to franchise rights is fulfilled. Amortization begins once the restaurant has opened.
- iv) Upfront fees related to master license agreements are recognized over the term of the master license agreements on a straight-line basis.
- v) Renewal fees and transfer fees are recognized on a straight-line basis over the term of the related franchise agreement.
- vi) The Company earns rent revenue on certain leases it holds; the Company's policy is described below.
- vii) Revenue from equipment sale and retail sales are recognized upon transfer of control, generally upon shipment of the equipment or goods. This revenue is recorded in resale material and retail sales.
- viii) The Company recognizes breakage income proportionately as each gift card is redeemed, based on the historical redemption patterns of the gift cards. The Company also charges various program fees to its franchisees as gift cards are redeemed. Notably, this does not apply to gift card liabilities assumed in a business acquisition, which are accounted for at fair value at acquisition date.
- ix) The Company receives considerations from certain suppliers. Fees are generally earned based on the value of purchases during the period. Agreements that contain an initial upfront fee, in addition to ongoing fees, are recognized on a straight-line basis over the term of the respective agreement. Supplier contributions are recognized as revenue as they are earned and are recorded in franchising revenue.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Revenue from franchise locations (continued)

- x) The Company earns e-commerce fees, which includes point-of-sale (“POS”) support fees and transaction fees for purchase made through one of the Company’s brands’ e-commerce platforms. POS supports fees are received quarterly in advance and are recognized over the period they cover. Transaction fees are recognized when the food items purchased from a store are delivered or picked up by customers.

Revenue from corporate-owned locations

Revenue from corporate-owned locations is recorded when goods are delivered to customers.

Contract cost asset

The Company recognizes incremental costs of obtaining a contract as an asset if they are expected to be recoverable, unless their amortization period would be less than one year, in which case they are expensed as incurred. The costs are amortized to operating expenses over the term of the related franchise agreement.

Leasing

The Company adopted ASC 842, Leases (“ASC 842”) on December 1, 2021. See note 3 for further details.

In accordance with ASC 842, the Company determines if an arrangement is or contains a lease at contract inception and recognizes a right-of-use asset and a lease liability at the lease commencement date. Leases with an initial term of 12 months or less but greater than one month are not recorded on the balance sheet for select asset classes.

The lease liability is measured at the present value of future lease payments as of the lease commencement date. The right-of-use asset recognized is based on the lease liability adjusted for prepaid and deferred rent and unamortized lease incentives. An operating lease right-of-use asset is amortized on a straight-line basis over the lease term and is recognized as a single lease cost against the operating lease liability. A finance lease right-of-use asset is amortized on a straight-line basis, with interest costs reported separately, over the lesser of the useful life of the leased asset or lease term.

Operating lease expense is recognized on a straight-line basis over the lease term and is included in Operating expenses. Variable lease payments are expensed as incurred. The Company uses its incremental borrowing rates as the discount rate for its leases, which is equal to the rate of interest the Company would have to pay on a collateralized basis to borrow an amount equal to the lease payments under similar terms. The lease terms for all the Company’s leases include the contractually obligated period of the leases, plus any additional periods covered by Company options to extend the leases that the Company is reasonably certain to exercise. Certain leases provide that the lease payments may be increased annually based on the fixed rate terms or adjustable terms such as the Consumer Price Index. Future base rent escalations that are not contractually quantifiable as of the lease commencement date are not included in the lease liability.

Lease expense for lease payments is recognized on a straight-line basis over the lease term. Lease expense is comprised of operating and finance lease costs, short-term lease costs, and variable lease costs, which primarily include common area maintenance, real estate taxes, and insurance for the Company’s real estate leases.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Leasing (continued)

The Company enters into leases for franchised and corporately-owned locations, offices, and equipment in the normal course of business.

The Company as lessee

The Company recognizes operating lease liabilities with corresponding operating lease right-of-use assets, except for short-term leases and leases of low value assets, which are expensed on a straight-line basis over the lease term. The Company's leases are all classified as operating leases. The amortization of the operating lease right-of-use asset and interest expense related to the operating lease liability are recorded together as the lease expense to produce a straight-line recognition effect in the consolidated statement of operations. Under ASC 842, operating lease right-of-use assets are tested for impairment in accordance with ASC 360, Property, Plant and Equipment.

The Company as lessor

When the Company enters into a sublease arrangement as an intermediate lessor, the Company accounts for the head lease and the sublease as two separate contracts. All the subleases of the Company are classified as operating subleases by reference to the operating lease right-of-use asset arising from the underlying asset. For operating subleases, the Company recognizes an operating right-of-use asset relating to the head lease and recognizes a deferred rent asset or liability in the sublease. As the intermediate lessor, the Company retains the operating lease liability on the head lease in its consolidated balance sheet. During the term of the sublease, the Company recognizes both lease income on the sublease and lease expense on the head lease.

Income taxes

The Company accounts for income taxes pursuant to ASC 740, Income Taxes ("ASC 740"). Deferred tax assets and liabilities are recorded for differences between the financial statement and tax basis of the assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is recorded for the amount of income tax payable or refundable for the period increased or decreased by the change in deferred tax assets and liabilities during the period.

The Company recognizes the financial statement benefit of a tax position only after determining that the relevant tax authority would more likely than not sustain the position following an audit. For tax positions meeting the more-likely-than-not threshold, the amount recognized in the financial statements is the largest benefit that has a greater than 50 percent likelihood of being realized upon ultimate settlement with the relevant tax authority.

Allowance for doubtful accounts

The Company currently uses the simplified expected credit loss ("ECL") model for its trade receivables, which permits the use of the lifetime expected loss provision for all trade receivables and also incorporates forward-looking information. Lifetime ECL represents the ECL that will result from all probable default events over the expected life of a financial instrument.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Assets held for sale

Assets are classified as held for sale when management with the appropriate authority commits to a plan to sell the assets, the assets are available for immediate sale, the assets are actively marketed at a reasonable price, the sale is probable within a year, and certain other criteria met. Assets held for sale consist primarily of Company-owned stores where the Company has committed to a plan to sell specific stores. Assets designated as held for sale are held at the lower of the net book value or fair value less costs to sell. Depreciation is not charged against property, plant and equipment classified as assets held for sale.

Property, plant and equipment

Land and buildings held for use in the production or supply of goods or services, or for administrative purposes, are stated in the consolidated balance sheet at their historical costs less accumulated depreciation (buildings) and accumulated impairment losses. Cost includes expenditures that are directly attributable to the acquisition of the asset, including any costs directly attributable to bringing the asset to a working condition for its intended use.

Equipment, leasehold improvements, rolling stock and computer hardware are stated at cost less accumulated depreciation and accumulated impairment losses.

Depreciation is recognized so as to write off the cost or valuation of assets less their residual values over their useful lives, using the straight-line method. The estimated useful lives, residual values and depreciation methods are reviewed at the end of each year, with the effect of any changes in estimate accounted for on a prospective basis.

An item of property, plant and equipment is derecognized upon disposal or when no future economic benefits are expected to arise from the continued use of the asset. Any gain or loss arising on the disposal or retirement of an item of property, plant and equipment is determined as the difference between the sales proceeds and the carrying amount of the asset and is recognized in profit or loss.

Depreciation is based on the following terms:

| | | |
|------------------------|---------------|----------------------|
| Buildings | Straight-line | 25 to 50 years |
| Equipment | Straight-line | Three to 10 years |
| Leasehold improvements | Straight-line | Term of the lease |
| Rolling stock | Straight-line | Five to seven years |
| Computer hardware | Straight-line | Three to seven years |

Intangible assets

Intangible assets acquired separately

Intangible assets with finite useful lives that are acquired separately are carried at cost less accumulated amortization and accumulated impairment losses, if applicable. Amortization is recognized on a straight-line basis over their estimated useful lives. The estimated useful lives and amortization methods are reviewed at the end of each year, with the effect of any changes in estimate being accounted for on a prospective basis. Intangible assets with indefinite useful lives that are acquired separately are carried at cost less accumulated impairment losses, if applicable.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Intangible assets (continued)

Intangible assets acquired in a business combination

Intangible assets acquired in a business combination and recognized separately from goodwill are initially recognized at their fair value at the acquisition date.

Subsequent to initial recognition, intangible assets having a finite life acquired in a business combination are reported at cost less accumulated amortization and accumulated impairment losses, if applicable, on the same basis as intangible assets that are acquired separately. Intangible assets having an indefinite life are not amortized and are therefore carried at cost reduced by previous impairment losses, if applicable.

Derecognition of intangible assets

An intangible asset is derecognized on disposal, or when no future economic benefits are expected from use or disposal. Gains or losses arising from derecognition of an intangible asset, measured as the difference between the net disposal proceeds and the carrying amount of the asset, are recognized in profit or loss when the asset is derecognized.

The Company currently carries the following intangible assets in its books:

Franchise rights

The franchise rights acquired through business combinations are recognized at the fair value of the estimated future cash inflows related to the acquisition of franchises. The franchise rights are generally amortized on a straight-line basis over the term of the agreements which typically range between 10 to 20 years.

Trademarks

Trademarks acquired through business combinations are recognized at their fair value at the time of the acquisition and are not amortized. Trademarks are determined to have an indefinite useful life based on their brand recognition and their ability to generate revenue through changing economic conditions with no foreseeable time limit.

Other

Included in other intangible assets are purchased software and liquor licences, which are being amortized over their expected useful life on a straight-line basis.

Impairment of long-lived assets other than goodwill

The Company continually reviews whether events or circumstances subsequent to the acquisition of any long-lived assets, including intangible assets with finite useful lives, have occurred that indicate the remaining estimated useful lives of those assets may warrant revision or that the remaining balance of those assets may not be recoverable. If events and circumstances indicate that the long-lived assets should be reviewed for possible impairment, the Company uses projections to assess whether future cash flows on an undiscounted basis related to the assets exceed the recorded carrying amount of those assets to determine if an asset is impaired. Should an impairment be identified, a loss would be recorded to the extent that the carrying value of the impaired assets exceeds their fair values as determined by valuation techniques appropriate in the circumstances that could include the use of similar cash flow projections on a discounted basis. The reporting units of indefinite intangible assets are individual brands, comprised of franchise rights, trademarks, and perpetual licenses.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Impairment of goodwill

For the purposes of impairment testing, goodwill is allocated to the unit or group of units (“reporting unit”) that are considered to represent the lowest level within the group at which the goodwill is monitored for internal management purposes. As at November 30, 2022, goodwill is allocated as follows:

| | Reporting unit description |
|---|---|
| US excluding Papa Murphy’s and BBQ Holdings | A group of units comprised of acquired brands in the US, excluding the Papa Murphy’s (“Papa Murphy’s”) and BBQ Holdings, Inc. (“BBQ Holdings”) brands |
| Papa Murphy’s | One unit comprised of the Papa Murphy’s brand |
| BBQ Holdings | A group of units comprised of the BBQ Holdings brands |

Goodwill is tested for impairment on an annual basis (August 31 for the Company) and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value. Fair value is determined using a discounted cash flow methodology with a risk adjusted weighted average cost of capital.

Cash and restricted cash

Cash and restricted cash include cash on hand and short-term investments, if any, with maturities upon acquisition of generally three months or less or that are redeemable at any time at full value and for which the risk of a change in value is not significant. As at November 30, 2022, cash and restricted cash included \$504 of restricted cash (2021 and 2020 – \$361) that is required as part of guarantees on certain lease commitments.

Inventories

Inventories are measured at the lower of cost and market value. Costs of inventories are determined on a first-in-first-out basis and include acquisition costs and other costs incurred to bring inventories to their present location and condition.

Market value represents the current replacement cost, provided that the cost does not exceed the net realizable value or is not less than the net realizable value reduced by a normal profit margin.

Contingencies

Litigation, disputes and closed stores

Provisions for the expected cost of litigation, disputes and the cost of settling leases for closed stores, with the exception of operating lease liabilities already recorded pursuant to ASC 842, are recognized when it becomes probable the Company will be required to settle the obligation, at management’s best estimate of the expenditure required to settle the Company’s obligation.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Contingencies (continued)

Contingent liabilities acquired in a business combination

Contingent liabilities acquired in a business combination are initially measured at fair value at the acquisition date. At the end of subsequent reporting periods, such contingent liabilities are measured at the higher of the amount that would be recognized, and the amount initially recognized less cumulative amortization recognized, if any.

Financial instruments

The Company's financial instruments consist of cash, restricted cash, accounts receivable, loans receivable, receivable from company under common control, receivable from ultimate parent, accounts payable, accrued liabilities, promotional funds payable, advance from parent company, advances from companies under common control, long-term loan from company under common control and holdbacks payable. Unless otherwise noted, it is management's opinion that the Company is not exposed to significant interest, currency or credit risks arising from these financial instruments. The fair values for cash, restricted cash, accounts receivable, loans receivable, receivable from company under common control, receivable from ultimate parent, accounts payable, accrued liabilities, promotional funds payable, advance from parent company and advances from companies under common control approximate their carrying values due to their immediate or short-term maturities, unless otherwise noted. The long-term loan from company under common control, advances from ultimate parent and holdbacks payable are measured at amortized cost using the effective interest method.

Promotional funds

Pursuant to the franchise agreements, franchisees must pay a fee to the promotional funds. These amounts are collected by the Company in its capacity as agent and must be used for promotional and advertising purposes, since the amounts are set aside to promote the respective banners for the franchisees' benefit. The promotional funds collected, and the related expenditures are reported on a gross basis in the consolidated statements of operations and comprehensive income. To the extent that promotional funds received exceed the related promotional expenditures, the excess contributions will be recorded in accounts payable or accrued liabilities.

Cash held pursuant to the promotional funds received are classified as unrestricted cash as there are no legal restrictions on the use of these funds; however, the Company intends to use these funds solely to support the promotional funds rather than to fund its ongoing operations. As at November 30, 2022, promotional funds were in a net liability position amounting to \$13,278 (2021 – net liability position of \$14,603; 2020 – net liability position of \$9,559).

Subsequent events

Subsequent events were evaluated through the date that the consolidated financial statements were issued, which was February 6, 2023.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Estimates and assumptions

Business combinations

For business combinations, the Company must make assumptions and estimates to determine the purchase price accounting of the business being acquired. To do so, the Company must determine the acquisition date fair value of the identifiable assets acquired, including such intangible assets as franchise rights and master franchise rights, trademarks, step-in rights and liabilities assumed. Among other things, the determination of these fair market values involves the use of discounted cash flow analyses and future system sales growth. Goodwill is measured as the excess of the fair value of the consideration transferred including the recognized amount of any non-controlling interest in the acquiree over the net recognized amount of the identifiable assets acquired and liabilities assumed, all measured at the acquisition date. These assumptions and estimates have an impact on the asset and liability amounts recorded in the consolidated balance sheets on the acquisition date. In addition, the estimated useful lives of the acquired amortizable assets, the identification of intangible assets and the determination of the indefinite or finite useful lives of intangible assets acquired will have an impact on the Company's future profit or loss.

Goodwill and indefinite-lived intangible assets

The fair value calculation includes estimates of revenue growth, which are based on past performance and internal projections for the intangible asset group's forecasted growth, and royalty rates, which are adjusted for our particular facts and circumstances. The discount rate is selected based on the estimated cost of capital that reflects the risk profile of the related business. These estimates are highly subjective, the ability to achieve the forecasted cash flows used in our fair value calculations is affected by factors such as the success of strategic initiatives, changes in economic conditions, changes in our operating performance and changes in our business strategies.

Contingencies

The Company makes assumptions and estimations based on its current knowledge of future disbursements it will have to make in connection with various events that have occurred in the past and for which the amount to be disbursed and the timing of such disbursement are uncertain at the date of producing its financial statements. This includes contingencies for onerous contracts, litigations and disputes and other contingencies.

Gift card liabilities

Management is required to make certain assumptions in both the prorated recognition based on redemption pattern and remoteness recognition of gift card breakage. The significant estimates are breakage rate and the redemption patterns.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

2. Significant accounting policies (continued)

Estimates and assumptions (continued)

Impact of COVID-19

During the year ended November 30, 2022, the COVID-19 pandemic continued to impact the markets in which MTY USA and its franchise partners and suppliers operate. The beginning of the year saw the spread of the Omicron variant, which impacted certain markets with additional government-mandated restrictions. However, over the following months such restrictions were gradually eased, with most government-imposed restrictions lifted in the second quarter in most of the markets in which MTY USA operates. The continuing vaccination campaigns, including the administration of boosters and the gradual expansion of the coverage of the population, allowed those markets to mostly remain open in the second half of the year, with small disruptions in certain areas. Although there is uncertainty surrounding the effects that the lifting of restrictions will have on the number of infections and the potential emergence of new variants, the current situation appears to highlight a familiar sense of back-to-normal with the longer-term impact on the economy and the rules and restrictions that will apply to MTY USA's restaurants.

As a result of the continued and uncertain economic and business impacts of the COVID-19 pandemic, the Company continues to monitor the estimates, judgments and assumptions used in the financial statements. For the year ended November 30, 2022, the Company determined that there were no specific triggers for impairment assessments attributable to COVID-19. Accordingly, the Company did not record impairment charges on its property, plant and equipment, intangible assets, and goodwill in the period attributable to COVID-19. These estimates, judgments and assumptions are subject to change.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

3. Changes in accounting policies

ASU 2016-13 – Financial instruments (“ASU 2016-13”)

In June 2016, the FASB issued ASU No. 2016-13, Measurement of Credit Losses on Financial Instruments, which revised guidance for the accounting for credit losses on financial instruments within its scope, and through March 2020 issued ASUs that amended the standard (ASU No. 2018-19, ASU No. 2019-04, ASU No. 2019-05, ASU No. 2019-11, and ASU No. 2020-03). The new standard introduced an approach, based on expected losses, to estimate credit losses on certain types of financial instruments and modified the impairment model for available-for-sale debt securities. The new approach to estimating credit losses (referred to as the current expected credit losses model) applies to most financial assets measured at amortized cost and certain other instruments, notably trade and other receivables and loans. For the Company, this ASU was effective December 1, 2023 but the Company chose to early adopt this ASU on December 1 2021 and it did not have a material impact due to the nature and extent of the Company’s financial instruments in scope for this ASU (primarily trade receivables) and the historical, current and expected credit quality of its customers as of the date of adoption.

ASU 2016-02 – Leases (Topic 842) (“ASU 2016-02”)

The early adoption of ASC 842 on December 1, 2021 had a material impact on the Company’s assets and liabilities due to the recognition of operating lease right-of-use assets and operating lease liabilities on its consolidated balance sheets. The Company elected to adopt ASC 842 using the retrospective method using December 1, 2019 as the date of initial application. As such, the Company has adjusted the comparative periods for its 2020 and 2021 financial years. The Company elected to apply the package of practical expedients under which it has not reassess the classification of its existing leases, re-evaluate whether any expired or existing contracts are or contain leases or reassessed initial direct costs under the new guidance. Additionally, the Company has elected lessee and lessor practical expedients to not separate non-lease components from lease components. The Company did not elect the practical expedient that permits a reassessment of lease terms for existing leases. The Company has also made an accounting policy election to keep leases with an initial term of 12 months or less off the balance sheet. The impacts on each financial year are outlined in the tables below.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

3. Changes in accounting policies (continued)

ASU 2016-02 – Leases (Topic 842) (“ASU 2016-02”) (continued)

| | As previously reported under | ASC 842 adoption adjustments | ASC 842 adoption | As previously reported under | ASC 842 adoption adjustments | Restated | As previously reported under | ASC 842 adoption adjustments | Restated |
|--|---------------------------------------|------------------------------------|---------------------|---------------------------------------|------------------------------------|----------|---------------------------------------|------------------------------------|----------|
| | ASC 840 | | December | ASC 840 | | November | November | | ASC 840 |
| Consolidated balance sheets | November | | 1, 2019 | November | | 30, 2020 | November | | 30, 2021 |
| | 30, 2019 | | | 30, 2020 | | 30, 2020 | 30, 2021 | | 30, 2021 |
| | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Assets | | | | | | | | | |
| Prepaid expenses and deposits | 5,210 | — | 5,210 | 3,585 | — | 3,585 | 5,463 | (1,139) | 4,324 |
| Operating lease right-of-use assets | — | 133,949 | 133,949 | — | 124,217 | 124,217 | — | 100,872 | 100,872 |
| Other assets | — | — | — | — | 825 | 825 | — | 1,291 | 1,291 |
| | 5,210 | 133,949 | 139,159 | 3,585 | 125,042 | 128,627 | 5,463 | 101,024 | 106,487 |
| Liabilities and Stockholder's equity | | | | | | | | | |
| Current liabilities | | | | | | | | | |
| Accrued liabilities | 25,932 | (770) | 25,162 | 23,270 | — | 23,270 | 19,293 | — | 19,293 |
| Current portion of operating lease liabilities | — | 30,809 | 30,809 | — | 29,017 | 29,017 | — | 25,033 | 25,033 |
| | 25,932 | 30,039 | 55,971 | 23,270 | 29,017 | 52,287 | 19,293 | 25,033 | 44,326 |
| Operating lease liabilities | — | 105,505 | 105,505 | — | 97,862 | 97,862 | — | 76,877 | 76,877 |
| Deferred income taxes | 85,234 | 191 | 85,425 | 73,934 | (455) | 73,479 | 73,536 | (224) | 73,312 |
| | 111,166 | 135,735 | 246,901 | 97,204 | 126,424 | 223,628 | 92,829 | 101,686 | 194,515 |
| Retained earnings | 45,152 | (1,786) | 43,366 | 7,925 | (1,382) | 6,543 | 37,893 | (662) | 37,231 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

3. Changes in accounting policies (continued)

ASU 2016-02 – Leases (Topic 842) (“ASU 2016-02”) (continued)

| | As previously reported under ASC 840 | | Restated | As previously reported under ASC 840 | | Restated |
|--|--------------------------------------|------------------------------|------------------------------|--------------------------------------|------------------------------|------------------------------|
| | Year ended November 30, 2020 | ASC 842 adoption adjustments | Year ended November 30, 2020 | Year ended November 30, 2021 | ASC 842 adoption adjustments | Year ended November 30, 2021 |
| Consolidated statements of operations and comprehensive income (loss) | \$ | \$ | \$ | \$ | \$ | \$ |
| Costs and expenses | | | | | | |
| Operating expenses | 141,443 | (57) | 141,386 | 142,077 | (200) | 141,877 |
| Impairment charge – operating lease right-of-use assets | — | 774 | 774 | — | 42 | 42 |
| Other income | | | | | | |
| Gain on de-recognition/lease modification of operating lease liabilities | — | 475 | 475 | — | 793 | 793 |
| Income tax recovery | | | | | | |
| Deferred | (11,133) | (646) | (11,779) | (399) | 231 | (168) |
| Net (loss) income and comprehensive (loss) income | (37,227) | 404 | (36,823) | 29,968 | 720 | 30,688 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

4. Business acquisition

I) BBQ Holdings (2022)

On September 27, 2022, the Company completed its acquisition of all of the issued and outstanding common shares of BBQ Holdings. BBQ Holdings is a franchisor and operator of casual and fast casual dining restaurants across 37 states in the US, Canada, and the United Arab Emirates. As of the date of the acquisition, BBQ Holdings was operating over 190 franchised and over 100 corporate-owned restaurants under nine different brands. The purpose of the transaction was to diversify the Company's range of offerings in the US as well as to bring proficiency in operating corporate-owned restaurants.

The transaction included a purchase consideration totaling \$182,458, repayment of long-term debt of \$24,625 and early cash settlement of stock options and restricted stock units of \$10,164, as detailed below. The payment of stock options and restricted stock units was settled with cash acquired from BBQ Holdings.

The Company has not yet completed its fair value assessment of all assets acquired and liabilities assumed in connection with the BBQ Holdings acquisition. The most significant aspects remaining to be finalized relate to the valuation of property, plant and equipment, franchise rights, trademarks, gift card liability and deferred income taxes. Consequently, the table below presents management's preliminary assessment of the fair values of the assets acquired and the liabilities assumed. The final determination of the fair values will be made within 12 months of the acquisition date. Accordingly, the following values and goodwill are subject to change and such changes may be material.

| | 2022 |
|---|----------------|
| | \$ |
| Consideration paid: | |
| Cash | 207,083 |
| Amount paid for early settlement of options | 10,164 |
| Total consideration | 217,247 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

4. Business acquisition (continued)

I) BBQ Holdings (2022) (continued)

The preliminary purchase price allocation is as follows:

| | 2022 |
|--|----------------|
| | \$ |
| Net assets acquired: | |
| Current assets | |
| Cash | 20,595 |
| Accounts receivable | 5,847 |
| Inventories | 3,853 |
| Prepaid expenses and deposits | 1,348 |
| Income taxes receivable | 895 |
| | 32,538 |
| Loans receivable | 143 |
| Other assets | 180 |
| Property, plant and equipment | 54,238 |
| Operating lease right-of-use assets | 79,601 |
| Intangible assets – Franchise rights | 8,130 |
| Intangible assets – Trademarks | 121,440 |
| Intangible assets – Other | 1,007 |
| Goodwill ⁽¹⁾ | 52,484 |
| | 349,761 |
| Current liabilities | |
| Accounts payable | 5,644 |
| Accrued liabilities | 17,502 |
| Gift card liability | 7,609 |
| Current portion of operating lease liabilities | 12,561 |
| Current portion of deferred revenues | 425 |
| | 43,741 |
| Other liabilities | 605 |
| Operating lease liabilities | 67,040 |
| Deferred income taxes | 21,128 |
| | 132,514 |
| Net purchase price | 217,247 |

⁽¹⁾ Goodwill is deductible for tax purposes.

Total expenses incurred related to acquisition costs amounted to \$3,566.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

5. Accounts receivable

Details of accounts receivable are as follows:

| | 2022 | 2021 | 2020 |
|---|---------|---------|---------|
| | \$ | \$ | \$ |
| Total accounts receivable | 26,974 | 19,270 | 23,330 |
| Less: Allowance for credit losses | (2,013) | (2,063) | (3,771) |
| Total accounts receivable, net | 24,961 | 17,207 | 19,559 |
| Of which: | | | |
| Not past due | 21,364 | 12,835 | 13,483 |
| Past due for more than one day but no more than 30 days | 677 | 793 | 841 |
| Past due for more than 31 days but no more than 60 days | 248 | 358 | 707 |
| Past due for more than 61 days | 2,672 | 3,221 | 4,528 |
| Total accounts receivable, net | 24,961 | 17,207 | 19,559 |

| | 2022 | 2021 | 2020 |
|---|---------|---------|---------|
| | \$ | \$ | \$ |
| Allowance for credit losses, beginning of year | (2,063) | (3,771) | (1,507) |
| Current period recovery (provision) | 97 | 829 | (2,547) |
| Additions through business acquisition (Note 4) | (369) | — | — |
| Reversal of amounts previously written off | — | (1) | (10) |
| Write-offs | 322 | 880 | 293 |
| Allowance for credit losses, end of year | (2,013) | (2,063) | (3,771) |

6. Assets held for sale

Assets held for sale as at November 30, 2022 are stated at fair value less costs to sell and are comprised of one location's leasehold improvements, land and building that were acquired with BBQ Holdings and that were transferred from property, plant and equipment (Note 9). They did not meet the definition of assets held for sale as at the acquisition date of BBQ Holdings.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

7. Loans receivable

Loans receivable generally result from the sales of franchises and of various advances to certain franchisees and consist of the following:

| | 2022 | 2021 | 2020 |
|---|------------|-------|-------|
| | \$ | \$ | \$ |
| Loans receivable bearing interest between 0% and 8% per annum, receivable in monthly instalments of \$91 in aggregate, including principal and interest, ending in 2028 | 1,004 | 1,112 | 1,609 |
| Current portion | (461) | (551) | (690) |
| | 543 | 561 | 919 |

The total allowance for uncollectible amounts on loans receivable amounted to \$683 as at November 30, 2022 (2021 – \$826; 2020 – \$1,383).

The capital repayments in subsequent years will be:

| | |
|------------|--------------|
| | \$ |
| 2023 | 461 |
| 2024 | 104 |
| 2025 | 90 |
| 2026 | 28 |
| 2027 | 5 |
| Thereafter | 316 |
| | <u>1,004</u> |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

8. Leases

Operating lease right-of-use assets

The following table provides the net carrying amounts of the operating lease right-of-use assets by class of underlying asset and the changes in the years ended November 30, 2022, 2021 and 2020:

| | Offices and stores | Other | Total |
|---|-------------------------------|--------------|----------------|
| | \$ | \$ | \$ |
| Balance as at December 1, 2019 | 133,735 | 214 | 133,949 |
| Additions | 12,178 | — | 12,178 |
| Depreciation expense | (30,743) | (65) | (30,808) |
| Impairment charge | (774) | — | (774) |
| De-recognition/lease modifications | 9,672 | — | 9,672 |
| Balance as at November 30, 2020 | 124,068 | 149 | 124,217 |
| Additions | 3,847 | — | 3,847 |
| Depreciation expense | (29,237) | (46) | (29,283) |
| Impairment charge | (42) | — | (42) |
| De-recognition/lease modifications | 2,133 | — | 2,133 |
| Balance as at November 30, 2021 | 100,769 | 103 | 100,872 |
| Additions | 1,948 | — | 1,948 |
| Additions through business acquisition (Note 4) | 79,208 | 393 | 79,601 |
| Depreciation expense | (28,644) | (63) | (28,707) |
| Impairment charge | (247) | — | (247) |
| De-recognition/lease modifications | 12,174 | — | 12,174 |
| Balance as at November 30, 2022 | 165,208 | 433 | 165,641 |

The Company recorded sublease income from its operating lease right-of-use assets amounting to \$24,414 (2021 – \$26,506; 2020 – \$28,009).

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

8. Leases (continued)

Operating lease liabilities

The following table provides the net carrying amounts of the operating lease liabilities and the changes in the years ended November 30, 2022, 2021 and 2020:

| | <u>Operating lease liabilities</u> |
|---|------------------------------------|
| | \$ |
| Balance as at December 1, 2019 | 136,314 |
| Additions | 12,178 |
| Lease renewals and modifications | 18,195 |
| Lease terminations | (8,999) |
| Interest expense | 3,706 |
| Payments | (34,515) |
| Balance as at November 30, 2020 | <u>126,879</u> |
| Additions | 3,847 |
| Lease renewals and modifications | 9,633 |
| Lease terminations | (8,293) |
| Other adjustments | (1,139) |
| Interest expense | 3,345 |
| Payments | (32,362) |
| Balance as at November 30, 2021 | <u>101,910</u> |
| Additions | 1,948 |
| Additions through business acquisition (Note 4) | 79,601 |
| Lease renewals and modifications | 13,918 |
| Lease terminations | (1,763) |
| Other adjustments | 282 |
| Interest expense | 3,853 |
| Payments | (32,033) |
| Balance as at November 30, 2022 | <u>167,716</u> |

Recorded in the consolidated balance sheets as follows:

| | <u>Operating lease liabilities</u> |
|--------------------------|------------------------------------|
| | \$ |
| Current portion | 29,017 |
| Long-term portion | 97,862 |
| November 30, 2020 | <u>126,879</u> |
| Current portion | 25,033 |
| Long-term portion | 76,877 |
| November 30, 2021 | <u>101,910</u> |
| Current portion | 35,431 |
| Long-term portion | 132,285 |
| November 30, 2022 | <u>167,716</u> |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

8. Leases (continued)

Maturity analysis

The following table sets out a maturity analysis of lease payments, showing the undiscounted lease payments to be paid after November 30, 2022:

| | <u>Leases</u> | <u>Expected</u> <u>sublease income</u> |
|--|----------------|---|
| | \$ | \$ |
| 2023 | 43,837 | 22,803 |
| 2024 | 36,845 | 18,508 |
| 2025 | 30,454 | 14,418 |
| 2026 | 25,481 | 10,577 |
| 2027 | 19,233 | 6,720 |
| Thereafter | 41,326 | 7,723 |
| Total undiscounted lease payments | 197,176 | 80,749 |
| Less: Unearned finance income | (29,460) | — |
| Total present value of lease liabilities and expected sublease income | 167,716 | 80,749 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

9. Property, plant and equipment

| Cost | Equipment | Leasehold improvements | Rolling stock | Computer Hardware | Land | Building | Total |
|---|---------------|---------------------------|------------------|----------------------|--------------|--------------|----------------|
| | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Balance as at November 30, 2019 | 3,208 | 1,901 | 64 | 271 | — | — | 5,444 |
| Additions | 884 | 190 | — | 199 | — | — | 1,273 |
| Dispositions | (844) | — | — | — | — | — | (844) |
| Impairment (Note 13) | (579) | — | — | — | — | — | (579) |
| Balance as at November 30, 2020 | 2,669 | 2,091 | 64 | 470 | — | — | 5,294 |
| Additions | 1,316 | 345 | — | 677 | — | — | 2,338 |
| Dispositions | (841) | (1,794) | (24) | — | — | — | (2,659) |
| Impairment (Note 13) | (27) | — | — | — | — | — | (27) |
| Balance as at November 30, 2021 | 3,117 | 642 | 40 | 1,147 | — | — | 4,946 |
| Additions through business acquisition (Note 4) | 18,275 | 25,400 | — | 2,407 | 3,925 | 4,231 | 54,238 |
| Additions | 596 | 682 | — | 538 | — | 14 | 1,830 |
| Dispositions | (522) | (11) | (16) | (94) | — | — | (643) |
| Impairment (Note 13) | (167) | (171) | — | — | — | — | (338) |
| Transfer to assets held for sale | — | (47) | — | — | (780) | (736) | (1,563) |
| Balance as at November 30, 2022 | 21,299 | 26,495 | 24 | 3,998 | 3,145 | 3,509 | 58,470 |
| Accumulated depreciation | Equipment | Leasehold improvements | Rolling stock | Computer Hardware | Land | Building | Total |
| | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Balance as at November 30, 2019 | 1,041 | 373 | 30 | 111 | — | — | 1,555 |
| Depreciation expense | 709 | 632 | 7 | 67 | — | — | 1,415 |
| Dispositions | (417) | — | — | — | — | — | (417) |
| Balance as at November 30, 2020 | 1,333 | 1,005 | 37 | 178 | — | — | 2,553 |
| Depreciation expense | 510 | 398 | 3 | 146 | — | — | 1,057 |
| Dispositions | (462) | (1,171) | (20) | — | — | — | (1,653) |
| Balance as at November 30, 2021 | 1,381 | 232 | 20 | 324 | — | — | 1,957 |
| Depreciation expense | 459 | 1,292 | 3 | 682 | — | 44 | 2,480 |
| Dispositions | (305) | (12) | (16) | (92) | — | — | (425) |
| Balance as at November 30, 2022 | 1,535 | 1,512 | 7 | 914 | — | 44 | 4,012 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

9. Property, plant and equipment (continued)

| Carrying amounts | Equipment | Leasehold improve- ments | Rolling stock | Computer Hardware | Land | Building | Total |
|--------------------------|---------------|--------------------------------|------------------|----------------------|--------------|--------------|---------------|
| | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| November 30, 2020 | 1,336 | 1,086 | 27 | 292 | — | — | 2,741 |
| November 30, 2021 | 1,736 | 410 | 20 | 823 | — | — | 2,989 |
| November 30, 2022 | 19,764 | 24,983 | 17 | 3,084 | 3,145 | 3,465 | 54,458 |

10. Divestitures

During the year ended November 30, 2022, the Company did not dispose of any portfolio of corporately-owned locations.

During the year ended November 30, 2021, the Company disposed of two portfolios comprised of seven and twenty-four corporately-owned locations that were refranchised upon completion of the sale. During the year ended November 30, 2021, the Company received a total consideration of \$3,343 for both portfolios and recorded a gain on disposal of \$1,093, presented in Gain (loss) on disposal of property, plant, equipment and assets held for sale in its consolidated statement of operations. As at November 30, 2021, the Company had recorded a liability for marketing and material defect expenditures of \$260 as Accrued liabilities on the Company's consolidated balance sheets.

During the year ended November 30, 2020, the Company disposed of two portfolios comprised of seven and nine corporately-owned locations that were refranchised upon completion of the sale. During the year ended November 30, 2020, the Company received a total consideration of \$8,405 for both portfolios and recorded a loss on disposal of \$93, presented in Gain (loss) on disposal of property, plant, equipment and assets held for sale in its consolidated statement of operations.

These dispositions did not meet the criteria for accounting as a discontinued operation.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

11. Intangible assets

| Cost | Franchise | | | Total |
|---|----------------|----------------|--------------|----------------|
| | rights | Trademarks | Other | |
| | \$ | \$ | \$ | \$ |
| Balance as at November 30, 2019 | 179,881 | 311,630 | 987 | 492,498 |
| Additions | 8 | — | 60 | 68 |
| Impairment (Note 13) | (4,489) | (9,001) | — | (13,490) |
| Balance as at November 30, 2020 | 175,400 | 302,629 | 1,047 | 479,076 |
| Additions | — | — | 3 | 3 |
| Impairment (Note 13) | (530) | (2,332) | — | (2,862) |
| Balance as at November 30, 2021 | 174,870 | 300,297 | 1,050 | 476,217 |
| Additions | — | — | 2,950 | 2,950 |
| Additions through business acquisition (Note 4) | 8,130 | 121,440 | 1,007 | 130,577 |
| Impairment (Note 13) | (1,776) | (3,867) | — | (5,643) |
| Balance as at November 30, 2022 | 181,224 | 417,870 | 5,007 | 604,101 |
| | | | | |
| Accumulated amortization | Franchise | | | Total |
| | rights | Trademarks | Other | |
| | \$ | \$ | \$ | \$ |
| Balance as at November 30, 2019 | 38,802 | — | 206 | 39,008 |
| Amortization expense | 13,982 | — | 192 | 14,174 |
| Balance as at November 30, 2020 | 52,784 | — | 398 | 53,182 |
| Amortization expense | 13,730 | — | 158 | 13,888 |
| Balance as at November 30, 2021 | 66,514 | — | 556 | 67,070 |
| Amortization expense | 14,079 | — | 552 | 14,631 |
| Balance as at November 30, 2022 | 80,593 | — | 1,108 | 81,701 |
| | | | | |
| Carrying amounts | Franchise | | | Total |
| | rights | Trademarks | Other | |
| | \$ | \$ | \$ | \$ |
| November 30, 2020 | 122,616 | 302,629 | 649 | 425,894 |
| November 30, 2021 | 108,356 | 300,297 | 494 | 409,147 |
| November 30, 2022 | 100,631 | 417,870 | 3,899 | 522,400 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

12. Goodwill

The changes in the carrying amount of goodwill are as follows:

| | 2022 | 2021 | 2020 |
|--|----------|----------|----------|
| | \$ | \$ | \$ |
| Goodwill, beginning of year | 234,229 | 234,229 | 233,743 |
| Amount recognized from business acquisition (Note 4) | 52,484 | — | — |
| Purchase price allocation adjustments | — | — | 486 |
| Goodwill, end of year | 286,713 | 234,229 | 234,229 |
| Accumulated impairment, beginning of year | (48,653) | (48,653) | — |
| Impairment (Note 13) | — | — | (48,653) |
| Accumulated impairment, end of year | (48,653) | (48,653) | (48,653) |
| Carrying amount | 238,060 | 185,576 | 185,576 |

13. Impairment

The Company performed its annual impairment test as at August 31, 2022, with the exception of BBQ Holdings, which was performed as at November 30, 2022. The impairment test of BBQ Holdings was based on qualitative factors, which did not give rise to any indications of impairment. The Company's impairment test as at August 31, 2022 resulted in the recognition of \$5,643 (2021 – \$2,862; 2020 – \$13,490) of impairment losses on its intangible assets for three of its brands (2021 – three brands; 2020 – 10 brands), following indicators of impairment that were noted.

Additionally, the Company recorded \$338 of impairment losses on its property, plant and equipment (2021 – \$27; 2020 – \$579), and did not record any impairment on goodwill (2021 – nil; 2020 – \$48,653), for a total of \$5,981 (2021 – \$2,889; 2020 – \$62,722) of impairment charges on its property, plant and equipment, intangible assets and goodwill for the year ended November 30, 2022, which have been recognized in the consolidated statement of operations.

Impairment charges were based on the amount by which the carrying values of the assets exceeded recoverable amounts, determined using expected discounted projected operating cash flows for trademarks and franchise rights.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

13. Impairment (continued)

Impairment by reporting unit for the year ended November 30, 2022:

| | Property, plant and equipment | Intangibles | | Total |
|--|-------------------------------------|---------------------|--------------|--------------|
| | | Franchise rights | Trademarks | |
| | \$ | \$ | \$ | \$ |
| US excluding Papa Murphy's and BBQ Holdings | 79 | 1,776 | 3,867 | 5,722 |
| Papa Murphy's | 259 | — | — | 259 |
| BBQ Holdings | — | — | — | — |
| | 338 | 1,776 | 3,867 | 5,981 |

Impairment by reporting unit for the year ended November 30, 2021:

| | Property, plant and equipment | Intangibles | | Total |
|----------------------------|-------------------------------------|---------------------|--------------|--------------|
| | | Franchise rights | Trademarks | |
| | \$ | \$ | \$ | \$ |
| US excluding Papa Murphy's | 27 | 530 | 2,332 | 2,889 |
| Papa Murphy's | — | — | — | — |
| | 27 | 530 | 2,332 | 2,889 |

Impairment by reporting unit for the year ended November 30, 2020:

| | Property, plant and equipment | Intangibles | | | Total |
|----------------------------|-------------------------------------|---------------------|--------------|---------------|---------------|
| | | Franchise rights | Trademarks | Goodwill | |
| | \$ | \$ | \$ | \$ | \$ |
| US excluding Papa Murphy's | 579 | 4,489 | 9,001 | 48,653 | 62,722 |
| Papa Murphy's | — | — | — | — | — |
| | 579 | 4,489 | 9,001 | 48,653 | 62,722 |

The key assumptions used, where the recoverable amount was measured as a reporting unit's fair value, are those related to projected operating cash flows, as well as the discount rates. The sales forecasts for cash flows were based on the subsequent fiscal year's budgeted operating results, which were prepared by management and approved by the Board, and internal forecasts for subsequent years, which were prepared by management and developed from the budgeted operating results.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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(In thousands of US dollars)

13. Impairment (continued)

The following table presents the key assumptions used in the Company's impairment tests, as well as the recoverable amounts measured at fair value as at August 31, 2022, 2021 and 2020:

| | 2022 | | 2021 | | 2020 | |
|------------------------------|---|---------------|----------------------------|---------------|----------------------------|---------------|
| (\$, except percentage data) | US excluding Papa Murphy's and BBQ Holdings | | US excluding Papa Murphy's | | US excluding Papa Murphy's | |
| | Papa Murphy's | Papa Murphy's | Papa Murphy's | Papa Murphy's | Papa Murphy's | Papa Murphy's |
| Discount rates after tax | 10.3% | 10.3% | 8.0% | 8.0% | 8.3% | 8.3% |
| Discount rates pre-tax | 13.1% | 13.2% | 10.1% | 10.2% | 10.5% | 10.5% |
| Recoverable amounts | 515,478 | 250,715 | 695,525 | 305,133 | 431,609 | 323,543 |

Long-term growth rates ranging from 0% to 2% (2021 and 2020 – 0% to 2%) were used in the impairment test for the US excluding Papa Murphy's and BBQ Holdings. A change of 100 basis points in discount rates in the US excluding Papa Murphy's and BBQ Holdings would result in additional impairment charges on intangible assets of four brands (2021 – three brands; 2020 – 11 brands) representing 0.5% (2021 – 0.1%; 2020 – 2.9%) of the total carrying value of the franchise rights and trademarks in that unit. A change of 100 basis points in discount rates in the US excluding Papa Murphy's and BBQ Holdings would not result in additional impairment charges on goodwill for the year ended November 30, 2022 (2021 – nil; 2020 – additional impairment charges on goodwill representing 5.3% of the total carrying value of goodwill in that unit). For the US excluding Papa Murphy's and BBQ Holdings reporting unit, an increase of 320 basis points (2021 – 500 basis points; 2020 – 60 basis points) in the discount rate would have resulted in its recoverable amount being equal to its carrying value.

A long-term growth rate of 1.5% (2021 and 2020 – 1.5%) was used in the impairment test for Papa Murphy's. A change of 100 basis points in discount rates in Papa Murphy's would not result in additional impairment charges on intangible assets or goodwill for the years ended November 30, 2022, 2021 and 2020. For the Papa Murphy's reporting unit, an increase of 110 basis points (2021 – 230 basis points; 2020 – 300 basis points) in the discount rate would have resulted in its recoverable amount being equal to its carrying value.

MTY Franchising USA, Inc.

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(In thousands of US dollars)

14. Gift card liability

The changes in the carrying amount of the gift card liability are as follows:

| | 2022 | 2021 | 2020 |
|--|----------|----------|----------|
| | \$ | \$ | \$ |
| Gift card liability, beginning of year | 76,097 | 70,571 | 68,097 |
| Activations during the year | 37,978 | 31,827 | 26,186 |
| Redemptions during the year | (25,168) | (21,976) | (19,930) |
| Gift card liability acquired (Note 4) | 7,609 | — | — |
| Deferred program fees and other | (873) | (708) | (434) |
| Gift card breakage recorded | (4,190) | (3,617) | (3,348) |
| Gift card liability, end of year | 91,453 | 76,097 | 70,571 |

15. Deferred revenue and deposits

| | 2022 | 2021 | 2020 |
|---|---------|---------|---------|
| | \$ | \$ | \$ |
| Franchise fee deposits | 25,246 | 22,188 | 17,628 |
| Unearned rent | 1,880 | 1,931 | 1,926 |
| Supplier contributions and other allowances | 3,733 | 3,908 | 5,065 |
| | 30,859 | 28,027 | 24,619 |
| Current portion | (7,571) | (6,358) | (5,894) |
| | 23,288 | 21,669 | 18,725 |

Deferred revenues consist mostly of initial, transfer and renewal franchise fees paid by franchisees, as well as upfront fees paid by master franchisees, which are generally recognized on a straight-line basis over the term of the related agreement. Deferred revenues also include amounts paid in upfront fees received from agreements with suppliers, which are amortized over the term of the related agreement.

\$7,598 (2021 – \$6,548; 2020 – \$6,248) of revenue recognized in the current year was included in the deferred revenue balance at the beginning of the year.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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(In thousands of US dollars)

15. Deferred revenue and deposits (continued)

The following table provides estimated revenues expected to be recognized in future years related to performance obligations that are unsatisfied as at November 30, 2022:

| Estimate for fiscal year: | |
|---------------------------|---------------|
| | \$ |
| 2023 | 7,571 |
| 2024 | 3,917 |
| 2025 | 2,854 |
| 2026 | 2,473 |
| 2027 | 1,898 |
| Thereafter | <u>12,146</u> |
| | 30,859 |

16. Receivables and advances from ultimate parent, parent company and companies under common control

The receivable from ultimate parent is primarily comprised of a renewable one-year term loan facility of \$126,128 (2021 – \$100,776; 2020 – \$58,497). The term loan is unsecured and bears interest at the rate set at the Applicable Federal Rates as issued by the US Internal Revenue Service for short-term instruments. The term loan may be repaid, in whole or in part, at any time, without premium or penalty. MTY USA may also request repayment, in whole or in part, at any time, without penalty.

The advance from ultimate parent is primarily comprised of a loan of \$198,785 (2021 and 2020 – nil) due September 27, 2023. The loan is unsecured and bears interest at 5.49%. The term loan may be repaid, in whole or in part, at any time, without premium or penalty.

The receivable from company under common control and advances from parent company and companies under common control are non-interest bearing and receivable/due on demand with no specified collection/repayment terms.

17. Long-term loan from company under common control

| | 2022 | 2021 | 2020 |
|---|----------------|---------|---------|
| | \$ | \$ | \$ |
| Interest-bearing loan at 5.4%, repayable by November 27, 2026 ⁽¹⁾ | <u>299,850</u> | 299,850 | 299,850 |

⁽¹⁾ The loan is subject to a maximum debt to EBITDA ratio of 6.00:1.00 starting on November 27, 2019, and a minimum EBITDA interest coverage ratio of 2.00:1.00 to be calculated in conjunction with interest payments based on the past 12 months.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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(In thousands of US dollars)

18. Holdbacks payable

| | 2022 | 2021 | 2020 |
|---|------|-------|-------|
| | \$ | \$ | \$ |
| Non-interest-bearing holdback acquired on acquisition of The Counter repayable in December 2020 | — | — | 1,542 |
| Non-interest-bearing holdback acquired on acquisition of SweetFrog repayable in September 2021 | — | — | 2,268 |
| Non-interest-bearing holdback acquired on acquisition of Kahala repayable in August 2020 | — | 7,076 | — |
| Current portion of holdbacks payable ⁽¹⁾ | — | 7,076 | 3,810 |

⁽¹⁾ During the year ended November 30, 2021, the Company reclassified non-interest-bearing holdbacks acquired on acquisition of Kahala Brands Ltd. that were previously being applied to an income tax payable related to the acquisition of Kahala Brands Ltd. The holdbacks were repaid during the year ended November 30, 2022.

19. Contingencies

The contingencies for litigation and disputes represent management's best estimate of the outcome of litigations and disputes that are ongoing at the date of the consolidated balance sheet. These contingencies consist of multiple items; the timing of the settlement of these contingencies is unknown given their nature, as the Company does not control the litigation timelines.

The payables related to closed stores mainly represent amounts that are expected to be disbursed to exit leases of underperforming or closed stores. The negotiations with the various stakeholders are typically short in duration and are expected to be settled within a few months following the recognition of the provision. The Company has recognized a liability of nil (2021 and 2020, both restated – nil) for the leases of premises in which it no longer has operations but retains the obligations contained in the lease agreement, with the exception of leases for which the operating lease liabilities are already recorded pursuant to ASC 842.

| | 2022 | 2021 | 2020 |
|---|-------|-----------------|-----------------|
| | \$ | \$ | \$ |
| | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Provision for litigation, disputes and other contingencies, beginning of year | 966 | 1,023 | 7,438 |
| Reversals | (421) | (344) | (614) |
| Purchase price allocation adjustment | — | — | 196 |
| Amounts used | (56) | (3) | (6,485) |
| Additions | 235 | 290 | 488 |
| Provision for litigation, disputes and other contingencies, end of year | 724 | 966 | 1,023 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

20. Common stock

| | 2022 | | 2021 | | 2020 | |
|------------------------------------|---------------|---------|---------------|---------|---------------|---------|
| | Shares issued | \$ | Shares issued | \$ | Shares issued | \$ |
| Balance, beginning and end of year | 15 | 179,154 | 15 | 179,154 | 15 | 179,154 |

21. Financial instruments

In the normal course of business, the Company uses various financial instruments which by their nature involve risk, including market risk and the credit risk of non-performance by counterparties. These financial instruments are subject to normal credit standards, financial controls, risk management as well as monitoring procedures.

Fair value of recognized financial instruments

The Company has determined that the fair value of its financial assets and financial liabilities with short-term maturities approximates their carrying value. These financial instruments include cash, restricted cash, accrued liabilities, promotional funds payable, and advances from parent company and from companies under common control.

The table below shows the fair value and the carrying value of other financial instruments as at November 30, 2022, 2021 and 2020. Since estimates are used to determine fair value, they must not be interpreted as being realizable in the event of a settlement of the instruments.

| | 2022 | | 2021 | | 2020 | |
|------------------|-----------------|------------|-----------------|------------|-----------------|------------|
| | Carrying amount | Fair value | Carrying amount | Fair value | Carrying amount | Fair value |
| | \$ | \$ | \$ | \$ | \$ | \$ |
| Financial assets | | | | | | |
| Loans receivable | 1,004 | 1,004 | 1,112 | 1,112 | 1,609 | 1,609 |

Determination of fair value

The following methods and assumptions were used to estimate the fair values of each class of financial instruments:

Cash, restricted cash, accounts receivable, receivable from ultimate parent, deposits, accounts payable, accrued liabilities, advance from parent company, advances from companies under common control – The carrying amounts approximate fair values due to the short maturity of these financial instruments.

Risk management policies

The Company, through its financial assets and financial liabilities, is exposed to various risks. The following analysis provides a measurement of risks as at November 30, 2022.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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21. Financial instruments (continued)

Risk management policies (continued)

Credit risk

The Company's credit risk is primarily attributable to its trade receivables, loans receivable and deposits. For accounts receivable and loans receivable, the amounts disclosed on the consolidated balance sheets are net of allowances for bad debts, estimated by the Company's management based on past experience and counterparty specific circumstances. The Company believes that the credit risk of accounts receivable is limited for the following reasons:

- The Company's broad client base is spread mostly across the US, which limits the concentration of credit risk.
- The Company accounts for specific bad debt provisions when management considers that the expected recovery is less than the actual account receivable.

The credit risk on cash is limited because the Company invests its excess liquidity in high-quality financial instruments and with credit-worthy counterparties.

The credit risk on deposits is also limited as these are mostly with well-established and credit-worthy companies.

Interest rate risk

Interest rate risk is the Company's exposure to increases and decreases in financial instrument values caused by the fluctuation in interest rates. The Company has limited exposure to interest rate risk as its long-term loans from company under common control and ultimate parent as well as its long-term debt have fixed interest rates.

22. Revenue

| | Franchising | Corporate | 2022 |
|---|--------------------|------------------|----------------|
| | \$ | \$ | Total |
| | | | \$ |
| Corporate store revenues | — | 67,015 | 67,015 |
| Royalties | 99,637 | — | 99,637 |
| Franchise fees, transfer fees and master license fees | 5,203 | — | 5,203 |
| Promotional funds | 51,867 | — | 51,867 |
| Program allowances | 20,619 | — | 20,619 |
| Breakage income | 4,190 | — | 4,190 |
| Resale material and retail sales | 8,587 | — | 8,587 |
| Other | 6,568 | — | 6,568 |
| | 196,671 | 67,015 | 263,686 |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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(In thousands of US dollars)

22. Revenue (continued)

| | Franchising | Corporate | 2021 Total |
|---|----------------|---------------|----------------|
| | \$ | \$ | \$ |
| Corporate store revenues | — | 32,074 | 32,074 |
| Royalties | 94,977 | — | 94,977 |
| Franchise fees, transfer fees and master license fees | 3,474 | — | 3,474 |
| Promotional funds | 48,237 | — | 48,237 |
| Program allowances | 20,632 | — | 20,632 |
| Breakage income | 3,616 | — | 3,616 |
| Resale material and retail sales | 7,708 | — | 7,708 |
| Other | 5,937 | — | 5,937 |
| | <u>184,581</u> | <u>32,074</u> | <u>216,655</u> |

| | Franchising | Corporate | 2020 Total |
|---|----------------|---------------|----------------|
| | \$ | \$ | \$ |
| Corporate store revenues | — | 34,553 | 34,553 |
| Royalties | 80,231 | — | 80,231 |
| Franchise fees, transfer fees and master license fees | 3,174 | — | 3,174 |
| Promotional funds | 42,628 | — | 42,628 |
| Program allowances | 17,335 | — | 17,335 |
| Breakage income | 3,348 | — | 3,348 |
| Resale material and retail sales | 4,755 | — | 4,755 |
| Other | 6,633 | — | 6,633 |
| | <u>158,104</u> | <u>34,553</u> | <u>192,657</u> |

23. Operating expenses

| | Franchising | Corporate | 2022 Total |
|---|----------------|---------------|----------------|
| | \$ | \$ | \$ |
| Cost of goods sold | 2,994 | 21,494 | 24,488 |
| Wages and benefits | 36,336 | 24,271 | 60,607 |
| Advertising, marketing and promotion | 442 | 2,130 | 2,572 |
| Rent | 2,964 | 7,096 | 10,060 |
| Professional & consulting fees and commission | 14,942 | 197 | 15,139 |
| Office, travel, meals & entertainment and utilities | 9,099 | 7,273 | 16,372 |
| Promotional funds | 51,867 | — | 51,867 |
| Gift card program costs | 6,296 | — | 6,296 |
| Other | 1,573 | 5,640 | 7,213 |
| Bad debt (recovery) expense | (70) | 120 | 50 |
| | <u>126,443</u> | <u>68,221</u> | <u>194,664</u> |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

Years ended November 30, 2022, 2021 and 2020

(In thousands of US dollars)

23. Operating expenses (continued)

| | Franchising | Corporate | 2021 Total |
|---|----------------|---------------|----------------|
| | \$ | \$ | \$ |
| Cost of goods sold | 3,330 | 10,765 | 14,095 |
| Wages and benefits | 30,975 | 12,675 | 43,650 |
| Advertising, marketing and promotion | 121 | 2,403 | 2,524 |
| Rent (<i>Adjusted – Note 3</i>) | 3,807 | 3,942 | 7,749 |
| Professional & consulting fees and commission | 10,616 | — | 10,616 |
| Office, travel, meals & entertainment and utilities | 5,452 | 3,044 | 8,496 |
| Promotional funds | 48,237 | — | 48,237 |
| Gift card program costs | 5,012 | — | 5,012 |
| Other | 716 | 1,914 | 2,630 |
| Bad debt (recovery) expense | (1,139) | 7 | (1,132) |
| | <u>107,127</u> | <u>34,750</u> | <u>141,877</u> |

| | Franchising | Corporate | 2020 Total |
|---|----------------|---------------|----------------|
| | \$ | \$ | \$ |
| Cost of goods sold | 1,260 | 11,874 | 13,134 |
| Wages and benefits | 33,143 | 13,401 | 46,544 |
| Advertising, marketing and promotion | 555 | 2,767 | 3,322 |
| Rent (<i>Adjusted – Note 3</i>) | 4,905 | 4,292 | 9,197 |
| Professional & consulting fees and commission | 9,431 | — | 9,431 |
| Office, travel, meals & entertainment and utilities | 4,444 | 2,920 | 7,364 |
| Promotional funds | 42,628 | — | 42,628 |
| Gift card program costs | 4,143 | — | 4,143 |
| Other | 1,127 | 1,944 | 3,071 |
| Bad debt expense | 2,531 | 21 | 2,552 |
| | <u>104,167</u> | <u>37,219</u> | <u>141,386</u> |

Franchising operations

The franchising business mainly generates revenues from royalties, supplier contributions, franchise fees and rent.

Corporate store operations

Corporate stores generate revenues from the direct sale of prepared food to customers.

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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24. Interest expense

| | 2022 | 2021 | 2020 |
|---|---------------|--------|--------|
| | \$ | \$ | \$ |
| Interest charged by ultimate parent company (Note 27) | 1,943 | — | — |
| Interest charged by companies under common control (Note 27) | 16,192 | 16,192 | 16,192 |
| Accreted interest expense on interest-bearing holdbacks | — | 72 | 572 |
| Interest expense | 18,135 | 16,264 | 16,764 |

25. Income taxes

The Company accounts for income taxes in accordance with ASC 740. ASC 740 prescribes the use of the liability method whereby deferred tax asset and liability account balances are determined based on differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates. The effects of future changes in tax laws or rates are not anticipated.

Under ASC 740, income taxes are recognized for the following: a) amount of tax payable for the current year and b) deferred tax liabilities and assets for future tax consequences of events that have been recognized differently in the consolidated financial statements than for tax purposes.

| Income tax expense (recovery) | 2022 | 2021 | 2020 |
|-------------------------------|----------------|-----------------|-----------------|
| | \$ | \$ | \$ |
| | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Current tax expense | 9,911 | 12,727 | 3,076 |
| Deferred tax recovery | (2,496) | (168) | (11,779) |
| Total tax expense (recovery) | 7,415 | 12,559 | (8,703) |

MTY Franchising USA, Inc.

Notes to the consolidated financial statements

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25. Income taxes (continued)

The provision for income taxes recorded in the consolidated financial statements differs from the amount which would be obtained by applying the statutory federal income tax rate of 21% (2021 and 2020 – 21%) to the income for the period as follows:

| | 2022 | 2021 | 2020 |
|--|--------|-----------------|-----------------|
| | \$ | \$ | \$ |
| | | <i>Adjusted</i> | <i>Adjusted</i> |
| | | <i>(Note 3)</i> | <i>(Note 3)</i> |
| Income (loss) before income taxes | 26,988 | 43,247 | (45,526) |
| Income tax expense (recovery) at federal statutory rate | 5,679 | 9,082 | (9,896) |
| State and local income taxes net of federal tax benefit | 2,457 | 2,171 | (19) |
| Non-deductible/non-taxable items | 549 | (2) | 7,666 |
| Temporary difference for which no deferred tax asset is recognized | (44) | — | — |
| True up of prior year tax provision | (598) | (144) | 293 |
| Rate variation on deferred income tax | (552) | 1,219 | (2,429) |
| Revision of estimates for tax exposures | — | — | (4,173) |
| General business credit | 286 | — | — |
| Other | (362) | 233 | (145) |
| Income tax expense (recovery) | 7,415 | 12,559 | (8,703) |

MTY Franchising USA, Inc.

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(In thousands of US dollars)

25. Income taxes (continued)

Components of the net deferred tax asset (liability):

| | 2022 | 2021 | 2020 |
|--|-----------|--|--|
| | \$ | \$ <i>Adjusted</i> <i>(Note 3)</i> | \$ <i>Adjusted</i> <i>(Note 3)</i> |
| Inventory | 42 | 45 | 77 |
| Allowance for doubtful accounts | 228 | 451 | 401 |
| Deferred revenue | 4,482 | 4,018 | 2,770 |
| Gift cards | 16,835 | 14,181 | 13,042 |
| Accrued liabilities | 6,658 | 8,009 | 6,141 |
| Non-capital losses and other tax credits | 12,832 | 28 | 657 |
| Other | 98 | — | — |
| Operating lease liabilities | 42,998 | 26,069 | 31,454 |
| Total deferred tax assets | 84,173 | 52,801 | 54,542 |
| Deferred costs | (859) | (812) | (459) |
| Property, plant and equipment | (12,420) | (4,079) | (2,511) |
| Operating lease right-of-use assets | (42,260) | (25,518) | (30,794) |
| Intangible assets | (120,483) | (95,623) | (94,153) |
| Long-term debt | (95) | (81) | (104) |
| Total deferred tax liabilities | (176,117) | (126,113) | (128,021) |
| Net deferred tax liability | (91,944) | (73,312) | (73,479) |

26. Supplemental cash flow information

During the year ended November 30, 2022, the Company paid \$8,300 (2021 – \$13,660; 2020 – \$2,732) in income taxes. Furthermore, there are non-cash item included in the proceeds on disposition amounting to \$25 (2021 – \$1,370; 2020 – nil). During the year ended November 30, 2021, the change in income taxes in operating activities in the consolidated statement of cash flows included the reclassification of a holdback payable (2022 and 2020 – nil).

27. Related party transactions

The Company has transactions in the normal course of business with its ultimate parent, parent company and companies under common control. These transactions were in the normal course of business and measured at the exchange amount, which is the amount of consideration established and agreed to by the related parties.

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28. Subsequent events

Acquisition of Wetzel's Pretzels

On December 8, 2022, the Company completed its acquisition of all of the issued and outstanding shares of COP WP Parent, Inc. ("Wetzel's Pretzels"), a franchisor and operator of quick service restaurants operating in the snack category across 25 states in the US, as well as in Canada and Panama, for a cash consideration of approximately \$207,000, on a cash-free, debt-free basis. At closing, there were 329 franchised restaurants and 38 corporate-owned restaurants in operation.

Acquisition of Sauce Pizza and Wine

On December 15, 2022, one of the Company's wholly owned subsidiaries completed its acquisition of the assets of Sauce Pizza and Wine, an operator of fast casual restaurants operating in the state of Arizona, for a total consideration of \$10,842, including a holdback on acquisition of \$837. At closing, there were 13 corporate-owned restaurants in operation.

EXHIBIT W

TO THE FRANCHISE DISCLOSURE DOCUMENT

Performance Guaranty

GUARANTEE OF PERFORMANCE

For value received, MTY Franchising USA, Inc., a Tennessee corporation ("Guarantor"), located at 9311 E. Via De Ventura, Scottsdale, Arizona 85258, absolutely and unconditionally guarantees to assume the duties and obligations of Kahala Franchising, L.L.C., an Arizona limited liability company, with an office located at 9311 E. Via De Ventura, Scottsdale, Arizona 85258 ("Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2023 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee on March 1, 2023.

Guarantor:

MTY Franchising USA, Inc., a Tennessee corporation

By: 
Eric Lefebvre, Chief Executive Officer

EXHIBIT X

TO THE FRANCHISE DISCLOSURE DOCUMENT

Addendum for Sale of Company-Affiliated Owned Stores

Addendum for Sale of Company-Affiliated Owned Stores #1

Below is information covering the last five fiscal years on a previously-owned franchised outlet now under the control of an affiliate of Franchisor.

Address of Outlet for Sale: _____

Previous Franchise Owner 1:

Name: _____

City, State: _____

Telephone Number: _____

Time period outlet was controlled by previous franchise owner: _____

Reason for change in ownership: _____

Previous Franchise Owner 2 (if applicable):

Name: _____

City, State: _____

Telephone Number: _____

Time period outlet was controlled by previous franchise owner: _____

Reason for change in ownership: _____

Previous Franchise Owner 3 (if applicable):

Name: _____

City, State: _____

Telephone Number: _____

Time period outlet was controlled by previous franchise owner: _____

Reason for change in ownership: _____

Note: The telephone number of the previous franchise owner(s) listed above is the current business telephone number, or if unknown, the last home telephone number Franchisor had for the previous franchise owner.

The time period(s) when affiliate of Franchisor retained control of the outlet: _____

Date: _____

(Do not leave blank)

Signature of Prospective Franchisee

Print Name

Addendum for Sale of Company-Affiliated Owned Stores #1 must be signed and dated and remains in the Franchise Disclosure Document as the prospective franchisee's copy. Addendum for Sale of Company-Affiliated Owned Stores #2 must be signed and dated by the prospective franchisee and returned to Kahala Franchising, L.L.C. either by mailing it to Kahala Franchising, L.L.C. at 9311 E. Via De Ventura, Scottsdale, Arizona 85258 or faxing it to Kahala Franchising, L.L.C. at (480) 362-4792.

Addendum for Sale of Company-Affiliated Owned Stores #2

Below is information covering the last five fiscal years on a previously-owned franchised outlet now under the control of an affiliate of Franchisor.

Address of Outlet for Sale: _____

Previous Franchise Owner 1:

Name: _____

City, State: _____

Telephone Number: _____

Time period outlet was controlled by previous franchise owner: _____

Reason for change in ownership: _____

Previous Franchise Owner 2 (if applicable):

Name: _____

City, State: _____

Telephone Number: _____

Time period outlet was controlled by previous franchise owner: _____

Reason for change in ownership: _____

Previous Franchise Owner 3 (if applicable):

Name: _____

City, State: _____

Telephone Number: _____

Time period outlet was controlled by previous franchise owner: _____

Reason for change in ownership: _____

Note: The telephone number of the previous franchise owner(s) listed above is the current business telephone number, or if unknown, the last home telephone number Franchisor had for the previous franchise owner.

The time period(s) when affiliate of Franchisor retained control of the outlet: _____

Date: _____

(Do not leave blank)

Signature of Prospective Franchisee

Print Name

Addendum for Sale of Company-Affiliated Owned Stores #1 must be signed and dated and remains in the Franchise Disclosure Document as the prospective franchisee's copy. Addendum for Sale of Company-Affiliated Owned Stores #2 must be signed and dated by the prospective franchisee and returned to Kahala Franchising, L.L.C. either by mailing it to Kahala Franchising, L.L.C. at 9311 E. Via De Ventura, Scottsdale, Arizona 85258 or faxing it to Kahala Franchising, L.L.C. at (480) 362-4792.

EXHIBIT X-1

TO THE FRANCHISE DISCLOSURE DOCUMENT

STATE EFFECTIVE DATES

COLD STONE CREAMERY
STATE EFFECTIVE DATES

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration:

California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

| | |
|--------------|----------------|
| California | March 28, 2023 |
| Hawaii | Pending |
| Illinois | March 28, 2023 |
| Indiana | March 28, 2023 |
| Maryland | Pending |
| Michigan | Pending |
| Minnesota | Pending |
| New York | March 28, 2023 |
| North Dakota | Pending |
| Rhode Island | Pending |
| South Dakota | Pending |
| Virginia | Pending |
| Washington | Pending |
| Wisconsin | Pending |

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

EXHIBIT Y
TO THE FRANCHISE DISCLOSURE DOCUMENT
Receipts

RECEIPT #1

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Kahala Franchising, L.L.C. offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

[New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]

[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]

If Kahala Franchising, L.L.C. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the state agency listed on Exhibit B.

The franchisor is Kahala Franchising, L.L.C., located at 9311 E. Via De Ventura, Scottsdale, Arizona 85258. Its telephone number is (480) 362-4800. The franchise seller for this offering is _____, _____, (____) _____.

Issuance date: March 28, 2023.

Kahala Franchising, L.L.C. authorizes the respective state agencies identified on Exhibit C to receive service of process for it in the particular state.

I received a Cold Stone Creamery Disclosure Document dated March 28, 2023, that included the following Exhibits:

| | | | |
|-----|---|-----|--|
| A | State Addenda to Franchise Disclosure Document | M | Lease Guaranty Acknowledgement |
| B | Directory of State Agencies and Administrators | N | Lease Review and/or Negotiation Agreement and Release and State Addenda |
| C | Franchisor's Agent for Service of Process | O-1 | Sublease and Guaranty of Sublease (Franchisee pays rent directly to Landlord) |
| D | Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee) with Promissory Note Security Agreement and Guaranty (if applicable) | O-2 | Sublease and Guaranty of Sublease (Franchisor or its affiliate collects rent from Franchisee and pays to Landlord) |
| E-1 | Franchise Agreement (New) | P | Pre-Authorized Electronic Funds Transfer Form |
| E-2 | Franchise Agreement (Renewal) | P-1 | Participation Agreement |
| E-3 | Franchise Agreement (Transfer) | Q | General Release for Renewal of Franchise Agreement |
| F-1 | Guaranty of Franchise Agreement | R-1 | Consent to Transfer and Release Agreement (without Sublease) |
| F-2 | Non-Disclosure and Non-Competition Agreement | R-2 | Consent to Transfer and Release Agreement (with Sublease) |
| G | Collateral Assignment and Irrevocable Special Power of Attorney | S | State Specific Addenda to Franchise Documents |
| H | Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand) | T | Table of Contents – Confidential Operations Manual |
| H-1 | Rocky Mountain Chocolate Factory Addendum to Franchise Disclosure Document and Amendment to Franchise Agreement | U | List of Franchise Owners |
| I | Amendment to Franchise Agreement (for co-branded non-traditional locations) | V | Financial Statements |
| J | In-Store Training Release and Waiver of Liability Agreement | W | Performance Guaranty |
| K | Addendum to the Franchise Agreement for SBA Loans | X | Addendum for Sale of Company-Affiliated Owned Stores |
| L | Required Lease Terms (Lease Addendum to Lease Agreement) | X-1 | State Effective Dates |
| L-1 | RMCF Required Lease Terms (Lease Addendum to Lease Agreement) | Y | Receipts |

Date: _____

(Do not leave blank)

Signature of Prospective Franchisee

Print Name

Receipt #1 must be signed and dated and remains in the Franchise Disclosure Document as the prospective franchisee's copy. Receipt #2 must be signed and dated by the prospective franchisee and returned to Kahala Franchising, L.L.C. by mailing it to Kahala Franchising, L.L.C. at 9311 E. Via De Ventura, Scottsdale, Arizona 85258.

RECEIPT #2

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Kahala Franchising, L.L.C. offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

[New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.]

[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]

If Kahala Franchising, L.L.C. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the state agency listed on Exhibit B.

The franchisor is Kahala Franchising, L.L.C., located at 9311 E. Via De Ventura, Scottsdale, Arizona 85258. Its telephone number is (480) 362-4800. The franchise seller for this offering is _____, _____, (____) _____.

Issuance date: March 28, 2023.

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|-----|---|-----|--|
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| D | Asset Purchase Agreement (For Sale of a Corporate Store to a Franchisee) with Promissory Note Security Agreement and Guaranty (if applicable) | O-2 | Sublease and Guaranty of Sublease (Franchisor or its affiliate collects rent from Franchisee and pays to Landlord) |
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| E-2 | Franchise Agreement (Renewal) | P-1 | Participation Agreement |
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| H | Amendment to Franchise Agreement (for non-traditional locations excluding those co-branded with another affiliated brand) | T | Table of Contents – Confidential Operations Manual |
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Date: _____
(Do not leave blank)

Signature of Prospective Franchisee

Print Name

Receipt #1 must be signed and dated and remains in the Franchise Disclosure Document as the prospective franchisee's copy. Receipt #2 must be signed and dated by the prospective franchisee and returned to Kahala Franchising, L.L.C. by mailing it to Kahala Franchising, L.L.C. at 9311 E. Via De Ventura, Scottsdale, Arizona 85258.